

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. No. 978 of 2005**

Shankar Ram, aged about 51 years, S/o Chowaram, R/o Krishnanagar, Balram Chowk, Near Ragghu Cycle Store, Shiv Mandir, Po. Supela (Kohoka), Distt : Durg (C.G.)

Designation : Khalasi, P. No.144665, Continuous casting shop (MRS), Bhilai Steel Plant, Bhilai.

---- Petitioner**Versus**

1. Steel Authority of India Ltd., Bhilai Steel Plant through Managing Director, Ispat Bhawan, PO. Bhilai, Distt: Durg (C.G.)
2. Industrial Court, Ghari Chowk, Raipur

---- Respondents

For Petitioner : Shri Manoj Paranjpe & Shri Prasoon Agrawal, Advocate.

For Respondent No.1 : Dr. N.K. Shukla, Sr. Advocate with Shri Vivek Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****15/01/2018**

(1) The Petitioner was charge sheeted by respondent –Steel Authority of India Limited (henceforth “SAIL”) on 07.10.1985 and after fullfledged departmental enquiry, he was terminated from services on 19.03.1986. He questioned the same before Labour Court under Section 31(3) read with Section 61 of the Chhattisgarh Industrial Relations Act, 1960 (for short “MPIR Act, 1960”) . Labour Court declared the domestic enquiry valid and interfered with the punishment in exercise of power conferred under Section 107-A of the MPIR Act and held that he is entitled for reinstatement in

service and directed stopping of one increment and also held that he is entitled only half of the arrears of salary.

(2) Feeling aggrieved & dissatisfied with the quantum of punishment, the respondents-SAIL preferred appeal under Section 65 of the MPIR Act, 1960. The Industrial Court interfered with the quantum of punishment and set aside the order of Labour Court and restored to order of removal of the petitioner, against which the instant writ petition has been filed challenging the same.

(3) Shri Manoj Paranjpe, learned counsel appearing for the petitioner would submit that quantum of punishment interfered with by the Labour Court, which ought not to have been interfered with by the Industrial Court in view of provisions contained in Section 107-A of the MPIR Act, 1960 and, therefore, the impugned order is liable to be set aside. He placed reliance upon the order of Division Bench of the Madhya Pradesh High Court in the matter of **Krishna Kumar Tiwari Vs. M.P.S.R.T.C. & another**, reported in **1993 M.P.L.S.R. 324** in support of his case.

(4) Per contra, Dr. Shukla, learned counsel appearing for the respondents-SAIL would submit that the Industrial Court has rightly interfered with the order of Labour Court, which does not call for any interference by this Court in the instant writ petition.

(5) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(6) In order to decide the dispute, it would be appropriate to refer Section 107-A of the MPIR Act, 1960 as power has been exercised by the Labour Court under Section 107-A of the MPIR Act, 1960 while passing the order reinstating the petitioner in service, it states as under :-

“107-A. Power of Labour Court and Industrial Court to give appropriate relief in case of discharge or dismissal of employee.- Where Industrial dispute relating to the discharge or dismissal of an employee has been referred to a Labour Court or the Industrial Court for decision under any of the provisions of this Act and in the course of proceedings the Labour Court or the Industrial Court, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may set aside the order of discharge or dismissal and direct reinstatement of the employee on such terms and conditions, if any, as it thinks fit or give such other relief to the employee including the award of lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require :

Provided that in any proceeding under this section the Labour Court or the Industrial Court, as the case may be, shall rely only on the materials on record and shall not taken any fresh evidence in relation to the matter.”

(7) The above stated provision empowers the Labour Court even to interfere with the quantum of punishment in lieu of discharge or

dismissal

(8) The Division Bench of the Madhya Pradesh High Court in the matter of **Krishna Kumar Tiwari** (Supra) while dealing with Section 107-A of the MPIR Act, 1960 has held as under:-

“4. Having considered the submissions made by the parties, in our opinion, the petition deserves to be allowed. The provisions contained in Section 107-A are aimed at conferring both on the Labour Court and Industrial Court power to interfere in quantum of punishment whenever the action of the employer is found to be unduly harsh or disproportionate to the mis-conduct alleged and proved. The Labour Court in the instant case, took all circumstances into account particularly the fact that the 10 passengers were students and charge was recovered from them by the checking staff. It decided to interfere in quantum of punishment on the obvious ground that the punishment of termination was harsh and disproportionate. The appellate power of the Industrial Court justifies interference in the power exercised by the Labour Court in the quantum of punishment only in a case where the power has not been judiciously exercised or exercised on irrelevant ground and/or ignoring relevant grounds.”

(9) Thus, The Division Bench of Madhya Pradesh High Court in the matter of **Krishna Kumar Tiwari** (Supra) has recognized the principle that the Labour Court can interfere with the quantum of punishment in lieu of discharge or dismissal on the facts of the case as provided in Section 107-A of the MPIR Act, 1960.

(10) Following the statutory provisions contained in Section 107-A of the MPIR Act, 1960 and the principle of law laid down in **Krishna Kumar Tiwari** (Supra), it is quite vivid that the Labour Court found misconduct proved and interfered with the quantum of

punishment whereas the Industrial Court has reversed the finding so recorded by the Labour Court holding that once the misconduct is proved, quantum of punishment ought not to have been interfered with as evident, thus the Labour Court has jurisdiction as contained in Section 107-A of the MPID Act, 1960 and it has rightly been interfered with by the Labour Court and, therefore, the Industrial Court has committed jurisdictional error in interfering with the order of Labour Court regarding quantum of punishment.

(11) Accordingly, the writ petition is allowed. Impugned order dated 07.01.2005 passed by the Industrial Court is set aside. Order passed by the Labour Court is restored with all consequential benefits.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-