
(2010) 12 P&H CK 0202
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 10111 of 1991

Bhagwan Dass and Others	Vs	APPELLANT
Presiding Officer, Labour Court and Others		RESPONDENT

Date of Decision : 10-12-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 25G

Citation : (2010) 12 P&H CK 0202

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ritu Bahri, J.—This petition has been filed under Articles 226/227 of the Constitution of India for quashing the award dated 25.4.1989 (Annexure P-1) by which reference of the workmen for reinstatement has been declined.

2. The Petitioners were employed as Mistri, Beldar, and Chowkidar with the Punjab State Tubewell Corporation. The services of the Petitioners were terminated on 26.5.1987.

3. The Petitioners challenged the termination order before the learned Labour Court, on the ground, that their services have been terminated without notice and compensation and that the juniors were retained in service, thus, there was violation of Section 25G of the Industrial Disputes Act (hereinafter referred to as "the Act").

4. The Management took a stand that one month's notice before termination of the services, as per Section 25F of the Act had been served. The Petitioners were retrenched because of the closing of the certain Divisions and the staff was rendered surplus. The Petitioner after having accepted retrenchment compensation was estopped from challenging the termination. Appointment of the Petitioner was made at Divisional Level, whereas seniority list is maintained

at circle level, as per the agreement between the employees of the Union and the Corporation.

5. The learned Labour Court after examining the entire evidence came to the conclusion that on 26.5.1987, as per the seniority list of Ferozepur, Circle, the names of Hanuman Dass and Budh Raj were not in the seniority list. They were in the seniority list of Bathinda circle. Since these persons were not borne on the same seniority list a conclusion has been drawn by the learned Labour Court that there was no violation of Section 25G of the Act.

6. In absence of the Rules length of service is the right criteria to determine seniority. In the present case, since the seniority was maintained circle-wise a departure from the principle of "first come last go" enacted in Section 25G of the Act is bound to be there.

7. Mr. Hitesh Pandit, learned Counsel appearing on behalf of the Petitioners has vehemently argued that after their services were retrenched on 26.5.1987 Hanuman Dass and Budh Raj were brought back in Ferozepur Circle after 11.9.1987. On 30.9.1987 Balwant Singh, Bihari Lal and Munshi Ram were also retrenched.

8. Mr. Anshuman Chopra, learned Counsel appearing on behalf of Respondents No. 2 to 4 has argued that seniority of work-charged employees for the purpose of retrenchment is maintained at Circle level. The workers namely Sh. Hanuman Dass, Mate and Sh. Budh Raj, Beldar were employed in Arniwala Lining Division, Punjab State Tubewell Corporation Ltd., Malout, under the Bhatinda Construction Circle. Their names were borne on the seniority list of Bhatinda Construction Circle on the day when the Petitioners were retrenched i.e. 26.5.1987. The Petitioners can not claim that on the date of retrenchment of the Petitioners Hanuman Dass and Budh Raj were in the Ferozepur Circle.

9. Mr. Hitesh Pandit, learned Counsel for the Petitioners has not been able to show that the maintenance of seniority list Circlewise has been deviated by retrenching the Petitioners from their services.

10. The findings of the learned Labour Court are based on the correct material of evidence, placed on record and the impugned award does not suffer from basic illegality or infirmity.

11. The writ petition is dismissed with no order as to costs.