

(2001) 09 P&H CK 0048
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 2623 of 2001

Garib Das

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 05-09-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 10, 25(G), 25(H)

Citation : (2001) 09 P&H CK 0048

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : Mr. Naveen Daryal, for the Appellant;

Final Decision : Allowed

Judgement

S.S. Nijjar, J.—In this petition under Articles 226/227 of the Constitution of India, the petitioner seeks the issuance of a writ in the nature of Certiorari, quashing the impugned order dated October 10, 2000, passed by the Joint Secretary, Govt. of India, Ministry of Labour, New Delhi, by which the demand notice of the petitioner has been rejected on the ground that since the workman was employed purely on casual basis on daily wages, he is not entitled to the protection of Industrial Disputes Act. The petitioner had been appointed by respondent No. 2 as a casual pay worker on 1.11.1987. His appointment was on daily wages at the rates fixed by the Govt. from time to time. On September 30, 1990, his services were dispensed with without complying with the provisions of Section 25(G) and (H) of the Industrial Disputes Act (hereinafter referred to as the Act). On September 20, 1997, the workman served a demand notice seeking the reference of the dispute to the Labour Court. The conciliation proceedings ended in failure. Failure report was sent by the Assistant Labour Commissioner (C) Faridabad to the Ministry of Labour. On consideration of the failure report, the impugned order dated October 10, 2000 has been passed. The order is as follows :-

"I am directed to refer to the failure of the conciliation report No. 8 (89)/99-ALF dated 31.5.2000 from the Assistant Labour Commissioner (C) Faridabad received in this ministry on 14.6.2000 on the above subject and to say that prima facie this ministry does not consider this dispute fit for adjudication for the following reasons: "It is reported that the workman was deployed purely on casual basis on daily wage and acquired no right for continued employment or regularisation in service no industrial dispute subsist."

2. A perusal of the order reproduced above makes it clear that the Govt. has decided the reference on merits. It has been held that since the workman was deployed purely on casual basis on daily wage, he has acquired no right for continued employment. It has been held that no industrial dispute subsists. Adjudication of the Industrial Dispute is within the jurisdiction of the Labour Court/Tribunal set up under the various legislations dealing with labour disputes. The respondent-Government had no jurisdiction to decide the dispute on merits.

3. In view of the above, the petition is allowed. The impugned order (Annexure P-3) declining the reference is hereby quashed and set aside. Respondent No. 1 is directed to refer the industrial dispute to the appropriate Labour Court as required u/s 10(1)(c) of the Industrial Disputes Act.

4. Let the reference be made within a period of two months of the receipt of a certified copy of this order.

5. Petition allowed