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**(2004) 08 AHC CK 0284**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 11262 of 1981**

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|-----------------------------------|----|------------|
| Bharat Pumps and Compressors Ltd. | Vs | APPELLANT  |
| State of U.P. and Others          |    | RESPONDENT |

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**Date of Decision :** 20-08-2004

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2004) 5 AWC 5123

**Hon'ble Judges :** Anjani Kumar, J

**Bench :** Single Bench

**Advocate :** J.N. Tiwari and P.K. Mukherjee, for the Appellant; Dhruva Narain, B.K. Narain and G.D. Mukherjee, S.C., for the Respondent

**Final Decision :** Dismissed

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## Judgement

Anjani Kumar, J.—This writ petition filed by the employer under Article 226 of the Constitution of India challenges the award dated 21.7.1981 passed by the Industrial Tribunal (I), U.P. at Allahabad in Adjudication Case No. 67 of 1980.

2. The following dispute was referred for adjudication to the Industrial Tribunal:

Kya sevayojkon dwara apne shramik ramchandra saroj (putra Sri. sitaram) fitter, ko dinank 7.8.1979 se seva samapt kiya jana uchit tatha/athva vaidhanik hai, yadi nahin, to sambandhit shramik kaya labh/anutosh (relief) pane ka adhikari hai tatha kis anya vivran sahit?

3. On the receipt of the reference, the Tribunal issued notices to both the parties. Both the parties submitted their written statements. The parties have also adduced evidence. Thereafter considering the entire pleadings and material on record the Tribunal arrived at the conclusion that the termination of the services of the workman concerned with effect from 7.8.1978 was improper and illegal and unjust and Tribunal directed for reinstatement of the workman on the same post with continuity of service and full back wages. It is this award which is under challenge here in the present writ petition.

4. This Court on 15.9.1981 passed the following interim order:

Issue notice.

Meanwhile the operation of the award directing reinstatement of the Respondent shall remain stayed on condition that the Petitioner complies with the rest of the direction contained in the impugned award within a period of one week.

5. This order was modified by this Court vide its order dated 12.10.1981, which is reproduced below:

The interim order dated September 15, 1981 shall continue to be operative during the pendency of the writ petition on the further condition that the Petitioner pays to the third Respondent half the wages due to him by the 7th of each month. The first payment shall be made by the 7th of November, 1981. The payment so made shall be without prejudice to any right that the Petitioner may have in regard to the third Respondent. In case of default, the interim order shall stand vacated.

6. It is not disputed that the employers have complied with the order of this Court. Now coming to the merits of the case, it was found by the Tribunal that the workman concerned has worked for more than 240 days and therefore, his services could have been terminated either after regular domestic enquiry in accordance with the principle of natural justice, or after complying with the provision of retrenchment. The Tribunal has further recorded findings which is reproduced below:

It was mandatory on behalf of the employers to have given a charge-sheet to the concerned workman and to hold an enquiry in an impartial manner adhering with all the principles of natural justice before his services could be terminated and that too when the charges were proved and the concerned workman was given full opportunity to answer the charges and defend his case. As one of these formalities have been resorted to and the concerned workman was never given any opportunity to answer any charges and the above termination amounts to retrenchment, it is held that this act of the employers in terminating the services of the concerned workman Sri. Ram Chandra Saroj (s/o Sita Ram) w.e.f. 7.8.1978 was improper, illegal and unjust and he is entitled to be reinstated on his post with the same date with continuity of service and all back wages.

7. Sri. P. K. Mukherjee, learned Counsel for the Petitioner tries to assail these findings by demonstrating different annexures annexed to the writ petition to impress that the work and conduct of the workman was not good even assuming that be so, though at this stage to comment upon the same would not be justified. It was incumbent upon the employer to terminate his services by holding domestic enquiry in accordance with principle of natural justice and admittedly that having not done, the findings recorded by the Tribunal do not suffer from any error, much less manifest error of law.

8. In this view of the matter, this writ petition has no force and is dismissed. The

interim order, if any, stands vacated.