

(1995) 07 AHC CK 0049
In the Allahabad High Court
Case No : Writ Petition No. 6518 of 1983

Ice and Cold Storage Co. Pvt. Ltd.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-07-1995

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (1997) 3 LLJ 641

Hon'ble Judges : A.N. Gupta, J

Bench : Single Bench

Advocate : Umesh Chandra, for the Appellant; S.K. Mehrotra, for the Respondent

Final Decision : Dismissed

Judgement

A.N. Gupta, J.—On July 5, 1982 Sri Deo Raj Arora who is O.P. No. 3 to the petition, moved an application u/s 33C(2) of the Industrial Disputes Act, 1947 (Central Act) for recovery of money due from the employer who has filed this petition. Opposite Party No. 3 has claimed himself to be a workman which was disputed by the petitioner employer. The Labour Court framed a preliminary issue whether the Opposite Party No. 3. was a "workman" within the meaning of Industrial Disputes Act and answered it in affirmative by means of the impugned order dated July 22, 1983 which has been challenged in this petition.

2. The Supreme Court in the case of D.P. Maheshwari Vs. Delhi Administration and Others, has held that if a Labour Court after, considering the entire evidence before it gives a finding that the applicant is a workman, the High Court will not be justified in disturbing that finding and take a different view and in case if the High Court does so, the Supreme Court will interfere with the High Court's order. It has further been held in this case that the Labour Court should decide all the issues together instead of deciding a preliminary issue. The tendency on the part of the High Court to issue directions to decide preliminary issue has also been deprecated. The proceedings before the lower Court are lying held up ever since

December 7, 1983 when an interim order was granted by this Court. Opposite Party No. 3 was aged about 64 years when the writ petition was filed and thus, he is already aged about 76 years.

3. In these circumstances, the writ petition is dismissed. The Labour Court shall proceed further with the application moved by Opposite Party No. 3 and shall dispose it of on merits in accordance with law. While doing so, the Labour Court shall treat Opposite Party No. 3 as a "workman" within the meaning of Industrial Disputes Act, 1947 (Central Act). However, it is made clear that in case the Award turns out against the employer, i.e. the petitioner and if the petitioner wants to challenge it, it shall be at liberty at that time to challenge the finding of the Tribunal given on the point of Opposite Party No. 3 being a "workman". Since the matter has become too old, it is expected that the Labour Court shall give priority to dispose of this case and shall dispose it of as expeditiously as possible.