

(2008) 02 RAJ CK 0101
In the Rajasthan High Court

Chairman, Avas Vikas Sansthan Liquidation Committee and Others APPELLANT

Vs

Manoj Kumar Bhatnagar and Others RESPONDENT

Date of Decision : 26-02-2008

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B

Citation : (2008) 118 FLR 940

Hon'ble Judges : Raghuvendra Singh Rathore, J; R.M. Lodha, J

Bench : Division Bench

Judgement

R.M. Lodha and R.S. Rathore, JJ.—We heard the Counsel for the workman (respondent No. 1) in support of the application (8203 dated 25.3.2003) made u/s 17-B of the Industrial Disputes Act, 1947 and Mr. Aslam Khan, the Counsel for the appellants in opposition.

The termination of the workman w.e.f. 14th May, 1996 has been held to be illegal by the Labour Court vide its award dated 20th October, 2001. The writ petition by the present appellants challenging the said award came to be dismissed vide order dated 21st October, 2002. The present appeal arises from the said order passed by the Single Judge whereby award of the Labour Court has been upheld. Special appeal has been admitted and interim order staying the operation of the award during the pendency of the appeal is operative.

2. In view of the statutory scheme provided u/s 17-B of the Industrial Disputes Act, 1947 and specific assertion of the workman that he is not gainfully employed and the said fact has not been traversed by the appellants, we are satisfied that during the pendency of the appeal, in lieu of reinstatement, the workman is entitled to the wages last drawn by him at the time of termination.

3. We hardly find any justification in refusing to grant relief to the workman u/s 17-B on the spacious plea that Avas Vikas Sansthan is no more in existence. Since the appellants are aggrieved by the award and have put its correctness in

issue in the special appeal, they are liable to make payment to the workman of the last drawn wages u/s 17-B until the disposal of the appeal.

4. The Counsel for the appellants would submit that the workman was not in employment with Avas Vikas Sansthan, The argument is wholly misconceived and frivolous as the relationship of employer and employee was never put in issue before the Labour Court. As a matter of fact, the proceedings before the Labour Court proceeded ex-parte against the employer. The appellants having suffered the award have to comply with the provisions contained u/s 17-B of the Industrial Disputes Act during the pendency of the appeal.

We, accordingly, dispose of this application by the following order:

(i) The appellants shall pay to the workman (respondent No. 1) the wages last drawn by him from the date of the application u/s 17-B of the Industrial Disputes Act, 1947.

(ii) The arrears from the date of the application until 31st January, 2008 shall be paid to the workman within two months from today.

(iii) The wages for the month of February, 2008 and subsequent months shall be paid on or before 10th of succeeding calendar month.