
(2013) 07 AHC CK 0259
In the Allahabad High Court
Case No : Writ Petition No. 24567 of 2007

Hindustan Aeronautics Limited

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 02-07-2013

Acts Referred:

Citation : (2013) 139 FLR 323 : (2013) 3 LLJ 614

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—Heard the learned counsel for the parties. An award dated 18.5.2001 was passed by the Labour Court directing reinstatement with continuity of service and with full back wages. This award was challenged in Writ Petition No. 42018 of 2001, which was dismissed by judgment dated 15.10.2004. A SLP was filed, which was also dismissed by an order dated 25.7.2005. In the meanwhile the workman died on 21.3.2002. Pursuant to the award certain proceedings u/s 6-H(1) of the U.P. Industrial Disputes Act, 1947 (hereinafter referred to as the Act) was initiated and a recovery certificate for Rs. 13,73,235/- was issued which was recovered from the employers.

2. A fresh application u/s 6-H(1) of the Act was filed for recovery of the wages for the period October 2001 to March 2002, amounting to Rs. 6,13,627/-. The petitioner disputed the calculation made by the workman and submitted that the calculation made is incorrect. In spite of raising a specific objection, the Additional Labour Commissioner without assigning any reason has passed the impugned order directing recovery of Rs. 6,13,627/-. The petitioner, being aggrieved by the said order, has filed the present writ petition.

3. Before this Court, the petitioner contended that a sum of Rs. 2,07,212/- was payable and that the recovery of Rs. 6,01,489/- was wholly illegal, arbitrary and is not based on any cogent reason. This Court, by an interim order dated

23.5.2007, directed the petitioner to deposit the admitted amount of Rs. 2,07,212/-, which the petitioner had deposited, which the heirs of the workman-respondents must have withdrawn.

4. Having heard the learned counsel for the parties, the Court is of the opinion, that the disputed questions of fact cannot be adjudicated in execution proceedings u/s 6-H(1) of the Act coupled with the fact that post award wages also cannot be calculated in proceedings u/s 6-H(1) of the Act. In the instant case the petitioner had categorically stated before the authority that the amount sought to be recovered by the heirs of the workman was wholly arbitrary and not in accordance with the wage rate, etc., that is required to be paid to the workman. The Court finds that the Additional Labour Commissioner has not adverted to the objection raised by the petitioner and has mechanically issued an order accepting the contention of the heirs of the workman without assigning any reason. Consequently, the impugned order passed by the Additional Labour Commissioner cannot be sustained and is quashed. The writ petition is allowed. The amount already deposited by the petitioner pursuant to the interim order can be withdrawn by the heirs of the workman, if it has not already been withdrawn. For the remaining amount, if the respondents so desire, may file an appropriate application u/s 6-H(2) of the Act before the Labour Court for appropriate adjudication.