

(2009) 01 RAJ CK 0099
In the Rajasthan High Court

Dinesh Singh Rao

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-01-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 12

Citation : (2009) 01 RAJ CK 0099

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—To challenge the decision of the appropriate Government for not referring an industrial dispute for its adjudication raised by the petitioner, this petition for writ is preferred.

2. In brief, facts of the case are that the Superintendent of Post, Department of Post, Sirohi invited applications from eligible candidates for the purpose of appointment to the post of Branch Post Master under an advertisement dt. 08.06.1999. On selection, appointment was given to the petitioner, however, he was dis-continued from service on 26.03.2000. Being aggrieved by the same, the petitioner raised an industrial dispute. The appropriate government by its communication dt. 07.06.2004 informed the petitioner that the dispute raised is not fit for adjudication for the reason that "the workman was appointed for the period till a regular appointment is made. It was stipulated in the appointment letter that the management reserve the right to terminate the appointment without any notice. ID is not maintainable."

3. The contention of the learned Counsel for the petitioner that the appropriate Government could have not examined the nature of appointment which was made after due selection. It is asserted that the reason given for not making reference relates to merit of an industrial dispute and that could have been adjudicated only by an adjudicating forum prescribed under the Industrial

Disputes Act, 1947.

4. A reply to the writ petition is also filed on behalf of the respondents stating therein that the appointment of the petitioner was provisional and as such no right in his favour was credited to continue on the post in question.

5. From perusal of the facts averred in reply to the writ petition, it appears that the petitioner was working as Extra Departmental Branch Post Master as per terms and conditions prescribed under the Post and Telegraph Extra Departmental Agents (Conduct and Service) Rules, 1964 and his services were dis-continued on 31.01.2000. The issues as to whether the appointment of the petitioner was in capacity of a workman, whether the termination of the petitioner amounts to retrenchment and all other issues connected thereto pertains to merit of the dispute. The appropriate Government, while exercising powers under Sub-section (5) of Section 12 of the Industrial Disputes Act, 1947 is not empowered to examine such merits. In view of it, the denial to make reference for the reason referred in the letter dt. 07.06.2004 is apparently bad.

6. Accordingly, this petition for writ is allowed. The respondent appropriate Government is directed to re-consider the matter to take an appropriate decision for making reference of the industrial dispute raised by the petitioner regarding his termination from service. Such consideration and decision thereon by the appropriate government is required to be made within a period of three months from today.

No order to cost.