

CASE NO.:
Appeal (civil) 4856 1999

PETITIONER:
HINDUSTAN ALUMINIUM CORPORATION LIMITED

Vs.

RESPONDENT:
SATYA NARAIN SINGH & ORS.

DATE OF JUDGMENT: 30/11/2000

BENCH:
S.R.Babu, S.N.Variava

JUDGMENT:

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J U D G M E N T

RAJENDRA BABU, J. :

On the termination of the services of the first respondent on 27.8.1969 by the appellant an industrial dispute was raised by the former which was referred for adjudication to the Labour Court at Gorakhpur. The Labour Court raised preliminary issues and, inter alia, held that the inquiry conducted by the appellant-Management in relation to the alleged mis-conduct is valid, fair and proper. An argument was raised before the Labour Court that on the construction of Standing Orders Nos. 21-H and 21-Z the inquiry was not competent because the Hindalco hospital where the incident in relation to alleged mis-conduct of respondent is stated to have taken place is away from the factory premises and so was not committed within the premises of the industrial establishment and reliance was placed in support of this contention on Management of S.R.P. Tools Ltd, Madras v. Presiding Officer (2), Additional Labour Court, Madras & Ors., 1974 (29) FLR 416, while the Management relied upon Moolchandani Electrical & Radio Industries Ltd. v. Workman, 1974 (30) FLR 1969, a decision of this Court. The Labour Court held that even if the mis-conduct has been committed in Hindalco hospital which is away from the factory premises it cannot be established that the Standing Orders of the company have been violated and, therefore, it reached the conclusion that the domestic inquiry was competent and had been conducted in a fair and proper manner. That preliminary order was passed on 21.2.1977. Thereafter the Labour Court proceeded to consider the question of the termination of the workman, the first respondent herein, and it was held that the termination of the services of the respondent was not called for and the punishment imposed upon him resulting in the termination of his services is not disproportionate to the charge alleged against him and, therefore, applying the scope of the provisions of Section 11-A of the Industrial Disputes Act the punishment awarded by the employer should

be set aside particularly because the first respondent went to the hospital to save the life of his colleague on humanitarian grounds. The Labour Court accepted the argument advanced on behalf of the appellant that Section 11-A of the Industrial Disputes Act has been inserted in the Industrial Disputes Act whereas the reference has been made to the Labour Court under Section 4-K of the U.P. Industrial Disputes Act, 1947, which does not contain a similar provision. On that basis, the Labour Court did not adjudicate on that aspect of the matter and merely stated that the punishment awarded to the first respondent is not proved by the respondent as harsh and disproportionate and made an award dismissing the claim of the first respondent. On a writ petition being filed to the High Court, a learned Single Judge examined the matter and relying upon a decision of this Court in Krishna District Co-operative Marketing Society Ltd. v. N.V. Purnachandra Rao & Ors., 1987 (4) SCC 99, wherein the question was as to whether Section 25-F of the Central Act would be applicable to a proceeding under the U.P. Act, it was held by this Court that a special provision of the Central Act would apply and rights and liabilities created under the Central Act would over-ride those created by the State Act in terms of Article 254 of the Constitution, particularly keeping in view the fact that the Central Act has been enacted by Parliament after the enactment of the State Act and both of which have received the assent of the President. It is not necessary for us, particularly in the light of the order made by the High Court, to examine this aspect of the matter and we keep this question open to be decided, if necessary, at a later stage. At this stage, it is suffice to say that the matter will have to be examined in the light of the provisions of Section 11-A of the Industrial Disputes Act, as directed by the High Court.

As regards the findings recorded by the Labour Court that the punishment imposed on the first respondent is not disproportionate to the charge levelled against him, the learned Single Judge of the High Court, after referring to certain decisions, directed that in view of the incidents alleged were out side the factory premises, a finding has to be reached applying Section 11-A of the Central Act. In the circumstances, the learned Single Judge set aside the award, remitted the matter to the Labour Court for a fresh decision in accordance with law and gave certain time frame for disposal.

Considering the nature of the order made by the High Court which merely remits the matter for a fresh consideration by the Labour Court and at this stage of the proceeding it is not necessary to decide either the question of law or fact arising in the case, we think, there is no justification to interfere with the order made by the High Court. We keep open the questions arising in the case for consideration at a later stage as and when they may become necessary.

The appeal is accordingly dismissed. No costs.