

(2003) 08 RAJ CK 0038

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4866 of 2002

Chief Executive Officer, Zila Parishad

APPELLANT

Vs

Shri Pala Ram and Another

RESPONDENT

Date of Decision : 01-08-2003

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2004) 1 LLJ 445 : (2004) 1 RLW 102 : (2003) 4 WLC 442

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : Manish Bhandari, for the Appellant; Arvind Juneja, for the Respondent

Final Decision : Dismissed

Judgement

Parihar, J.—Petitioner has challenged the awarded dated 23.3.2002 passed by the Labour Court No. 2, Jaipur, by which while holding termination of services of respondents No. 1, the concerned workman, as illegal and unjustified, he has been ordered to be reinstated with 50% of backwages.

2. After hearing learned counsel for the petitioners, I have carefully gone through the material on record, the impugned award and also the original record of the Labour Court as summoned by this Court.

3. The Labour Court, on the basis of evidence on record, has come to a finding of fact that the concerned workman had worked for more than 240 days in a calendar year, however, compliance of Section 25(f) of the Industrial Disputes Act was not made before terminating the services of the concerned workman and while considering the entire facts and circumstances, granted the relief of reinstatement with 50% of back-wages.

4. Mr. Manish Bhandari, learned counsel for the petitioner while relying on the judgment of the Supreme Court in the case of Range Forest Officer v. S.T. Handimani and Ors. (1), has submitted that the concerned workman has failed to

discharge his burden in proving that he had worked for more than 240 days in a calendar year.

5. In my opinion, the judgment cited and the submissions made by the counsel for the petitioner cannot be accepted on the basis of the original record available with this Court. The concerned workman in his evidence, has specifically stated that he has worked from 31.3.1995 till 18.2.1996 continuously for more than 240 days. He has also filed the documents in support of this affidavit to the effect of his employment with the petitioner Department during the relevant period. The certificate issued by the concerned officer, had been admitted by the witness of the Department. The witness of the Department further admits in his cross-examination that log sheet as also the attendance register is maintained in the office. However, he has not brought the same and cannot say as for how many days the concerned workman was absent from duty.

6. Since the concerned workman had discharged his burden stating on oath that he, had worked in a particular period for more than 240 days and had also submitted documents in support of his submissions, the burden was on the petitioner Department to produce the relevant documents to controvert the statement and documents produced by the concerned workman.

7. The supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution is confined only to see whether an inferior court or the Tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an Appellate Court or the Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or re-weigh the evidence upon which the inferior court or Tribunal purports to have passed the order or to correct errors of law in the decision as has been held by the Supreme Court in the case of *Sadhana Lodh v. National Insurance Company Ltd. and Anr.* (2).

8. After having considered the entire facts and circumstances of the present case, in view of finding of fact and proper discretion been used by the Labour Court in granting relief, I find no ground for any further interference of this court in the present matter. The writ petition is dismissed accordingly as having no merits.