
(2007) 08 RAJ CK 0060

In the Rajasthan High Court

Case No : Civil Special Appeal (W) No. 699 of 2005

Gopi Lal

APPELLANT

Vs

State Of Rajasthan and Another

RESPONDENT

Date of Decision : 09-08-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2008) 118 FLR 744

Hon'ble Judges : Sangeet Raj Lodha, J;Gyan Sudha Mishra, J

Bench : Division Bench

Advocate : J.K. Yadav, for the Appellant; Saugat Ray, for the Respondent

Final Decision : Dismissed

Judgement

Mrs. Gyan Sudha Misra and Sangeet Lodha, JJ.—This appeal has been preferred by the Appellant-workman against the order dated 1.4.2005 passed by the learned Single Judge in SBCWP No. 787/2004 by which the learned Single Judge has modified the award passed by the Labour Court, Jaipur in favour of the Appellant-workman by granting him compensation of Rs. 40,000/- in lieu of reinstatement and 30% back wages which had been awarded to him by the Labour Court.

2. The circumstance under which the dispute arose indicates that the Petitioner had been discharging duties on daily wages in the erstwhile Rajasthan State Electricity Board (for short, "RSEB") but as per the Respondent's version he was not on muster-roll but was a casual employee to discharge duties at the residence of the Officers of the RSEB. After the reconstitution of the RSEB, which is now known as Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (for short, "Vidyut Nigam"), the services of the Appellant-workman were terminated. The Appellant-workman did not raise any dispute for more than 13 years in regard to his termination, but after 13 years he raised a dispute that his termination was contrary to the provisions of Sections 25-F and 25-G of the Industrial Disputes Act, 1947. The dispute was referred to the Labour Court, Jaipur and the Labour

Court, Jaipur, after adjudication, was pleased to direct reinstatement of the Appellant-workman with 30% back wages. The Respondent-Vidyut Nigam challenged the award passed by the Labour Court before the learned Single Judge and the learned Single Judge, after taking into consideration the entire case history and back ground, was pleased to modify the award and directed that the post of orderly, on which the Appellant-workman was working, having been abolished even as per the finding recorded by the Labour Court, he could be granted compensation to the extent of Rs. 40,000/- in lieu of reinstatement and back wages. The Appellant-workman, feeling aggrieved with the order of the learned Single Judge, has preferred this appeal.

3. It was submitted by learned Counsel for the Appellant-workman that the order modifying the award of reinstatement into one of grant of compensation is not justified for even if the post was abolished, the Vidyut Nigam is still absorbing the workman in various guest-houses of the Vidyut Nigam Ltd. and, therefore, the award of reinstatement is fit to be upheld and the order of compensation should be set aside.

4. The Counsel for the Respondent-Vidyut Nigam, on the contrary, submitted that the Appellant-workman had discharged duties in the erstwhile RSEB only for a few months and since the RSEB is not in existence and a new set up took place, the Appellant-workman could not have been absorbed in the Vidyut Nigam Ltd. Apart from these facts it was submitted that the Appellant-workman had raised a dispute after 13 years of his termination and if that has been taken into consideration by the Labour Court in view of the pronouncement of the Supreme Court in 2007 (4) Supr, 163 delivered in the matter of State of Punjab v. Anil Kumar, neither the claim of reinstatement nor compensation could have been sustained by the Labour Court.

5. Fortunately for the Appellant-workman the Respondent-Vidyut Nigam has not filed any appeal before this Court challenging the order of the learned Single Judge granting compensation to the Appellant-workman to the extent of Rs. 40,000/- and, therefore, there is no reason for this Court to enter into the correctness of the order passed by the learned Single Judge granting him compensation. But we find substance in the argument advanced by the Counsel for the Respondent-Vidyut Nigam that the Appellant-workman having raised a dispute after more than a period of 13 years, the Labour Court should have rejected the entire reference on the ground of delay itself. But as already stated, that aspect having not been raised or considered, we are of the view that the learned Single Judge has been more than considerate in granting compensation in lieu of reinstatement on the ground that the post of orderly has been abolished. We cannot permit the Counsel for the Appellant now before this appellate Court to establish a question of fact so as to infer that the post of orderly has not been abolished specially when the inordinate delay on the part of the Appellant-workman itself was sufficient to reject the reference without granting any relief to the Appellant-workman. But we have already stated

hereinbefore that the Appellant-workman has been awarded compensation and the Respondent-Vidyut Nigam Ltd. has not filed any appeal against the same and hence we find no reason to interfere with the order of the learned Single Judge. But in so far as the claim of reinstatement in lieu of compensation is concerned, the same is not sustainable for the reasons stated hereinabove.

The appeal under the circumstance, is dismissed at the admission stage itself.