
(2004) 07 AHC CK 0057
In the Allahabad High Court
Case No : C.M.W.P. No. 9203 of 1983

Garg Plastics

APPELLANT

Vs

Presiding Officer, Labour Court V and Others

RESPONDENT

Date of Decision : 09-07-2004

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 10, 4K

Citation : (2004) 4 AWC 3116 : (2004) 102 FLR 791 : (2005) 1 LLJ 619 :
(2004) 3 UPLBEC 2666

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : V.B. Singh and Kshitij Shailendra, for the Appellant; K.P. Agrawal and R.D. Singh, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—This is a petition by the employer against the order passed by the Presiding Officer, labour court, dated 28th April, 1993, whereby in pursuance to the direction issued by the State Government the labour court has recalled the order dated 10th July, 1981 and maintained the award dated 2nd March, 1981. The employer approached this Court by means of this writ petition under Article 226 of the Constitution of India.

2. The facts leading to filing of this writ petition are that the State Government referred the following dispute for adjudication to the Labour Court V. U. P., Kanpur which was registered as Adjudication Case No. 293 of 1973 :

"Kyo, seva yojakon dwara parishisht men ullikhit shramikon ko dinank 25.11.1972 se 8.12.1972 tak karya se uanchit rakhna tatha dinank 11.1.1973 se punah karya se vanchit rakhna uchit tatha/athua vaidhanik hat? Yadi nahin to sambandhit shramik kya labh/kshatipurti pane ka adhikari hai tatha anya kis uiuran sahit?"

3. The employers have put in appearance and filed their written statement with

preliminary objections. The parties have exchanged their pleadings. Ultimately the labour court has answered the reference ex parte on 16th December, 1980. Against the aforesaid ex parte award, the employers filed an application and the labour court by its order dated 10th July, 1981 set aside the aforesaid award on the cost of Rs. 100 payable to the workman concerned. On the same date on the basis of affidavit filed on behalf of the employers, the labour court answered the reference in terms of the statement made by the employers. This order is annexed as Annexure-7 to the writ petition. By the aforesaid order dated 13th October, 1981, the employers have agreed to pay an amount of Rs. 3.174 ex gratia and also the retrenchment compensation provided that the workman shall not claim reinstatement. The reference, therefore, is answered as stated above in the aforesaid terms.

4. By the order dated 13th October, 1981, the aforesaid award was sent for approval of the State Government. The State Government thereafter, as stated above, passed order dated 28th April, 1983, whereby the State Government after considering the facts of the case found that the order dated 13th October, 1981 does not require any direction for publication. The labour court, therefore, directed that in view of the order passed by the State Government dated 28th April, 1983, the order dated 10th July, 1981 is recalled. As a result of recall of the order dated 10th July, 1981, the earlier order which was published on 2nd March, 1981 will remain effective. It is this order which is under challenge by means of the writ petition by the employers.

5. The employers have contended that the aforesaid order has been passed in the writ petition whereby the employers have challenged the order dated 10th July, 1981 which was ultimately allowed to be withdrawn by this Court and this Court was pleased to pass the following order on 29th July, 1981 :

"Sri V. B. Singh, learned counsel for the petitioner, has filed application as well as stated before me that the writ petition has become infructuous and as such he does not want to press the same. The petition is accordingly dismissed. The parties are directed to bear their own costs."

6. As a consequence of withdrawal of the aforesaid writ petition, the State Government has passed the aforesaid order. The petitioner, therefore, filed this writ petition challenging the order dated 25th April, 1983, To me, it appears that learned counsel for the petitioner has not been able to make out any case for interference with the order impugned in the present writ petition which has been passed by the labour court on the direction of the State Government which appears to have been passed on the petition filed by the employers. In this view of the matter, the employers cannot be allowed to take benefit of their own wrong.

7. No other point was argued.

8. This writ petition is, therefore, devoid of any merit. It is accordingly dismissed. Interim order, if any, stands vacated.