
(1989) 02 RAJ CK 0012
In the Rajasthan High Court
Case No : .C.W.P. No. 1004 of 1988

Chhutan Lal

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-02-1989

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 25F, 33C(2)

Citation : (1990) 60 FLR 213 : (1994) 3 LLJ 925

Hon'ble Judges : Shyam Sunder Byas, J;D.L. Mehta, J

Bench : Division Bench

Advocate : I.R. Saini, for the Appellant; Ashok Parihar, for A.G.A., for the Respondent

Final Decision : Partly Allowed

Judgement

D.L. Mehta and S.S. Byas, JJ.—In this writ petition, the petitioner has challenged the termination of his services made by respondent No. 2. His case is that he was employed as Class IV employee in Government Primary School, Pathana, District Bharatpur, on March 26, 1985. Later on his services were terminated on July 6, 1987. It is contended that the Panchayat Samiti, is an industry and the petitioner is a workman as defined in the Industrial Disputes Act, 1947. Since his services were terminated without making compliance of Section 25F of the Industrial Disputes Act, the termination of service of the petitioner is illegal. In the reply submitted, it was contended that the petitioner is a part time employee and as such the writ petition is not maintainable. It was also contended that the services of the petitioner were terminated in July 1987, and the writ petition was filed in April, 1988. This delay has not been explained and the petitioner is not entitled for any relief.

2. We have heard the learned counsel for both the parties. The petitioner went before the Authority, under the Minimum Wages Act, and the Authority, by his order dated November 25, 1987, held that the petitioner was a full time employee and not part time employee. This order (Annexure-1) dated November

25, 1987, has not been challenged by the non-petitioners. It is, therefore, final between the parties that the petitioner will be taken to be a full time employee. Admittedly, the Panchayat Samiti, is an industry as has already been held by this Court in numerous judgments. We have also no hesitation that the petitioner is a Class IV employee and he is a workman, as defined in the Industrial Disputes Act, 1947. Admittedly, the services of the petitioner were terminated without making compliance of Section 25F of the Act. Every termination of service, unless it falls within the excepted categories amounts to retrenchment. The case of the petitioner does not fall within the excepted 3 categories as mentioned in Section 2(oo) of the Industrial Disputes Act, 1947. Any retrenchment made in violation of Section 25F of the Industrial Disputes Act, is non est and void. The petitioner has claimed back wages but we are not inclined to allow him this relief because we are not in position to say as to whether the petitioner remained in gainful employment from July 6, 1987 till today. He should approach the Industrial Tribunal/Labour Court, u/s 33C of the Industrial Disputes Act, for the arrears of salary.

3. In the result, we partly allow the writ petition. The verbal order by which the services of the petitioner were terminated on July 6, 1987, is set aside. He will be reinstated forthwith. The petitioner is directed to approach the Industrial/Labour Court u/s 33C of the Industrial Disputes Act, in respect of arrears of salary. The writ petition shall stand disposed of accordingly.

No order as to costs.