

(2002) 10 AHC CK 0100
In the Allahabad High Court
Case No : C.M.W.P. No. 36288 of 1993

Ganga Ram

APPELLANT

Vs

Forest Range Officer and Others

RESPONDENT

Date of Decision : 09-10-2002

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6N, 6Q

Citation : (2003) 1 AWC 58 : (2003) 96 FLR 159

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : B.N. Singh and S.K. Yadav, for the Appellant;

Final Decision : Partly Allowed

Judgement

Anjani Kumar, J.—Heard learned counsel appearing on behalf of the parties.

2. This writ petition under Article 226 of the Constitution of India is directed against the award of the labour court (I), U. P., Kanpur dated 27.2.1993 passed in Adjudication Case No. 243 of 1991. a copy whereof has been annexed as Annexure-1 to the writ petition. The State Government in exercise of its power u/s 4K of the U. P. Industrial Disputes Act, 1947, vide order dated 30.9.1991 have referred the following dispute for adjudication before the labour court :

^^D;k Isok;kstdksa }kjk vius Jfed Jh xaxkjke iq= Jh tklw i''kqj{kd dks fnukad 1-7-1989 ls dk;Z ls i`Fkd@oafpr fd;k tkuk mfpr ,oa oS/kkfud gS\\ ;fn ugha] rks lacaf/kr Jfed D;k fgrykHk@{kfriwfrZ ikus dk vf/kdkjh gS\\ fdl frfFk o vU; fdl fooj.k lfgr**

3. The labour court after considering the material evidence on record has recorded finding that the employee-workman has been able to prove by evidence on record that he has worked continuously with the employers from September, 1984 to 5.1.1988. The labour court has further recorded finding that therefore, it was incumbent on the part of the employers to comply with the provision of Section 6N of the U. P. Industrial Disputes Act, 1947 (hereinafter referred to as

the "Act") and even if they wanted to retrench the employee, they ought to have comply with the aforesaid provision, but admittedly they have not complied with. The labour court has stated that since employers have come out with the case that now there is no work for the workman concerned, therefore, the labour court instead of reinstatement has directed for the payment of retrenchment compensation only which view, according to the learned counsel for the employee-workman, is not correct. It is further stated by the workman's counsel that the labour court having come to the conclusion that the provisions of Section 6N of the Act has not been complied with has erred in law in granting only retrenchment compensation because once it is held that compliance of Section 6N of the Act has not been complied with and in term of the reference, it is clear that the labour court has to answer that the termination of the services of the workman concerned were illegal and unjustified. However, in the facts and circumstances of the case, the workman would be entitled for the back wages up to the date of the award, along with the retrenchment compensation and beyond that the employers are directed to absorb the workman in service in case there is any work, as in view of the provision of Section 6Q of the Act, the workman . concerned is entitled for employment in accordance with law.

4. In view of what has been stated above, this writ petition is partly allowed. The award of the labour court dated 27.2,1993, Annexure-1 to the writ petition, is modified as stated above. However, on the facts and circumstances of the case, the parties shall bear their own costs.