
(2009) 07 MP CK 0017

In the Madhya Pradesh High Court

Case No : Writ Petition No. 3498 of 2006 (S)

Divisional Forest Officer, Forest Division and Another

APPELLANT

Vs

Leelavati Yadav

RESPONDENT

Date of Decision : 23-07-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 25F

Citation : (2011) 128 FLR 1012

Hon'ble Judges : Sushma Shrivastava, J;A.K. Mishra, J

Bench : Division Bench

Judgement

Arun Mishra and S. Shrivastava, JJ.—Heard.

2. The writ petition has been filed as against award dated 22.5.2002 passed by the Labour Court, Rewa in case No. 37/ID Act/98 Reference.

3. Case of the workman was referred for adjudication to the Labour Court u/s 10 of ID Act whether termination of her services was legal and valid.

4. It was the case of workman that she was appointed in the year 1983 as Labour. She rendered the services till her services were orally terminated on 1.1.1996. She has rendered continuous service for more than 240 days in each of the preceding year. The principle of last come first go was not followed, retrenchment compensation was not paid, she has remained unemployed.

5. In the reply filed by the DFO, it was contended that appointment was not as against any vacant post. She has not rendered any services much less 240 days.

6. The Labour Court has directed reinstatement with 50% back wages. It has been found that workman has rendered services w.e.f. 1983 till 1996 when her services were terminated without compliance of provisions of Section 25-F of ID Act. Services were rendered for more than 240 days in a preceding year. Dissatisfied with the award, the writ petition has been preferred by the employer.

7. Shri S. Verma, learned GA appearing for Petitioners has submitted that it was

not proved that services were rendered for more than 240 days in a preceding year. He has also submitted that grant of 50% back wages could not be said to be proper in the facts and circumstances of the instant case.

8. Shri Sanjay Roy, learned Counsel appearing for Respondent/workman has supported the award.

9. We have gone through the statements of witnesses placed on record. Leelawati has examined herself. Her statement has been supported by Ramgopal Patel. She has stated that she has rendered the services with effect from 1983 till 1.1.1996 when her services were terminated. She has rendered the services for more than 240 days in a preceding year. Principle of "last come first go" was not followed. Her service record was maintained by the Department. Ramgopal Patel who was posted in Forest Training School (Nursery), Gobindgarh in 1983-84 has stated that when he was posted in the year 1983-84 the workman has rendered the services. Her presence was marked. Thereafter he was transferred from Gobindgarh to Hanumana. There is nothing to disbelieve the statement of Ramgopal Patel. There is denial on behalf of employer with respect to services having been rendered by the workman. Mahendra Kumar Jain has been examined on behalf of employer. He has stated that he was not posted from 1983 till 1996 at Gobindgarh. Some other persons were posted. He has stated that he had seen the documents in which name of the workman was not mentioned, but no record has been produced. Even the list of employees maintained by the Department was not produced. In view of the statement of the employer's witness coupled with the evidence adduced by the workman including that of one of the employee of Forest Department itself, in our opinion, the finding recorded by the Labour Court that employee had rendered the services from 1983 till 1996 and she has also rendered the services for more than 240 days in a preceding year is proper. It was necessary to comply with the provisions of Section 25-F of ID Act, which was not complied with. Consequently, the reinstatement part of the award does not call for any interference.

10. Coming to question of back wages, the termination was made on 1.1.1996, case was referred on 9.11.1998 for adjudication to the Labour Court. Considering the facts and circumstances of the case, it is considered appropriate to award 25% of the back wages instead of 50% as awarded by the Labour Court.

11. It is also not in dispute that workman has been reinstated and one year remains in her retirement.

12. In the facts and circumstances of the case, the reinstatement part of the award is upheld. However, we award 25% back wages instead of 50% as awarded by the Labour Court.

13. Writ petition stands disposed of.