

HARI PADA KHAN
v.
UNION OF INDIA AND ORS.

DECEMBER 4, 1995

[K. RAMASWAMY AND K.S. PARIPOORNAN, JJ.]

Labour Law :

Standing Orders of Indian Oil Corporation—Order 20-IV—Workman—FIR filed against for theft—Arrest—Dismissal from service without holding any enquiry—Held not arbitrary—However, it would be subject to result of criminal trial.

Constitution of India :

Articles 14 and 16—Standing Order 20-IV of Indian Oil Corporation—Held not ultra-vires—Articles 14 and 16.

The appellant, a workman of Indian Oil Corporation, was arrested in pursuance of an FIR lodged in connection with a theft of oil from the Corporation. After his release, he was dismissed from service under the provisions of Standing Order No. 20-IV of Indian Oil Corporation which provided dismissal of a workman without holding any enquiry if he was convicted for a criminal offence by a court or if the General Manager was satisfied that it was neither expedient nor in the interest of security to continue the workman. The appellant filed a writ petition in the High Court challenging the validity of the Standing Order on the ground that it was arbitrary and violative of Articles 14 and 16 of the Constitution. The writ petition was dismissed. Aggrieved, the workman filed petition for special leave.

Dismissing the petition, this Court

HELD : 1. Standing Order 20-IV of Indian Oil Corporation is not ultra vires Articles 14 and 16 of the Constitution. The rule has been made with the intention to prevent an employee involved in a criminal case and arrested in furtherance thereof, from continuing in service. Continuance of such an employee in the service would be an affront to good and disciplined conduct of workmen, and would demoralise the service. There-

A fore, it was most expedient in the public interest not to held any further enquiry and terminate the appellant's services forthwith. However, it would be subject to be result of the trial. [159-F]

Tulsi Ram Patel v. Union of India, [1985] 2 SCC 398, followed .

B *Workmen of Hindustan Steels Ltd. & Anr. v. Hindustan Steels Ltd. & Anr.*, [1985] 2 S.C.R. 428, referred to.

C 2. The principle of natural justice has no application when the authority concerned is of the opinion that it would be inexpedient to hold an inquiry and it would be against the interest of security of institution to continue in employment the offender-workman when serious acts are likely to affect the foundation of the institution. It is settled law that the principle of natural justice cannot supplant but can supplement the law. In that view the matter, the Rule having been made to meet specified contingency, the principle of natural justice by implication, stands excluded. [159-H, 160-D]

D CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 28044 of 1995.

E From the Judgment and Order dated 28.6.95 of the Calcutta High Court in O.T. No. 3066/92 arising out of W.P.C.O. No. 1590(W)/89.

M.N. Krishnamani, P. Choudhari and Bijan Kr. Ghosh for the Petitioner.

F R.P. Bhatt, Ms. Tanuja Sheel, Ms. Reema Bhandari and M.N. Shroff for the Respondent.

The following Order of the Court was delivered :

G Petitioner was a permanent staff member of the Indian Oil Corporation. He along with others, is said to have been involved in theft of oil from Haldia Dock Complex. An FIR was lodged against all the persons who committed the theft including the petitioner. On that basis, Criminal Case No. 1 was registered and he was arrested on September 6, 1988 and was subsequently released on November 3, 1988. Relying upon Station Order No. 20- IV of the Corporation, he was dismissed from service, which reads H thus :

"Where a workman has been convicted for a criminal offence in a Court of Law or where the General Manager is satisfied for reasons to be recorded in writing, that there is neither expedient nor in the interest of security to continue the workman, the workman may be removed or dismissed from service without following the procedure laid down under III of this clause."

When the services of the petitioner were terminated he challenged the validity of the Rule in question by filing a writ petition in the Calcutta High Court. The High Court in W.P. C.O. No. 1590 [W] of 1989 and on appeal from Original Order Tender No. 3066/92 by order dated 28th June, 1995 upheld the validity of the above rule and dismissed the petition. Thus this special leave petition.

Shri M.N. Krishnamani, learned senior counsel appearing for the petitioner contended that the Rule is *ex facie* arbitrary offending Articles 14 and 16 of the Constitution. This Court in *Workmen of Hindustan Steels Ltd. & Anr. v. Hindustan Steels Ltd. & Anr.*, [1985] 2 SCR 428 considered a similar provision made by the Hindustan Steels Ltd. in its Standing Order. This Court struck down the provision as violative of Article 14 and held that the action violated the principle of natural justice offending Article 14 of the Constitution. Same ratio is applicable to the facts in this case. Therefore, it is contended that the view taken by the High Court is not correct in law. We find no force in the contention.

It is seen that the rule has been made by the Corporation with the intention to prevent an employee of the Corporation served with a charge-sheet and arrested in furtherance thereof, from continuing in service. Of course it would be subject to the result of the trial. Continuance of the officer involved in an offence would be an affront to good and disciplined conduct of workmen. His continuance in service of the Corporation would demoralise the service. Therefore, it was most expedient in the public interest not to hold any further enquiry and terminate his services forthwith. However, it would be subject to the result of the trial.

The doctrine of principle of natural justice has no application when the authority concerned is of the opinion that it would be inexpedient to hold an enquiry and that it would be against the interest of security of the Corporation to continue in employment the offender-workman *when serious acts are likely to affect the foundation of the institution*. In *Tulsi Ram*

- A *Patel v. Union of India*, [1985] 2 SCC 398, a Constitution bench of this Court upheld the validity of the similar provisions under Article 311 of the Constitution. Recently, in SLP [C] No. 11659/92 the matter had come up before this Court on November 13, 1995, where the validity of a *pari materia* provision was questioned. This Court upheld the validity stating that the above clause will operate prospectively.

B

A contention has been raised by Mr. Krishnamani that in *Tulsi Ram Patel's case* [supra] this Court had upheld the validity of the Rule subject to the principle of natural justice. It is needless to mention that the principle of natural justice requires to be modulated consistent with the scheme of the Rule. It is settled law that the principle of natural justice cannot supplant but can supplement the law. In that view of the matter, the Rule having been made to meet specified contingency the principle of natural justice by implication, stands excluded. We do not think that the Rule is *ultra vires* of Articles 14 and 21 as stated earlier.

C

- D The special leave petition is dismissed accordingly.

R.P.

Petition dismissed.