
(2004) 08 UK CK 0013

In the Uttarakhand High Court

Case No : Writ Petition No. 398 of 2003 (M/S)

Atol Singh Bisht

APPELLANT

Vs

Collector and Others

RESPONDENT

Date of Decision : 02-08-2004

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (2005) 1 LLJ 668

Hon'ble Judges : Rajesh Tandon, J

Bench : Single Bench

Advocate : Gopal Narain, for the Appellant;

Final Decision : Allowed

Judgement

Rajesh Tandon, J.—By the present writ petition, the petitioner has prayed for a writ of mandamus directing the Respondent No. 1 to pay the amount in pursuance of the recovery certificate dated August 27, 2002 issued by the respondent No. 2.

2. Brief facts giving rise to the present writ petition are that the petitioner is the workman, who was employed as daily wager. Petitioner has raised an industrial dispute and claimed permanent status with all benefits. The dispute was referred to the Labour Court. The Labour Court, after hearing the parties, passed an order regularising the petitioner and other workmen with all benefits of permanent employee w.e.f. October 1, 1988. An award to that effect was passed on March 28, 1995. The said award was challenged by the respondent No. 3 before the Allahabad High Court in Writ Petition No. 12331 of 1996. On February 13, 1998, the said writ petition was dismissed and the award was confirmed.

3. Thereafter, respondent No. 3 approached the Hon''ble Supreme Court and has challenged the award dated March 28, 1995 as well as the judgment dated February 13, 1998 passed by the Allahabad High Court in Civil Appeal No. 6377 of 1999. After hearing the learned counsel for the parties, the Apex Court

dismissed the SLP on October 29, 1999 and confirmed the award dated March 28, 1995.

4. The grievance of the petitioner is that after confirmation of the award dated March 28, 1995 by the Hon'ble Apex Court, when the respondent No. 3 did not comply the same, the petitioner filed an application u/s 6-H(1) of the U.P. Industrial Disputes Act for implementation of the award. Thereafter, an application u/s 33C(2) of the Industrial Disputes Act was filed by the petitioner before the Labour Court, which was allowed on August 30, 2001.

5. Further, the petitioner approached the respondent No. 2 i.e. Assistant Labour Commissioner, Garhwal Region, Dehradun for implementation of the order dated August 30, 2001 passed by the Labour Court, Dehradun and the respondent No. 2 issued a recovery certificate amounting to Rs. 1,60,324/- to the respondent No. 1 i.e. the Collector, Uttarkashi and the Tehsildar of Tehsil by order dated August 27, 2002 . But till today the compliance of the order of the Hon'ble Apex Court has not been made. Even when the recovery certificate was issued, the same remained unrecovered.

6. Mr. Gopal Narain, learned counsel for the petitioner has submitted that the workman is not getting the arrears of wages according to the recovery certificate issued by respondent No. 1, which is violative of Article 21 of the Constitution of India.

7. After considering the entire facts and circumstances, in my opinion, the award having been confirmed by the Hon'ble Apex Court and the leave petition was dismissed and the recovery certificate for payment of arrears of wages having been issued, there is no rhyme or reason not to pay the amount to the petitioner. It is well known Latin Maxim as held in the case of Ashtosh Shrotriya v. Raisuddin 1994 (24) ALR 238 that it is the duty of a good Judge to see that the judgment is executed without delay and further to put an end to litigation so that the suit may not grow.

8. There is another maxim "*Boni iudicis est iudicium sine dilatore mittere executionem*" which connotes that it is the duty of a good Judge to cause judgment to be executed without delay. There is yet another maxim "*Boni iudicis est ampliare jurisdictionem*" which connotes that a good Judge will, if necessary, extend the limits of his jurisdiction to the advancement of substantial justice. There is also a maxim "*Boni iudicis est lites dirimere ne res ex lite evitetur et interest reipublicae ut sint finis litium*" which connotes that it is the duty of a good Judge to put an end to litigation so that suit may not grow out of suit.

9. In view of the aforesaid facts and circumstances, the writ petition is allowed. A writ of mandamus is issued directing the respondents to pay the wages to the petitioner in pursuance of the recovery certificate dated August 27, 2002 within a period of six weeks from today. No order as to costs.