

ALEXANDER
v.
GNANAM AND OTHERS

SUPREME COURT

S. N. SILVA, C.J.,

EDUSSURIYA, J. AND

YAPA, J.

SC APPEAL NOS. 67/2001 AND 68/2001

HC LTA NOS. 1444/97 AND 1453/97

LT COLOMBO NO. 13/11590/89

11 FEBRUARY, 2002

*Industrial Dispute – Labour Tribunal order justifying the termination of services
– Order for payment of compensation notwithstanding such termination.*

Where the Labour Tribunal held that the termination of services of the appellant-workman (the workman) was justified in view of a series of lapses during a period of 7 years and that his conduct was contemptuous of the management and fell far short of the expected standard but granted compensation in a sum of Rs. 57,000.–

Held:

The facts did not warrant the award of compensation to the workman.

APPEAL from the judgment of the High Court.

Rohan Sahabandu for appellant.

D. S. Wijesinghe, PC with *Neville Joseph* and *T. M. S. Nanayakkara* for respondents.

February 11, 2002

S. N. SILVA, C.J.

This is an appeal from the judgment of the High Court dated 07. 06. 1999. By that judgment the High Court affirmed the order of the Labour Tribunal that the termination of the appellant's services was justified. The High Court has in these circumstances set aside the order of the Labour Tribunal granting the appellant a sum of Rs. 57,000 being the equivalent of one year's salary as compensation. The appellant has been granted leave to appeal on two questions. They are:

- (1) Did the High Court err in law in failing to enhance the compensation awarded to the applicant by the Labour Tribunal, and in dismissing the applicant's appeal without reasons? 10
- (2) Did the High Court err in law in setting aside, without reasons, the award of compensation made in favour of applicant by the Labour Tribunal?

It is to be noted that leave has not been granted by this Court on the question whether the termination of the appellant's services is justified. Accordingly, we have to consider this appeal on the basis that the termination of the appellant's services is justified and that findings to this effect on matters of fact made by the Labour Tribunal and the High Court are correct. The limited issue before this Court is whether assuming that the termination is justified, the appellant is nevertheless entitled to compensation. 20

The Labour Tribunal has carefully considered the evidence and has made a series of findings against the appellant. It is clear that the appellant's services were not terminated in respect of a single incident of misconduct. The termination is on the basis of a series of incidents of misconduct from 1982 up to 1988. These incidents

of misconduct are borne out by the documents that have been produced. The Labour Tribunal has accepted in its entirety the evidence as to the acts of misconduct. On this basis the Tribunal has commented that the conduct of the appellant whilst in employment³⁰ and even when giving evidence, is "contemptuous" of the management of the employer respondent company. Several incidents have been cited by the Tribunal to justify the conclusion that the conduct of the appellant throughout the period fell far short of the conduct expected from an employee of his level. The High Court has affirmed these findings. In the circumstances we are confronted with the situation where –

- (1) the termination of employment is justified;
- (2) the termination is so justified not with reference to a single incident but with regard to a series of lapses that span a period⁴⁰ of nearly 7 years;
- (3) the workman's conduct was contemptuous of the management and it fell far short of the expected standard.

Such a situation does not in our view warrant the award of compensation to the workman who was at fault.

Accordingly, we see no basis to interfere with the judgment of the High Court. The appeal is dismissed. No costs.

EDUSSURIYA, J. – I agree.

YAPA, J. – I agree.

Appeal dismissed.