

(2003) 07 AHC CK 0213
In the Allahabad High Court
Case No : C.M.W.P. No. 14755 of 1998

General Manager/M.D., U.P. Rajya Hath Kargha Nigam and
Another

APPELLANT

Vs

Presiding Officer, Labour Court-IV and Another

RESPONDENT

Date of Decision : 24-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 6N

Citation : (2003) 5 AWC 4534

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : S.N. Singh, for the Appellant; A.K. Sharma, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard learned Counsel for the parties.

2. Learned Counsel appearing for the parties agreed that instead of deciding the stay vacation application, the writ petition itself may be heard and decided on merits.

3. The Petitioner aggrieved by the award of the Labour Court-IV, Kanpur dated 17th January, 1998 passed in Adjudication Case No. 60 of 1996, (Annexure-3 to the writ petition), have approached this Court by means of this writ petition under Article 226 of the Constitution of India.

4. The following dispute was referred for adjudication to the Labour Court:

5. The Labour Court issued notice to the parties, namely, workman and the employer. The parties have exchanged their pleadings and adduced the evidence. The Labour Court has categorically recorded a finding after considering the evidence on record that from the perusal of Ext. 25 to Ext. 45, it is apparent that the workman concerned has worked from the year 1991 to 12th October, 1993 when his services were terminated. Thus, he has worked for more than 240 days

in the preceding calendar year. The Labour Court has also recorded a finding that it will not make any difference whether the nature of the appointment of the workman concerned was temporary in nature and further there was direction from the State to terminate the services of the temporary workman, like the Respondent No. 2. Thus, the Labour Court directed after holding that the termination of the services of the workman concerned with effect from 13th October, 1993 is illegal and directed the reinstatement of the workman concerned with continuity of service and back wages at the rate of Rs. 600 per month.

6. Learned Counsel for the Petitioner tried to assail the findings arrived at by the Labour Court but, in my opinion, has not been able to demonstrate that the finding recorded by the Labour Court suffers from error of law much less manifest error of law so as to warrant an interference by this Court in exercise of powers under Article 226 of the Constitution of India.

7. Lastly, it has been submitted by the learned Counsel for the Petitioner that the workman concerned has not worked from the date of termination till the date of award. Therefore, on the basis of principle of "No Work No Pay", the Labour Court has definitely committed error in granting reinstatement with full back wages at the rate of Rs. 600 per month from the date of termination till the date of reinstatement. In my opinion, this argument deserves to be accepted. It is not disputed that the workman concerned had admittedly not worked during all these period and considering the interest of justice, the award of the Labour Court is modified to the extent that instead of payment of back wages at the rate of Rs. 600 per month, the workman concerned is entitled for the back wages at the rate of Rs. 300 per month from the date of termination till the date of award.

8. In view of what has been stated above, this writ petition deserves to be dismissed and is hereby dismissed except with the modification that instead of payment of back wages at the rate of Rs. 600 per month, the workman concerned is entitled for the back wages at the rate of Rs. 300 per month from the date of termination till the date of award. The interim order, if any, stands vacated. There will be no order as to costs.