

(2019) 07 RAJ CK 0021

In the Rajasthan High Court

Case No : Special Appeal (Writ) No. 810 Of 2019 In Civil Writ Petition No. 7355 Of 2019

Jagdish Prasad Sharma And Ors

APPELLANT

Vs

General Manager, Rajasthan Patrika Pvt. Ltd

RESPONDENT

Date of Decision : 01-07-2019

Acts Referred:

Citation : (2019) 07 RAJ CK 0021

Hon'ble Judges : Mohammad Rafiq, J; Narendra Singh Dhaddha, J

Bench : Division Bench

Advocate : Dharmendra Jain, Arvind Kumar Arora, Rajendra Prasad, Indresh Sharma

Final Decision : Dismissed

Judgement

This appeal seeks to challenge judgment dated 02.05.2019 passed by the learned Single Judge of this Court by which writ petition filed by the

appellants-workmen against three orders dated 31.07.2018, 21.12.2018 and 01.03.2019 passed by the Labour Court-I, Jaipur (for short the Labour

Court) has been dismissed.

First order dated 31.07.2018 passed by the Labour Court required the appellants to produce their evidence positively by 09.08.2019. Second order

dated 21.12.2018 was passed by the Labour Court declining the application filed by the appellants to place certain documents on record on the ground

that there was no justification to produce such documents belatedly particularly when order dated 31.07.2018 was already passed. Third order dated

01.03.2019 was passed by the Labour Court observing that on 17.01.2019 peremptory order was passed to produce the evidence and the next date

was fixed as 31.01.2019. Since the witnesses were not produced on that day,

right of the appellants-workmen to lead evidence has already been closed.

Mr. Dharmendra Jain, learned counsel for the appellants submitted that the appellants initially filed an application on 07.03.2018 for summoning the documents. Learned Labour Court dismissed that application on the premise that the matter was still at the preliminary stage and that such application could be entertained only after evidence. Subsequently, when similarly application was filed on 25.07.2018 for filing rejoinder and producing the documents, the same was again rejected by the Labour Court via order dated 31.07.2018 on the premise that despite several opportunities, the appellants-workmen had not produced evidence and now at that stage, their prayer could not be granted particularly when the Supreme Court has directed expeditious disposal of the matter. Learned counsel submitted that unless documents of the appellants are allowed to be taken on record, they could not effectively prove their case. Learned counsel therefore submitted that the documents may be allowed to be taken on record and the witnesses of the appellantsworkmen may be allowed to be cross-examined by the management-respondent. Learned counsel submitted that most of the documents sought to be produced on record with application dated 27.09.2018 were obtained by the appellants under Right to Information Act, 2005, therefore, they could not produce them earlier but filed the same with application dated 27.09.2018.

Mr. Rajendra Prasad, learned Senior Counsel appearing on behalf of the respondent-management submitted that the matter has already been fixed for final hearing. Looking to the conduct of the appellants, they need not be granted any indulgence. Learned Senior Counsel has referred to various orders passed by the Labour Court to show that the appellants have been negligent in conducting the proceedings and they are deliberately delaying the proceedings, despite specific order passed by the Supreme Court. It is submitted that the documents sought to be produced with application dated 25.07.2018 were already declined by the Labour Court by rejecting that application via order dated 31.07.2018, therefore, the same documents could not be produced again with a fresh application filed on 27.09.2018.

Perusal of the impugned judgment passed by the learned Single Judge and the other material on record indicates that initially the appellants-workmen

filed an application on 07.03.2018 for summoning the documents, which was dismissed by the Labour Court vide order dated 01.06.2018 and the matter was fixed for evidence of the appellants-workmen on 12.06.2018. When the matter was listed on 12.06.2018, the appellantsworkmen sought time to produce the evidence. Matter was again fixed on 28.06.2018. On that day again, time was sought by the appellants-workmen and the matter was then fixed on 11.07.2018. On this date, time was again sought by the appellants-workmen to produce the evidence and the matter was fixed on 25.07.2018. It is on this date that the appellants filed an application for filing rejoinder and producing the documents on record. Learned Labour Court vide order dated 31.07.2018 dismissed the aforesaid application, specifically observing that in view of the order of the Supreme Court, the matter was to be decided within time limit and the similar matters have already been fixed on other dates, the appellants should necessarily produce their evidence positively on the next date i.e. 09.08.2018. When the matter was listed on 09.08.2019, the appellants did not produce any evidence but sought adjournment contending that they have decided to file writ petition against aforesaid order dated 31.07.2018. On their such request, the matter was fixed on 23.08.2018. Surprisingly, the appellants-workmen did not file any writ petition in the meantime, but again on that day, sought time to produce the evidence. Thereafter, the matter was fixed on 27.09.2018. On that day, the appellants not only filed affidavits of two witnesses but also simultaneously filed an application to take certain documents on record. Copy of the application was provided to the respondent-management and the matter was fixed on 08.10.2018 for reply. When the matter was taken up on 08.10.2018, it was adjourned to 29.10.2018 for reply of the respondent-management. On 29.10.2018, the Labour Court did not function due to the sad demise of former Governor of the State of Rajasthan and the matter was then fixed on 12.11.2018 on which date, Presiding Officer was on leave and therefore, 20.11.2018 was fixed as the next date. On 20.11.2018 the matter was again adjourned as the Presiding Officer was on leave and 29.11.2018 was fixed as the next date. Finally the respondent-management filed reply to the aforesaid application on 29.11.2018 and the matter was fixed for arguments on the application on 10.12.2018. Arguments on the application were heard on 10.12.2018 and the matter was closed for order and ordered to be listed on 21.12.2018. Labour Court vide order dated

21.12.2018 finally dismissed the aforesaid application and fixed the matter for evidence of the appellants on 03.01.2019 on payment of cost of Rs.

1,000/-. When the matter was taken up on 03.01.2019, Presiding Officer was on leave and the matter was fixed on 17.01.2019.

On 17.01.2019, the appellants did not produce witnesses. The Labour Court in those circumstances passed peremptory order that if the appellants-

workmen failed to produce the witnesses on the next date, their evidence shall be closed and the matter was fixed on 31.01.2019. Instead of producing

the witnesses, the appellants-workmen on 31.01.2019 filed an application for recall of orders dated 31.07.2018 and 21.12.2018. Learned Labour Court

taking note of the order passed by the Supreme Court, though waived the cost but directed that in view of the peremptory order dated 17.01.2019, the

appellants had not produced any evidence, therefore, the matter was ordered to be listed on 01.02.2019 for producing case laws and order on that

application. On 01.02.2019, the matter was adjourned to 08.02.2019, on which date, the advocates were abstaining from work, therefore, it was fixed

on 11.02.2019. On that day also, the lawyers were abstaining from work, therefore, the matter was fixed on 15.02.2019. Since the representatives of

both the parties were not present on 15.02.2019, the matter was again adjourned to 22.02.2019. No one appeared on behalf of either side on

22.02.2019, the matter was again adjourned to 01.03.2019. The Labour Court finally vide order dated 01.03.2019 dismissed the application dated

31.01.2019 and fixed the matter for evidence of the respondent-management on 13.03.2019. When the matter was listed on 13.03.2019, the

respondent-management did not intend to produce any evidence and the matter was fixed for final arguments on 26.03.2019.

Learned Single Judge has dismissed the writ petition by detailed judgment in which he has referred to order dated 28.01.2019 passed by the Supreme

Court in *Avishek Raja & Others Vs. Sanjay Gupta & Others*, (M.A. No. 171/2019 filed in Contempt Petition (Civil) No. 411/2014). The Supreme

Court vide order dated 13.10.2017 passed in *Avishek Raja & Others Vs. Sanjay Gupta* (Misc. Application No. 187/2017 filed in Contempt Petition (C)

No. 411/2014) has fixed the time limit of six months for deciding all such matters. In fact, the Supreme Court vide order dated 20.09.2018 passed in

Avishek Raja & Others Vs. Sanjay Gupta (Misc. Application No. 2454/2018 filed in Contempt Petition (C) No. 411/2014), on request being sent by

the Presiding Officers of Labour Courts/Industrial Tribunals of Kota, Jaipur and Varanasi granted time upto 31.03.2019 as a final opportunity to decide

all such matters. Though it may be correct that the appellants have filed affidavits of the witnesses but the manner in which they have conducted

themselves in the proceedings before the Labour Court, they do not deserve any sympathy, particularly when they sought time to adduce evidence on

01.06.2018, 12.06.2018, 28.06.2018 and did not produce any evidence. They filed application on 25.07.2018 for placing certain documents on record

along with rejoinder. When that application was rejected on 31.07.2018, they sought time to challenge said order by way of writ petition before this

Court, which fact is evident from orders dated 09.08.2018 and 23.08.2018. The appellants thereafter, straightway filed documents along with an

application. Though they filed affidavits of witnesses on 27.09.2018 but did not produce any witness for cross-examination. The matter was thereafter

again adjourned for this purpose on various dates, as would be evident from the aforementioned proceedings.

In view of the mandate of the Supreme Court, we are not inclined to differ with the view taken by the learned Single Judge that the orders passed by

the Labour Court did not suffer from any error of jurisdiction.

In view of above, there is no merit in this appeal and the same is accordingly dismissed.

Stay Application No. 9356/2019 also stands dismissed.