

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.D-1725 of 2012

Before:

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Irshad Ali Shah.

Petitioner: M/s Shadman Cotton Mills Ltd.
Through Abdul Ghani Khan advocate

Respondent No.1: Abdul Jabbar S/o Ghulam Rasool
Through Ms. Nasim Abbasi advocate

Respondents No.2&3: Mr. Allah Bachayo Soomro, Additional A.G

Date of hearing: 22-10-2020.

Date of decision: 22-10-2020.

J U D G M E N T

Irshad Ali Shah J;- The facts in brief necessary for disposal of instant petition are that the private respondent was working with the petitioner as Assistant Operator in its Power Generation Department. On account of alleged misconduct he was charge sheeted and after due enquiry was dismissed from service. After dismissal of his service he filed a grievance petition, it was dismissed by the learned Presiding Officer, Labour Court-VI, Hyderabad vide his order dated 28.04.2009. On appeal the order passed by learned Presiding Officer, Labour Court-VI, Hyderabad was set-aside by learned Sindh Labour Appellate Tribunal at Karachi vide order dated 30th August, 2012, which is impugned by the petitioner before this Court by way of instant petition.

2. It is contended by learned counsel for the petitioner that the private respondent was found to be guilty of misconduct and he after due enquiry was dismissed from service, such dismissal order was maintained by learned Presiding Officer Labour Court-VI, Hyderabad but was reversed by learned appellate Court without justification. By contending so, he sought for setting aside of the impugned order of learned Sindh Labour Appellate Tribunal at Karachi. In support of his contention he relied upon case of ***Riaz Ahmed Malik vs Administrator Municipal Corporation, Bahawalpur & another (2004 Labour 442)***.

3. Learned counsel for the private respondent by supporting the impugned order has sought for dismissal of the instant petition.

4. We have considered the above arguments and perused the record.

5. Admittedly, no damage was caused to the petitioner by act of negligence which is alleged to have been committed by the private respondent. After enquiry no chance of hearing was provided to the private respondent by the authority before ordering his dismissal. None is to be condemned unheard. The private respondent was also alleged his grievances against Anwar on seniority as he being junior was promoted ignoring the private respondent. Akhtar who has pointed out the alleged negligence on the part of private respondent and a key witness has not been examined by the petitioner before

learned Presiding Officer, Labour Court-VI, Hyderabad. In these circumstances, learned Sindh Labour Appellate Tribunal at Karachi was right to accept the appeal of the private respondent by way of impugned order by making following observation;

“Observations clearly reflects that the appellant claimed malafides against the respondents and also claimed seniority and discrimination in respect of the alleged witness, established that the proceedings initiated against the appellate are based on malafides and appellant had not committed any misconduct he had been targeted for claiming his own rights and agitating against the injustices committed on him.”

6. No illegality in impugned order of learned Sindh Labour Appellate Tribunal at Karachi even otherwise is pointed which may justify making interference with it by this Court in exercise of its constitutional jurisdiction.

7. Above are the reasons of short order dated 22.10.2020 whereby the instant petition was dismissed by us with the following observation;

“For the reasons to follow this petition is dismissed. However, in so far as the back benefits are concerned, since it has not been pleaded in the grievance petition and so also so affidavit in support thereof that he was not employed for any financial gain, therefore to the extent of salary he would be entitled from the date of the order of the Labour Court and he would not be entitled for any back benefits. With these observations, the petition is dismissed along with pending application[s].”

JUDGE

JUDGE