
(1992) 05 RAJ CK 0028
In the Rajasthan High Court
Case No : C.W. No. 4459 of 1991

Garrison Engineer MES

APPELLANT

Vs

Central Govt. Industrial Tribunal and Another

RESPONDENT

Date of Decision : 27-05-1992

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (1993) 2 LLJ 883 : (1992) 1 RLW 217 : (1992) 1 RLW 216 : (1992) 1 RLW 221 : (1992) 1 WLN 579

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : Praveen Balwada, for the Appellant; B.L. Gupta, for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—The petitioner has challenged the award dated April 20, 1991 passed by the learned Judge, Central Industrial Tribunal (for short the Tribunal) whereby the learned Judge has quashed the termination of service of the workman (respondent No. 2) and has directed his reinstatement with all consequential benefits and cost of Rs. 100.

2. Briefly stated the case of the petitioner is that respondent No. 2 was engaged as a casual employee on daily wages on August 2, 1985. He worked for 93 days between August 2, 1985 to July 12, 1986. He was again engaged on August 8, 1986 and he worked for 69 days upto July 15, 1987. Thus in one calender year he worked for 93 days and in another calender year he worked for 69 days.

3. An industrial dispute was raised regarding the termination of his service. The workman claimed violation of Section 25F and the petitioner submitted that since he had not worked for 240 days in a period of 12 months preceding the date of termination of his service, there was no violation of Section 25F on account of not giving notice or pay in lieu thereof and retrenchment compensation. After recording the evidence of the parties, the learned judge, Industrial Tribunal,

proceeded to pass the impugned award. Shri Praveen Balwada, learned counsel for the petitioner, has argued that the workman has not been able to establish the fact that he has served them for a period of 240 days in a period of 12 months, preceding the date of termination of his service. The learned Judge of the Tribunal has recorded a finding of his working for 240 days by misreading the pleadings of the petitioner and the evidence produced on his behalf. Shri B.L. Gupta, learned counsel for respondent No. 2, has on the other hand argued that a finding of fact has been recorded by the Industrial Tribunal and that does not call for any interference by this Court under Articles 226 and 227 of the Constitution of India.

4. After having gone through the pleadings of the parties and the evidence which has come on record before the Industrial Tribunal, I am of the considered opinion that the impugned award dated April 20, 1991 is liable to be quashed. The learned judge of the Tribunal has passed his finding only on the statement of Capt. G.V.R. Murty who appeared as Officer-in-Charge of the petitioner before the Labour Court. In the reply filed on behalf of the petitioner before the Industrial Tribunal it has specifically been stated that the workman was engaged on August 2, 1985 and he worked for 93 days upto July 12, 1986. He was again engaged on August 8, 1986 and he worked for different periods between August 8, 1986 to July 15, 1987 (in all 69 days). Before the Industrial Tribunal, muster rolls containing the attendance of the petitioner were produced. These muster rolls show that the petitioner had worked for less than 240 days in a period of 12 months counted from July 15, 1987. The learned Judge, Industrial Tribunal has not even referred to the muster rolls produced on behalf of the petitioner. Even in his cross-examination, Capt. G.V.R. Murty has merely admitted that in all the workman had worked for 240 days but he had not worked continuously.

5. In the face of the documentary evidence produced on behalf of the petitioner there was absolutely no justification for the learned Judge, Industrial Tribunal to have recorded a finding about the working of respondent No. 2 for a period of more than 240 days in a period of 12 months. The learned Judge, Industrial Tribunal has ignored a material piece of evidence while recording the finding regarding violation of Section 25F of the Industrial Disputes Act, 1947 read with Section 25B of the 1947 Act. The award passed by the learned Judge, Central Industrial Tribunal suffers from an error of law apparent on the face of it.

6. This writ petition is, therefore, allowed. Award dated April 20, 1991 is quashed and set aside. Parties are left to bear their own costs.