

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 572 of 2016

- Mohd. Anees S/o Mohd. Wahid, Aged About 59 Years. At Present R/o Near Chikli School, Ward No. 11, Gali No. 2, Shanti Nagar, District Rajnandgaon Chhattisgarh

---- Appellant

Versus

1. Executive Engineer Chhattisgarh State Power Distribution Co. Ltd. C S P D C L, Durg Chhattisgarh
2. Industrial Court, Raipur Chhattisgarh
3. Labour Court, Durg Chhattisgarh

---- Respondents

For Appellant	: Shri Vinod Deshmukh, Advocate
For Respondent-1	: Shri Abhishek Sinha and Ms S Harshita, Advocates
For other Respondents	: None appears

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

26.10.2018

1. Heard learned counsel for the appellant and learned counsel for respondent-1.
2. The facts are too glaring not to take note of by us. The appellant was appointed as a driver by the erstwhile Madhya Pradesh State Electricity Board. On the charges of unauthorized absence and disobeying the orders of superiors, a charge-sheet was drawn up and issued to him on 05.10.1994. Finally, he came to be terminated on 19.08.1995.

3. The appellant moved the Labour Court against the illegal order of termination. The Labour Court vide order dated 12.07.2000 interfered with the order of punishment; reinstated him in service with 50% back wages. The Labour Court however held that the enquiry was conducted fairly but that by itself did not mean that the findings or conclusions were also fair and legal in the enquiry. Against the decision of the Labour Court, appeal was preferred by the authorities of CG State Power Distribution Company (for short, 'the Company') before the Industrial Court. The Industrial Court, maintained the order of reinstatement but set aside the order of back wages. However, it decided to impose punishment of withholding one increment with cumulative effect.

4. Even this decision of the Industrial Court did not satisfy the Company. Writ Application came to be preferred which was heard in detail but based on certain decisions of the Hon'ble Apex Court as well as the Madhya Pradesh High Court, it was urged that the Labour Court had no business to interfere with the quantum of punishment if it held that a domestic enquiry was valid and fair.

5. On the decisions which have been relied upon by the learned Single Judge in allowing the writ application, the learned Single Judge set aside the order of Industrial Court and Labour Court and remanded the matter to the Labour Court for reconsideration on the question of quantum of punishment against which the present appeal has been preferred.

6. Submission of the counsel for the appellant is that there was no infirmity with the decision and view taken by the Labour Court. Merely

because the Labour Court held that the domestic enquiry was fair it does not mean that it was also an endorsement to the conclusion or findings which may have emerged in the enquiry report. Attention of the Court has been drawn to the order of the Labour Court where the evidence and material have also been discussed with regard to the charges. The Labour Court was of the opinion that the evidence was not enough to hold the appellant guilty. Therefore, the order of punishment of dismissal was set aside, reinstatement was directed with 50% back wages. We do not agree with the view taken by the learned Single Judge that the Labour Court does not have powers to re-appraise the evidence and material. The Labour Court cannot be blind if the two and twos do not add up to a particular decision which has serious consequences for the workmen. It was not a case of reappraisal but examination of the materials and findings to satisfy its judicial consciousness whether the order of punishment of dismissal was legal, valid and warranted or not. What the learned Labour Court did was to see whether a prudent person could reach such a conclusion or not.

7. There are concurrent findings given by two forums ie Labour Court as well as the Industrial Court that the findings of guilt, warranting punishment of dismissal was not made out on the evidence.

8. We have taken note that the dismissal of the appellant took place on 19.08.1995. We are in the year 2018 ie almost 23 years since he has been out of employment. The major part of his life has gone in litigation and he does not seem to belong to a class where he can afford to go into such protracted litigation and meet the legal expenses as well as keep his

home and hearth in place. When the appeal was filed, his age has been shown to be about 59 years. Obviously, as of today he may have reached his age of superannuation. In such a circumstance, the learned Single Judge ought not to have relegated the matter back to square one ie the Labour Court for another round of litigation which may spill over to another decade or two.

9. In the above facts and circumstances, we are of the view that the decision of the learned Single Judge to relegate the appellant back to the Labour Court on an issue which he could have very well finally set to rest by taking a view as to the quantum of punishment to be awarded which obviously does not include dismissal.

10. The appellant has been punished enough. No further punishment is warranted because the respondent- Company has taken care of the best part of his life and led him to the evening of his life through litigation. In totality therefore, the impugned order dated 17.11.2016 is set aside. The order of the Labour Court with regard to his reinstatement as well as payment of 50% back wages is upheld as a consequence order of the Industrial Court too is set aside.

11. The respondents are directed to implement the order within a period of eight weeks from today.

12. Appeal stands allowed in terms stated above.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge