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C.A.No. 2394 OF 2003
ITEM No.104

Court No. 1

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.2394/2003

Rama Paper Mills Ltd.

Appellant (s)

VERSUS

Bhopal Singh .

Respondent (s)

Date : 15/02/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Appellant (s)
Mr. P.K. Jain,Adv.

For Respondent (s)
Mr. Debasis Misra,Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

(Ganga Thakur) (Prem Prakash)
PS to Registrar Court Master

Signed order is placed on the file. IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2394 OF 2003

M/s Rama Paper Mills Ltd.
...Appellant(s)

Versus

Bhopal Singh
...Respondent(s)

O R D E R

Heard learned counsel for the parties.
Leave granted.

When the respondent was working with the appellant as Security Guard, he was charged for certain misconduct, one of which was threatening the Supervisor on duty. The domestic enquiry was conducted and the charges were levelled against the respondent. The respondent was held guilty.

ty of the misconduct charged and his services were terminated. The dispute in regard to the termination of the respondent came to be referred to adjudication under the U.P. Industrial Dispute Act, 1947 to the Labour Court. From the material on record it is not possible to say that the Management sought leave from the Labour Court to lead any evidence to substantiate the charges in the event of the Labour Court coming to the conclusion that the domestic enquiry was not proper and legal. Therefore the Labour Court proceeded on the material on record and came to the conclusion that neither the enquiry officer, the officer threatened Akhilesh Kumar Srivastava, was produced by the Management to justify the dismissal order of the respondent nor even the report of the domestic enquiry was placed before the Labour Court. In such circumstances the Labour Court held that the employer has not proved the alleged misconduct against the respondent and the enquiry was not impartial. On the basis of said finding the reference made to it was allowed and the Award was made directing the reinstatement of the workman with effect from 3rd February, 1997 with back wages.

Being aggrieved by the said Award of the Labour Court, the appellant Management preferred writ petition before the High Court of Judicature at Allahabad which also held that the termination of the services of the respondent workman was illegal and upheld the directions given for his reinstatement and back wages.

It is against the said order of the High Court affirming the Award made by the Labour Court that the appellant, Management is before us in this appeal.

We have heard the learned counsel for the parties and perused the records. It is seen from the impugned award the Management though conducted its own enquiry did not seek leave of the Labour Court to justify the enquiry proceedings by seeking permission to lead evidence before the Labour Court. Having taken this risk the Management must suffer consequences which is that the Labour Court held that by the inquiry conducted by the management it cannot be held that the misconduct is proved. The Labour Court can held that neither the victim of threat was examined nor even the copy of the enquiry report was filed before the Labour Court. In the above circumstances it held that the conclusion that was arrived by the inquiry officer neither fair nor the Management proved misconduct against the respondent. The above finding of the Labour Court being a finding of fact which is concurred by the High Court, we are not inclined to interfere with the same. For the reasons stated above this appeal fails and the same is dismissed.

.....J.

(N. Santosh Hegde)

.....J.

(P.K. Balasubramanyan)

New Delhi,
February 15, 2005.