
(2012) 04 AHC CK 0209
In the Allahabad High Court
Case No : C.M.W.P. No. 61774 of 2007

Darul Uloom Deoband, Saharanpur

APPELLANT

Vs

Labour Court and Another

RESPONDENT

Date of Decision : 18-04-2012

Acts Referred:

Citation : (2012) 6 AWC 5748 : (2012) LLR 796

Hon'ble Judges : Amareshwar Pratap Sahi, J

Bench : Single Bench

Advocate : Rahul Sahai, for the Appellant; Sumati Rani Gupta, C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard learned counsel for the petitioner and Sumati Rant Gupta for the respondent No. 2. The petitioner is a society running an institution imparting religious education. The services of the respondent No. 2 were dispensed with. An industrial dispute was raised and the award has been passed in favour of the workman. The petitioner has challenged the said award on the ground that the Industrial Disputes Act, 1947 does not apply in relation to such a charitable institution which was imparting religious education without charging any fee from its students. A written statement was filed by the petitioner-employer and a copy of the same has been filed on record which has also been reproduced in the award itself.

2. The respondent-workman also contested the claim and evidence was led and the reference was as to whether the termination of the services of the petitioner w.e.f. 19.4.2005 was illegal and if so to what relief is the respondent-workman entitled.

3. The dispute between the employer and the respondent-workman was In relation to holding of a fair enquiry as well. It is evident from the record that as a matter of fact neither any inquiry was held nor the workman-respondent was

confronted with any evidence that was sought to be relied on by the employer for the purpose of terminating his services. Learned counsel for the petitioner submits that if the Industrial Disputes Act was itself not applicable, then the question of holding an inquiry or raising an industrial dispute does not arise for examination before this Court.

4. Learned counsel for the respondent-workman submits that the Industrial Disputes Act does not grant any exemption to such an institution. There was no inquiry at all and the entire proceedings culminated in the termination of the answering-respondent in utter violation of principles of natural justice. It is further submitted that the answering respondent had served the institution for more than 37 years and in the absence of any valid reason termination of his services was invalid and as such the answering respondent was entitled for reinstatement and payment of back-wages.

5. The answering respondent has admittedly retired and attained the age of superannuation. In such circumstances the petitioners have come up questioning the award in relation to the payment to which the respondent claims entitlement.

6. Having heard learned counsel for the parties. Learned counsel for the petitioner relying on the judgment in the case of Bangalore Water Supply & Sewerage v. A. Rajappa and others, 1978 (36) FLR 266 (SC), contends that such institutions are entirely exempted from the purview of the Industrial Disputes Act and hence the Labour Court committed a manifest error by proceeding to construe otherwise. Learned counsel for the respondent-workman has relied on the same judgment to contend that the judgment does not carve out any such exemption in favour of the petitioner as such in these circumstances the said plea of the petitioner cannot be entertained.

7. It is by now well-settled that educational institutions are industries but its teachers and teaching staff are not workman. The respondent-workman was an electrician in the institution and, therefore, he was a workman. Reference be had to the judgment in the cases of Miss A. Sundarambal v. Government of Goa, Daman and Diu, 1988 (57) FLR 462 (SC), Haryana Unrecognised, Schools' Association v. State of Haryana. 1996 (73) FLR 1086 (SC). The respondent-workman was an electrician in the institution and, therefore, he was like skilled workers. In such circumstances, the contention raised on behalf of the petitioner cannot be accepted in view of the decision rendered in Bangalore Water Supply (Supra) itself as followed in the subsequent judgment reported to hereinabove.

8. The respondent- workman has been given an unfair treatment by not holding any inquiry at all and in the circumstances the labour court was fully justified in awarding back-wages to the respondent. I am not inclined to interfere with the impugned award at all. The writ petition is dismissed.