
(2013) 07 RAJ CK 0281

In the Rajasthan High Court

Case No : Civil Writ Petition No. 18042 of 2012

Chief Manager, RSRTC

APPELLANT

Vs

Prem Narayan Sharma and Another

RESPONDENT

Date of Decision : 15-07-2013

Acts Referred:

Citation : (2013) 07 RAJ CK 0281

Hon'ble Judges : Munishwar Nath Bhandari, J

Bench : Single Bench

Advocate : Vinayak Joshi, for the Appellant;

Final Decision : Dismissed

Judgement

Munishwar Nath Bhandari, J.—By this petition, a challenge has been made to the award dated 27th March, 2012 passed by the labour court, Bharatpur. It is a case, where respondent-workman was dismissed from service vide order dated 21st October, 1985. He filed a civil suit to challenge it. The civil suit was decreed followed by dismissal of appeal by the Corporation. The matter ultimately went to the Hon''ble Apex Court and the appeal therein was decided holding that civil court had no jurisdiction to adjudicate the nature of controversy involved therein. The Hon''ble Apex Court, therefore, passed following directions which are quoted thus:--

5. In our view, considering the fact that the Respondents have been working in most cases since 1990 or prior thereto, it would be appropriate that we direct the State Government to make a Reference u/s 10, to the appropriate Court within a period of three months from today. A copy of this Order to be sent to the State Government forthwith. The Respondent will be at liberty to apply for interim relief before that Court. Such application, if made, will undoubtedly be decided on its own merits and in accordance with law. The Appellants are directed to maintain status quo for a period of four months from today.

6. He clarify that if any back-wages have been paid, they shall not be recovered.

It, however, they have not been paid there will now be no question of paying the same.

7. It must also be clarified that Mr. Jain has based his submission on the basis that according to the Appellants. They are an industry. The Appellants will therefore not contend nor be allowed before the appropriate Court that they are not an industry.

8. The Appeals stand disposed of accordingly. There will be no order as to costs.

2. After the judgment of the Hon''ble Apex Court, petitioner Corporation again discontinued the respondent-workman in absence of any order from the labour court for his continuance. This is precisely on the ground that four months'' time was given by the Hon''ble Apex Court for the aforesaid purposes, in view of the fact that status quo order was for a period of four months.

3. The learned labour court considered the issue of quantum of punishment, as challenge to the fairness of the inquiry was not made. In a case for absence from the duties, the punishment of dismissal was found to be disproportionate. The punishment was substitute by stoppage of three increments with cumulative effect.

4. Learned counsel for the petitioner Corporation submits that after holding inquiry to be fair and proper, the court below could not have caused interference in the quantum of punishment.

5. I have considered the submissions made by the learned counsel for the petitioner and find that the order of dismissal was passed on 21st October, 1985 in respect of a charge for absence from duty. The civil suit filed thereupon was decreed in favour of the respondent-workman. He was reinstated on 11th May, 1989. After his reinstatement, and till discontinuance with effect from 27th February, 2006, his service record remained unblemished. Learned labour court took notice of the aforesaid, apart from the nature of allegations, which were quite petty in nature, thus, interfered in the quantum of punishment.

6. I have further gone through the record and misconduct alleged to have committed by the respondent-workman and find not to be of nature where workman can be punished with the ultimate punishment of dismissal. In the background aforesaid, I do not find any illegality in the impugned award of the labour court.

7. This court while exercising its jurisdiction under Article 226 of the Constitution of India should not cause interference in the award unless gross error is shown therein. In view of the discussion made above and finding no merit in the writ petition, the same is dismissed. Stay application also stands dismissed, accordingly.