

**CASE ANALYSIS FOR THE PRINCIPLE OF
NOSCITUR A SOCIIS: PUNJAB BEVERAGES PVT. LTD., V.
SURESH CHAND AND ANR, 1978**

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FACTS OF THE CASE

- The first respondent was a workman employed as an operator in the undertaking of the appellant from 1st March, 1970 and he was in receipt of Rs. 100/- per month as salary.
- On 21st December, 1971 the 1st respondent was suspended by the appellant and a charge sheet was served upon him and before any inquiry on the basis of this charge sheet could be held, another charge sheet was given to him on 17th April, 1973. This was followed by a regular inquiry and ultimately the appellant, finding the 1st respondent guilty, dismissed him from service by an order dated 23rd December, 1974.
- At the time when the 1st respondent was dismissed from service, an industrial dispute was pending before the Industrial Tribunal at Chandigarh, and therefore, in view of the provisions contained in **Section 33 (2) (b)** of the Act, the appellant immediately approached the Industrial Tribunal, before which the industrial dispute was pending, for approval of the action taken by it.
- But before it came up for hearing, the appellant applied to the Industrial Tribunal for withdrawing the application and the Industrial Tribunal thereupon made an order on 4th September, 1976 dismissing the application as withdrawn.
- The 1st respondent then demanded from the appellant full wages from the date of his suspension till the date of demand contending that as the action of the appellant dismissing

the 1st respondent was not approved by the Industrial Tribunal, the 1st respondent continued to be in service and was entitled to all the emoluments.

- The 1st respondent made an application to the labour Court under section 33C(2) for determination and payment of the amount of wages due to the 1st respondent from the date of suspension, on the ground that the appellant not having obtained the approval of the Industrial Tribunal to the dismissal of the list respondent under section 33 (2) (b), the order of dismissal was void and the 1st respondent continued to be in service and was entitled to receive his wages from the appellant.
- Section 33 (2)(b):
 - For any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman: Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.
- Section 33C(2):
 - Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government within a period not exceeding three months:]² Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.

JUDGEMENT BY LABOUR COURT

- ▶ The Labour Court accordingly allowed the application of the 1st respondent and directed the appellant to pay an aggregate sum of Rs. 6485.48 to the 1st respondent on account of arrears of wages upto 30th September, 1976.
- ▶ The appellant thereupon preferred Civil Appeals Nos. 1375 and 1384 of 1977 after obtaining special leave from this Court.

ISSUES

- ▶ What is the effect of contravention of section 33 (2) (b) on an order of dismissal passed by an employer in breach of it?
- ▶ Whether it render the order of dismissal void and inoperative so that the aggrieved workman can say that he continues to be in service and is entitled to receive wages from the employer ?

FINAL JUDGEMENT

The appeal was directed against the order made by the Labour Court of granting the application made by the 1st respondent under section 33C(2) and directing the appellant to pay wages to the 1st respondent on the basis that the order of dismissal passed against him was void and ineffective and the 1st respondent continued to be in service.

It is not necessary to set out the facts giving rise to this appeal since the only question of law which arises in this appeal has been disposed of by us today and having regard to that judgment, it is clear that the 1st respondent was not entitled to maintain the application under section 33C(2) without adjudication from a proper authority, either on a complaint under section 33A or in a reference

under section 10, that the order of dismissal passed against him was unjustified and directing his reinstatement.

CONCLUSION

In the present case the maxim of *noscitur a sociis* was not applied by the judge. The court contended that the exposition of the statute has to be *ex visceribus actus*. Both the section, that is, Section 33(2)(b) and section 33C(2) of the industrial dispute act were drafted in the way that to interpret the legislative intent we have to read the statute as a whole and not in isolation. The determination of the question depends on the true interpretation of section 33 (2) (b), but it is a well settled rule of construction that no one section of a statute should be read in isolation, but it should be construed with reference to the context and other provisions of the statute, so as, as far as possible, to make a consistent enactment of the whole statute.

Section 33 in both its limbs undoubtedly uses language which is mandatory in terms and section 31(1) makes it penal for the employer to commit a breach of the provisions of Section 33 and therefore, if section 33 stood alone it might lend itself to the construction that any action by way of discharge or dismissal taken against the workman would be void if it is in contravention of Section 33. But Section 33 cannot be read in isolation. Section 33 must be construed not as if it were standing alone and apart from the rest of the Act, but in the light of the next following section 33A and if these two sections are read together, it is clear that the legislative intent was not to invalidate an order of discharge or dismissal passed in contravention of section 33, despite the mandatory language employed in the section and the penal provision enacted in section 31(1)

Have regard not only to the language of section 33 (2) (b), but also to the object and purpose of that provision, the context in which it occurs and other provisions of the Act in order to determine what the legislature intended should be the effect of contravention of section 33 (2) (b) on the order of dismissal.