

Court No. - 5

Case :- WRIT - C No. - 20699 of 2022

Petitioner :- M/S M.P. Printers

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Chandra Bhan Gupta

Counsel for Respondent :- C.S.C.,Radhey Shyam Dwivedi

and

Case :- WRIT - C No. - 27780 of 2022

Petitioner :- M/S M.P. Printers

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Chandra Bhan Gupta

Counsel for Respondent :- C.S.C.,Radhey Shyam Dwivedi

Hon'ble Piyush Agrawal,J.

Heard learned counsel for the petitioner, learned ACSC for the State respondents and Sri R.S.Dwivedi, learned counsel for the private respondent.

Since the controversy involved in both the writ petitions are identical, learned counsel for the parties are agreed that both the cases may be decided by the common order treating Writ - C No. - 20699 of 2022 as the leading case.

Present writ petition has been filed against the award dated 20.12.2021 passed by the Presiding Officer, Labour Court, U.P. Noida, Gautam Budh Nagar in Adjudication Case No. 487 of 2013.

Learned counsel for the petitioners submits that respondent had misbehaved with Assistant General Manager (Finance) and used filthy language in the presence of a number of employees and thereafter he was absent from work. He further submits that the respondent was given a charge sheet dated 22.6.2011 to which he submitted his reply on 25.7.2011 which was not found satisfactory. Domestic enquiry was conducted and Mr. Narendra Kumar Tyagi was appointed as enquiry officer. The enquiry officer submitted his report on 24.9.2019. Thereafter on 25.9.2012 a show cause notice was issued to the respondent along with enquiry report to which the respondent submitted his reply. After considering the reply of the respondent vide order dated 10.10.2012 the services of the respondent were terminated. Against the termination order reconciliation was initiated but failed. Thereafter the matter was referred for adjudication by the labour court. He further submits that four persons were cross examined on behalf of the petitioner and all the witnesses support the case of the petitioner stating that the respondent has committed serious misconduct and used filthy language against the Assistant General Manager (Finance) but the labour court by the order dated 20.12.2021 has arbitrarily and illegally held that since the Enquiry Officer was also appointed authorised representative then it is not

possible for him to conduct to submit a fair enquiry report and it was presumed that the enquiry report was not submitted in fair manner and the awarded compensation to the tune of Rs. five lac to the respondent. He further submits that there is no prohibition under the Act that a person who has conducted the enquiry cannot be authorised representative of the petitioner. He prays for allowing the writ petition.

Per contra, learned counsel for the respondent supports the award and submits that the award has rightly been passed as there was violation the principle of natural justice. He further submits that neither proper enquiry was conducted nor any opportunity was given to the respondent before terminating his services, therefore, the award is justified.

After hearing the learned counsel for the parties and perusing the record it transpires that while passing the award the labour court recorded that the enquiry was conducted by Mr. Narendra Kumar Tyagi who was also authorised representative of the petitioner before the court, therefore it was presumed that he could not conduct fair enquiry. The said finding is without any basis as there is no prohibition under the Act that the person who is authorised representative of the petitioner cannot be enquiry officer. Further the labour court has not given weightage to the statements made by the witnesses on behalf of the petitioner, who have categorically stated that the respondent has misbehaved with the Assistant General Manager (Finance) but still awarded awarded compensation to the tune of Rs. five lac to the respondent by the impugned award dated 20.12.2021.

In view of the above, the impugned award is set aside. The writ petition succeeds and is allowed. The matters are remitted back to the labour court with the direction to dispose of the matter within two months without granting any unnecessary adjournment to either of the party.

In case any unnecessary adjournment is sought that may be granted only after imposing cost of Rs. 500/- with the direction to deposit the cost by the next date fixed..

Order Date :- 20.11.2023/samz