

in F.M.A. No. 87 of 1988.

Bhasker Gupta, K.V. Vishwanathan, Ms. Gauri Rasgotra and Ms. Suman Jyoti Khaitan for the Appellant.

The Judgment of the Court was delivered by

RAJENDRA BABU, J. This appeal is filed against the orders made by the High Court either by the learned Single Judge or by the Division Bench of the High Court on an appeal thereto declining to interfere with an adjudication by the Tribunal under the Industrial Employment (Standing Orders) Act, 1946 [hereinafter referred to as 'the Act'] either by the learned Single Judge or by the Division Bench of the High Court on an appeal thereto.

Section 13-A of the Act provides that if any question arises as to the application or interpretation of a standing order any employer or workman or a trade union or other representative body of workmen may refer the question to any one of the Labour Courts and the Labour Court to which such question is referred shall, after giving opportunity to the parties, decide the same, which shall be final and binding on the parties. Standing Order 15(x) of the Certified Standing Order of 1953 of the appellant provides that taking intoxicants or noxious drugs while on duty or being under their influence when reporting for duty, would amount to misconduct entailing dismissal and Standing Order 15(b) provides that no order of dismissal or suspension for more than a week or of stoppage of increment shall be made until an enquiry has been held to investigate the circumstances of the case and to decide what offence or offences were committed. The accused workman shall have the right to be present at the enquiry and to produce any witness in his defence. Detailed and elaborate provisions have been made as to composition of the enquiry committee, report to be made and action to be taken thereon.

One Sushil Kumar Mukherjee had been dismissed invoking the aforesaid provisions without holding an enquiry. However, that matter became final as the Labour Court and the High Court dismissed the order made therein. In those circumstances, an application was filed before the Tribunal under the Act seeking interpretation as to the true effect of these provisions. The contention put forth on behalf of the appellant is that there is no present dispute or controversy between the parties and that what led respondent No.1 to file his application is an apprehension in his mind that unless there is a proper interpretation of clause 15 of the Certified Standing Order of 1953, the management is likely to victimise the workmen. The Tribunal rejected this

- A contention. The High Court held that the apprehension of the applicant-respondent No.1 cannot be stated to be as one purely imaginary not based on facts and merely an apprehension in his mind. His claim for interpretation of clause 15 is that there was action taken invoking the provisions of clause 15 of the Certified Standing Order of 1953 in a particular manner, correctness of which was put in issue for interpretation and that such a matter cannot be
- B stated to be one not covered by Section 13-A of the Act. The view taken by the High Court, therefore, does not call for any interference.

The appeal is, therefore, dismissed. No costs.

V.S.S.

Appeal dismissed.