
(2010) 06 UK CK 0226

In the Uttarakhand High Court

Case No : Writ Petition No. 3010 of 2001 (MIS)

Electricity Distribution Division

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 02-06-2010

Acts Referred:

Citation : (2010) 06 UK CK 0226

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Advocate : N.S. Negi, for the Appellant; Subhash Upadhayaya, for the Respondent

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—Heard Sri N.S. Negi, the learned Counsel for the Petitioner and Sri Subhash Upadhayaya, the learned Counsel for the Respondent Nos. 4& 5.

2. The Petitioner is aggrieved by the validity and legality of the award passed by the labour court holding that the period spent as a work charge employee would be counted in the seniority and consequential benefits that may arise in pay.

3. The brief facts leading to the filing of the writ petition is that the Respondent Nos. 3 and 4 were working as work charge employees in the Electricity Board and, subsequently, they were regularised. The workmen raised a dispute that the period, which the workers had spent as work charge employees, should also be included in the length of service and that the length of services should not start from the date of their regularisation. The labour court, after considering the material evidence on record, submitted that the electricity board has not framed any rules or regulation with regard to non-inclusion of the period of work charge in their length of service from the date of regularisation. The labour court, after considering the material evidence on record, held that the period spent by the workers as work charge employees should be included in the length of service and for other benefits that may follow. The Petitioner, being aggrieved of the said

award, has filed the present writ petition.

4. The learned Counsel for the Petitioner submitted that the period spent as a work charge employee cannot be included in the length of service and that the length of service can only be counted from the date when the workers were regularised in the regular establishment. In support of this submission, the learned Counsel for the Petitioner placed reliance on a decision of the Supreme Court in the case of Punjab State Electricity Board and Ors. v. Jagjiwan Ram and Ors. 2009 (1) SCC (L & S) 769, wherein the Supreme Court has held as follows:

10. The work-charged employees can claim protection under the Industrial Disputes Act or the rights flowing from any particular statute but they cannot be treated on a par with the employees of regular establishment. They can neither claim regularisation of service as of right nor can they claim pay scales and other financial benefits on a par with regular employees. If the service of a work-charged employee is regularised under any statute or a scheme framed by the employer, then he becomes member of regular establishment from the date of regularisation. His service in the work charged establishment cannot be clubbed with service in a regular establishment unless a specific provision to that effect is made either in the relevant statute or the scheme of regularisation. In other words, if the statute or scheme under which service of work-charged employee is regularised does not provide for counting of past service, the work-charged employee cannot claim benefit of such service for the purpose of fixation of seniority in the regular cadre, promotion to the higher posts, fixation of pay in the higher scales, grant of increments, etc.

5. The learned Counsel for the Petitioner submitted that in view of the aforesaid decision, the award of the labour court cannot be sustained and the same is liable to be quashed.

6. Having heard the learned Counsel for the Petitioner at some length, the court finds that the submission of the learned Counsel for the Petitioner is bereft of merit. The aforesaid decision of the Supreme Court in the case of Punjab State Electricity Board (supra) clearly states that if the statute or scheme under which service of work-charged employee is regularised does not provide for counting of past service, the past service spent by the workmen as a work-charged employee would not be counted in the length of service. The labour court has categorically given a finding that no rules or regulation have been framed to indicate that period spent on work-charged would not be counted in the length of service, in my opinion, the decision cited by the learned Counsel for the Petitioner, in fact, supports the case of the opposite parties. In the light of the aforesaid, this Court does not find any error in the impugned award. The writ petition fails and is dismissed.