
(2014) 04 RAJ CK 0121

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 54/2014

Gauri Shanker

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 04-04-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B, 25-G, 25-H

Citation : (2014) 142 FLR 795 : (2014) 2 LLJ 689 : (2014) 4 LLN 536 : (2014) 3 WLN 291

Hon'ble Judges : Dinesh Maheshwari, J; Banwari Lal Sharma, J

Bench : Division Bench

Advocate : Parmendra Bohra, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Dinesh Maheshwari, J.—After having heard the learned counsel for the appellant-workman and having perused the material placed on record, we are not persuaded to consider interference in the order dated 18.11.2013, as passed by the learned Single Judge of this Court in S.B. Civil Writ Petition No. 4253/2002. In the order impugned, the learned Single Judge proceeded to consider the writ petition filed by the employer against the award dated 28.06.2001, as made by the Labour Court, Bikaner in Labour Dispute Case No. 94/1994 whereby, the Labour Court held the retrenchment of the workman-appellant from 01.04.1992 to be improper and invalid; and directed his reinstatement with back wages.

2. It appears that in the writ petition filed by the employer against the award aforesaid, operation of the impugned award was ordered to remain stayed. Though, as submitted by the learned counsel, an order u/s 17B of the Industrial Disputes Act, 1947 ("the Act of 1947") was made in favour of the appellant-workman.

3. It appears that on 18.11.2013, the learned Single Judge considered the question if the matter could be referred for disposal in the spirit of Lok Adalat,

but the proposition for settlement was declined on behalf of the workman, who was not desirous to enter into any agreement and wanted to contest the matter.

4. Hence, the learned Single Judge proceeded to examine the matter on merits. In the first place, the learned Single Judge came to the conclusion that the findings in the award impugned regarding violation of the provisions of Sections 25-G and 25-H of the Act of 1947 were not suffering from any error as to warrant interference in the writ jurisdiction. However, thereafter, the learned Single Judge took into consideration the fact that retrenchment came to be effected way back in the month of March 1992 and also the fact that the appellant-workman had been working on casual basis for a work of intermittent nature. In the overall circumstances, the learned Single Judge considered it proper to substitute the award of reinstatement with that of compensation in lieu of reinstatement to the tune of Rs. 1,50,000/.

5. Seeking to question the order dated 18.11.2013 so passed by the learned Single Judge, the learned counsel for the appellant-workman has referred to a Circular, said to have been issued by the State Government on 23.10.2013 to its officers for the purpose of dealing with the matters in Lok Adalats. The learned counsel submits on the basis of this Circular that the Government had taken a policy decision to settle such matters upon the workman agreeing to forgo the back wages; and when the appellant is agreeable to give up the claim for back wages, the order for reinstatement deserves to be maintained.

6. We are afraid, the said Circular dated 23.10.2013 cannot be made the basis of any adjudication in the Court. The said Circular had essentially been issued for the purpose of settlement through Lok Adalats and cannot, otherwise, be considered investing any litigant with any additional or extra right to seek remedy/relief on its basis when the matter is taken up for adjudication in the Court. Secondly, in this case, it is noticed from the observations made in the order impugned that the appellant-workman declined to get the matter settled through Lok Adalat and expressed the desire to contest the same. The appellant cannot be permitted to take a shifting stand now at this stage. Thirdly, even if the said Circular dated 23.10.2013 is taken into consideration, in paragraph 1(b) thereof, the Government had indicated its preference to settle such cases only on lump-sum payment. We do not wish to make any further comment in the matter but we are clearly of the view that the said Circular does not inure to the benefit of the appellant in any manner.

7. On the merits, we are at one with the observations made by the learned Single Judge that when the appellant stood retrenched way back in the month of March 1992 and had been working on casual basis for a work of intermittent nature, the just and proper course for the Court was to order compensation in lieu of reinstatement. In the totality of the circumstances, the amount as awarded by the learned Single Judge towards compensation in lieu of reinstatement cannot be considered to be low or inadequate. Viewed from any angle, this appeal remains bereft of substance and stands dismissed.