
(2017) 01 P&H CK 0046

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 74 of 2017 (O&M) in CWP No. 22474 of 2015

Divisional Forest Officer

APPELLANT

Vs

Dulla Ram

RESPONDENT

Date of Decision : 17-01-2017

Acts Referred:

Industrial Disputes Act, 1947 — Section 25-F

Citation : (2017) 2 SCT 32

Hon'ble Judges : Rajesh Bindal and Harinder Singh Sidhu, JJ.

Bench : Division Bench

Advocate : G.S. Wasu, Additional Advocate General, Haryana, for the Appellant

Final Decision : Dismissed

Judgement

Rajesh Bindal, J. - By filing the present intra-court appeal, the State has challenged the order passed by the learned Single Judge dismissing the writ petition filed by the appellant impugning the award of the Labour Court.

2. The contention sought to be raised is that reinstatement of the workman has been ordered by the Labour Court finding violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short, "the Act"). From the facts noticed in the award itself, it is evident that the workman had joined service on 1.10.2012 and was allegedly terminated on 1.1.2013, hence, he had not completed 240 days in a calendar year. Findings being perverse, the award of the Labour Court, in fact, deserved to be set aside, however, the learned Single Judge has dismissed the writ petition. He further submitted that there is delay of 381 days in filing the present appeal. It is not intentional but due to procedural delay.

3. After hearing learned counsel for the appellant, we do not find any reason to interfere in the present appeal.

4. The impugned order was passed by the learned Single Judge on 26.11.2015.

Even as per the averments made in the application seeking condonation of delay, the Legal Remembrancer gave his opinion vide letter dated 18.1.2016, which was received in the office of the appellant on 5.2.2016. Still the appeal was filed in this court on 11.1.2017, after a delay of 381 days. The only ground taken in the application for condonation of delay is "that the above said delay is not intentional but bona fide and due to office procedure and may kindly be condoned". We do not find this to be a reasonable cause for condoning delay of more than one year in filing the present appeal.

5. Even if the case is considered on merits, it does not show anything else than highhandedness on the part of the State in dealing with the cases of low paid employees. Though the State should be a model employer, but the action in the present case shows that it was towards exploitation. The admitted facts on record, as have been noticed even by the Labour Court, are that the workman had been working with the department from April, 1988 till 31.3.2001, when his services were illegally terminated. He raised an industrial dispute by serving a demand notice dated 4.6.2001. The matter was settled before the Labour-cum-Conciliation Officer, which was reduced into writing and produced before the Labour Court as Ex. W1. In terms of the settlement, the appellant was to permit the workman to join his duty back on 3.9.2001. He was granted continuity of service, but was not held entitled to any back wages. The department did not honour the settlement. The Labour-cum-Conciliation Officer requested the Labour Commissioner to launch prosecution and take necessary action against the Forest Department under Section 29 of the Act. It was only thereafter that after a gap of more than 11 years that the workman was taken back in service and again illegally terminated. In these facts, in our opinion, no illegality has been committed by the Labour Court in recording a finding against the department. There is no error in the award of the Labour Court and the order passed by the learned Single Judge. The appeal is also totally misconceived.

6. For the reasons mentioned above, we do not find any reason to interfere in the present appeal as well as the application for condonation of delay. Accordingly, the same are dismissed.

7. Before parting with the order, we deem it appropriate to direct the State to apprise the court about the officer(s) responsible for noncompliance of the settlement arrived at before the Labour-cum-Conciliation Officer, Sirsa, for which action under the Act could be taken against him/them.

Matter be listed for the purpose on 18.4.2017.