
(2016) 11 RAJ CK 0013

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3721 of 2006

Dy. Forest Conservator, Forest Department

APPELLANT

Vs

The Judge, Labour Court No.2

RESPONDENT

Date of Decision : 28-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 25F(a)

Citation : (2017) 1 LLJ 516 : (2016) 4 LLN 770

Hon'ble Judges : Mr. Alok Sharma, J.

Bench : Single Bench

Advocate : Mr. B.L. Sharma, Advocate, for the Respondent; Mr. Shivraj Singh, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. Alok Sharma, J. - This petition has been filed against the award dated 18-11-2005 passed by the Labour Court No.2 Jaipur in LCR No.1220/1998 whereby the termination of the respondent workman from 8-11-1993 has been held to be illegal and he held entitled to be reinstated in service but without back wages.

2. Counsel for the petitioner department has submitted that the workman in issue was engaged on the post of cattle guard on 1-6-1986. He was removed from service on 1-5-1991. On raising an industrial dispute before the Conciliation Officer, the matter was compromised on 31-10-1991 and the workman taken back in service on 1-11-1991. Thereafter the workman was again removed from service on 8-11-1993. The workman filed writ petition challenging his termination of service, but as the matter pertained to an industrial dispute under the Industrial Disputes Act, 1947 (hereinafter "the Act of 1947") the writ petition was disposed of requiring the workman to raise an industrial dispute. On failure of the conciliation proceedings in the first instance, a reference by the State Government was made to the Labour Court.

3. The workman in his statement of claim submitted that he was removed from service on 8-11-1993 without conducting any enquiry or complying with Section 25F of the Act of 1947. The department opposed the claim of the workman and submitted that the department did not fall within the definition of industry. The labour court considering the submissions of both parties came to the conclusion that the retrenchment compensation paid to the workman was not as per law and as such his retrenchment was invalid. Consequently the workman's retrenchment on 8-11-1993 was held to be illegal and he was declared entitled to reinstatement with continuity of service but without back wages.

4. It has transpired that pursuant to the award dated 18-11-2005 the respondent workman has been reinstated in service in the year 2009 and is working in the department as of now. Heard. Considered.

5. A perusal of the impugned award indicates that the workman was retrenched without following the provisions of Section 25F(a) of the Act of 1947 as the retrenchment compensation paid to him was not according to provisions of the Act of 1947. Consequently, the workman's retrenchment on 8-11-1993 was rightly held to be illegal and vitiated by the Labour Court. That is in any event a finding of fact based on the appreciation of the respondent workman's evidence and also on the petitioner department's own admission. It warrants no interference. On the issue with regard to the relief to the workman, the Tribunal considering the submission of the department has awarded no back wages but only reinstatement with continuity of service.

6. In the facts on record nothing perverse or illegal is attributable to the impugned award warranting interference under Article 226/ 227 of the Constitution of India.

7. Therefore, I find no force in the writ petition. It is dismissed.