

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 7730 of 2011

Managing Director, Bhilai Steel Plant, Steel Authority of India Ltd. Bhilai, Durg,
Chhattisgarh

---- Petitioner

Versus

1. Industrial Court, Raipur, Chhattisgarh
2. Rahul Kumar Ramteke, C/o. Shri Suryabhan Ramteke, Resident of Plot No. 72/C, Street No.15, Smriti Nagar, Bhilai, Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. P.R. Patankar, Advocate
For Respondent No.2	:	Mr. H.B. Agrawal, Sr. Advocate along with Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/04/2021

1. Aggrieved by the order dated 05.07.2011 passed by the Industrial Court, Raipur in Civil Appeal No. 10/CGIR Act/A/11/201 in the case of "Rahul Kumar Ramteke v. Managing Director, Bhilai Steel Plant", the present writ petition has been filed.
2. Vide the impugned order, the learned Industrial Court has set-aside the order dated 11.01.2011 of Labour Court, Durg in case of No. 14/CAT-1/CGIR Act/C/2009 and has passed an order in favour of the respondent No.2 granting the relief of reinstatement without back wages. The Labour Court had on an earlier occasion vide its order dated 11.01.2011 rejected the claim application of the petitioner seeking for reinstatement with all consequential benefits.
3. The brief facts relevant for adjudication of the present writ petition is that the respondent No.2 was working on the post of Technician

(Mechanical) in the S-3 Grade. The respondent No.2 was appointed in the year 1998. Meanwhile, the respondent No.2 by virtue of the length of service and seniority was promoted on the post of S-4 Grade vide order dated 06.06.2004. It is a case where the petitioner was in a regular habit of being absent from duty unauthorizedly without any permission, sanction or approval and for which the petitioner was periodically subjected to disciplinary proceedings and was also punished on various occasions. After having faced disciplinary action on a large number of occasions, the respondent No.2 again went in for an unauthorized absent from duty during the year 2006-07, for which he was issued with a charge-sheet and after a full fledged departmental enquiry, the petitioner was vide order dated 05.02.2008 inflicted with a punishment of removal from service with immediate effect.

4. This order of removal from service was subjected to challenge before the Labour Court, Durg under Section 31(3) of the CGIR Act. The petitioner herein (the respondents before the Labour Court) entered appearance before the Labour Court and submitted a detailed reply categorically denying all the averments in the application moved by the respondent-employee and contended that the employee is a habitual defaulter and was constantly going on unauthorized absence for long durations without any intimation, approval or sanction and for which he was punished on large number of occasions and inspite of the employee being punished on various occasions, he again went in on an unauthorized absence between April, 2006 to June, 2007. For the said absence between April, 2006 to June, 2007 for the period of about 183 days, the petitioner was served upon a charge-sheet on 26.07.2007. Thus, according to the employee, the action on the part of the

petitioners in imposing the punishment was proper, legal and justified and was also after giving a fair and reasonable opportunity of hearing to the employee concerned. Thus, there is hardly any scope of interference for this Court under Article 226/227 of the Constitution of India.

5. The charge-sheet was duly served upon the respondent No.2-employee. However, inspite of proper service the employee did not file any response to the charge-sheet. Subsequently, an Inquiry officer was appointed on 01.09.2007 along with a Presenting Officer. During the course of the inquiry, the employee presented himself before the Inquiry officer and when he was read over of the articles of charges leveled against him on the query by the Inquiry officer as to whether he admits the charges or denies the same, the petitioner had categorically admitted the charges. Based on the admission of the employee, the Inquiry officer submitted an inquiry report to the Disciplinary Authority, pursuant to which the Disciplinary Authority imposed the petitioner with a punishment of removal from service vide order dated 05.02.2008.
6. The Labour Court after due consideration of the pleadings and also taking note of the evidence which was adduced before the Court below vide its order dated 11.01.2011 and rejected the application under Section 31(3) of the CGIR Act filed by the petitioner seeking for reinstatement with consequential benefits. It is this order which had been challenged by the employee before the Industrial Court. The Industrial Court after consideration of the facts and circumstances of the case set-aside the order of the Labour Court and thereafter invoking the powers under Section 107A of the CGIR Act granted the employee

the relief of reinstatement without back wages. It is this order of the Industrial Court which is under challenge in the present writ petition.

7. The contention of the petitioner is that the finding of the Industrial Court is totally contrary to the evidence, which has come before the Labour Court. It is also the contention of the petitioners that the finding of the Industrial Court is also a perverse finding of fact, which cannot be accepted in the given factual backdrops. According to the petitioners, the learned Industrial Court failed to appreciate the track record of the delinquent employee and the large number of punishments which were inflicted upon him in the past. According to the petitioner while imposing the order of punishment of removal from service, the Disciplinary Authority had in fact in addition to the misconduct for which he was charge sheeted and where there is a clear admission on his part to the charges that were leveled against him. The various acts of misconduct in the past and found the employee not fit for employment and therefore the order of the Industrial Court (Annexure P/1) be set-aside/quashed.
8. Per contra, the learned counsel appearing for the employee on the other hand opposing the petition submits that it is a case where the employee i.e. the respondent No.2 was not keeping good health and was having some mental illness, on account of which he could not attend his duties regularly. According to the learned Senior counsel, it was beyond the scope of interference for this Court to interfere with the impugned order for the reason that firstly, the Court has exercised the special powers under Section 107-A of the CGIR Act. Secondly, the findings of the Industrial Court is a finding of fact. Under both circumstances, the order does not warrant interference. It was the contention of the employee that since the employee was not medically

well, it was not within his control to have participated in the departmental enquiry effectively and the High Court therefore taking a sympathetic consideration should not interfere with the order of the Industrial Court and the employee in fact should be directed to be reinstated in service immediately and he should be granted consequential reliefs from the date of the order of the Industrial Court.

9. Having heard the contentions put forth on either side and on perusal of record, at the outset it would be relevant to take note of the factual details, which were produced by the petitioner before the Labour Court in their written statement, as regards the number of days the employee had been absent unauthorizedly in the past about 5 years time. For ready reference the same is reproduced hereinunder:

Period	Number of days of unauthorized absence
July 2000-February 2001	98 Days
March 2001 – 05.10.2001	102 Days
January 2002 – March 2002	72 Days
January 2003 – December 2003	62 Days
April 2004 – May 2004	43 Days
03.06.2004 – 31.12.2004	161 Days
January 2005 –March 2006	176 Days

10. Further, from the pleadings it also reflects that the employee in the past has been subjected to disciplinary action on various occasions. At times, he was imposed with a punishment of reduction by one stage for a period of one year with cumulative effect in the year 2001. Likewise, there was again reduction in his basic pay in the year 2002. Again in the year 2002, there was yet another punishment of reduction in his basic pay. In the year 2003, he was issued with an order of censor.

Again in the year 2004, there was a reduction in his basic pay. Again for the second time in the year 2004, there was a punishment of withholding of his two future increments. Subsequently, on 19.01.2007, he was again issued with another punishment of withholding of his two future increments.

11. As regards, the charge-sheet that was issued to the employee for his absence of 183 days from April, 2006 to June, 2007. The record shows that the employee inspite of proper service has not given any response/reply, which in other words means that he knowingly did not give any reply. Further, in the departmental enquiry that was ordered to be conducted, the employee appeared before the Inquiry officer and made a categorical admission in respect of the charges that were leveled against him and further made a statement that he does not want to adduce any evidence in the light of the specific admission of the charges. In view of the categorical admission on his part, the Inquiry officer has submitted a report by the Disciplinary Authority holding that the charges stands proved.
12. From the aforesaid factual matrix, what stands admitted from records, what also stands proved beyond comprehension is that the employee was duly served with the charge-sheet. He was given a fair opportunity of hearing before the Inquiry officer and knowingly the employee chose not to file his reply and further in the course of the inquiry, the employee chose not to lead any evidence. Thus, the principles of natural justice was in fact fully followed in the course of conducting the departmental enquiry. In addition to the fact that the principles of natural justice was duly complied with in the course of the departmental enquiry, it also stands established as regards the charges which were leveled against

the employee. The employee has in very categorical terms in writing accepted the charge that was leveled against him of being unauthorizedly absent for a considerable long period. Since the charge stands admitted, there was nothing more that was left for the Labour Court to consider and decide except to check as to whether the punishment, taking into consideration the nature of the charges is highly disproportionate and harsh.

13. It is in this regard that the past conduct of the employee becomes relevant. It is not a case where the employee has been punished with the order of removal from service on the very first misconduct that he has committed, as would be evident from the admittedly factual matrix as reproduced in the preceding paragraphs, the employee had a checkered history of remaining on unauthorized absence for a considerable period of time and on various occasions in the past. It is also a case where the employee has been punished on numerous occasions for the same charge of abruptly going in on unauthorized absence for long durations.
14. As regards the contention of the learned counsel for the employee of his suffering from mental illness, this Court on perusal of the records produced before the Labour Court went through the medical reports and found that in the medical report, the employee in fact was found not suffering from any grave mental disorder, but was a case of chronic alcoholism. The medical reports on numerous cases indicates that the employee has a record of being under strong influence of alcohol and on account of which, he was unable to report for duties and remained absent for long durations.

15. Given the fact that the employee's health condition got deteriorated because of his being a chronic case of alcoholism. The sympathy factor of his suffering from mental illness does not get strength calling for a sympathetic consideration by this Court.
16. As regards the contention having exercised of power of Labour Court and Industrial Court under Section 107A of the CGIR Act, given the power to interfere with the punishment imposed by the Disciplinary Authority and the exercise as a matter of routine, the same has to be considered only in the event if the punishment inflicted upon the employee shocks the conscious of the Court to be highly disproportionate considering the nature of misconduct. In this case, the past record of the employee, that he was a habitual defaulter for many years and has been punished on various occasions. In addition, what is also to be seen is the categorical admission of guilt by the employee before the Inquiry officer would be evident from the statement that was recorded before the Inquiry officer. For all these circumstances, the learned Industrial Court should not have exercised the power under Section 107A of the CGIR Act in the given factual backdrops.
17. Moreover, the findings arrived at by the Industrial Court also is not one in consonance to the evidence which has come on record. Moreover, there is no discussion of the categorical admission that the employee has made before the Inquiry officer and the consequential repercussions of the admission of guilt. As regards the judgments which have been cited by the learned counsel for the employee, the bare perusal of the factual matrix of those judgments would clearly reveal that those judgments were rendered under entire different contextual background and would not come to the rescue of the employee herein

in the given factual matrix of the case, particularly taking into the past conduct of the employee and the categorical admission in respect of the final charges on the basis of which he was inflicted with the punishment of removal of service. Moreover, taking note of the fact that the employee' medical report shows that he was not well because of his being a case of chronic alcoholism. The order of the Industrial Court (Annexure P/1) dated 05.07.2011 passed in case No. Civil Appeal No. 10/CGIR Act/A/11/201 is not therefore based on legally and sound principles and therefore deserves to be and is accordingly set-aside/ quashed and the order of the Labour Court stands affirmed. The claim of the respondent No.2-employee as to consequence stands rejected.

18. The writ petition accordingly stands allowed.

Sd/-
(P. Sam Koshy)
Judge

Ved/