

(2014) 10 MP CK 0094
In the Madhya Pradesh High Court
Case No : Writ Petition No. 9693/2010

Executive Engineer

APPELLANT

Vs

Bhagwan

RESPONDENT

Date of Decision : 14-10-2014

Acts Referred:

Constitution of India, 1950 — Article 227
Industrial Disputes Act, 1947 — Section 25(f), 25(h)

Citation : (2014) 10 MP CK 0094

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : V.P. Khare, learned counsel, Advocate for the Appellant; Umesh Gajankush, learned counsel, Advocate for the Respondent

Judgement

Prakash Shrivastava, J.

Heard finally.

1. This writ petition is at the instance of the employer challenging the award of the Labour Court dated 2.7.2008 as affirmed by the order of Industrial Court dated 6.4.2010 directing reemployment of the respondent-employee.

2. In brief, the respondent-employee had filed an application under Section 31(3) read with Section 61 & 62 of the M.P. Industrial Relations Act, 1960 raising the plea that he was employed with the petitioner and his services were terminated by oral order of termination dated 31.3.2000. The respondent had claimed the relief of reinstatement with backwages on the plea that the retrenchment was illegal. He had also raised the plea that retrenchment was on the basis of the circulars of the State Government and in terms of the subsequent circular, other employees were taken back in service. The Labour Court while passing the impugned award has directed reemployment of the respondent.

3. Learned counsel appearing for the petitioner submits that the application challenging the retrenchment was barred by time, therefore, the relief of

reinstatement could not be granted.

4. As against this, learned counsel for the respondent has submitted that the relief which has been granted by the Labour Court is in respect of the reemployment, in view of Section 25(h) of the Industrial Disputes Act.

5. Having heard the learned counsel for the parties and on perusal of the record, it is noticed that the Labour Court while passing the impugned award, has found that the retrenchment of the respondent was in accordance with Section 25(f) of the Industrial Disputes Act. The Labour Court has also found that the provisions of M.P.I.R. Act were applicable to the petitioner-institute and that the respondent was working as daily rated employee in the petitioner-institute. The issue of limitation has been decided in favour of the petitioner by holding that the respondent had challenged the order of termination beyond the period of limitation prescribed under Section 62(1)(a) of the M.P. Industrial Relations Act, therefore, the issue relating to the illegal termination/retrenchment of the employee had become barred by time. The Labour Court has proceeded further and has considered the plea of the respondent in respect of the reemployment and has noted that the services of the respondent were terminated on the basis of the Circular of the State Government dated 31.3.2000 but the State Government has subsequently issued the Circular dated 21.1.2004 and 12.4.2004 for reemployment of the persons whose services were terminated in the year 2000. It has further been found by the Labour Court that the G.A.D. of the State Government in the Circular dated 19.4.2004 had directed for reemployment of even those daily rated workers, whose services were terminated after 31.12.1988 on payment of the retrenchment compensation. A finding has been recorded by the Labour Court that on the basis of the aforesaid circular, the petitioner has reemployed the other employees; such as Pradeep Bhadoriya, Kripashankar Mishra, Sukhdev and Bharat but the present respondent has not been reemployed. It has further been found that the said act of the petitioner is not only discriminatory but is also violative of Section 25(h) of the Industrial Disputes Act. In view of these findings, the Labour Court has passed the award granting relief of reemployment of the respondent. The industrial Court has re-appreciated the matter and by order dated 6.4.2010 dismissed the appeal.

6. Counsel for the respondent has rightly placed reliance upon the judgment of the Supreme Court in the matter of Central Bank of India Vs. S. Satyam and others, , wherein it has been held that Section 25(H) is applicable to all retrenched employees and not only to those employees to whom Section 25(f) applies. Counsel for the petitioner has raised the plea that the relief of reinstatement is barred by time but the said plea has already been accepted by the Labour Court while passing the impugned award and no relief of reinstatement has been granted to the respondent. Counsel for the petitioner has also placed reliance upon the order of this court dated 11.5.2010 passed in W.P. No. 5267/2007 in the matter of Smt. Jayashri Vs. Executive Engineer but in that

case there was an award of reinstatement with full backwages, inspite of the fact that the claim relating to the reinstatement was barred by time but that is not the present case.

7. The two courts below have already appreciated the matter in detail and have found the respondent entitled for reemployment.

8. In these circumstances, I am of the opinion that no case is made out to interfere in the impugned award of Labour Court as affirmed by the order of the Industrial Court dated 6.4.2010. Even otherwise the scope of interference in exercise of jurisdiction under Article 227 of the Constitution is limited.

9. The writ petition is accordingly dismissed.

C.C. as per rules.