
(2016) 05 SHI CK 0137
In the High Court Of Himachal Pradesh
Case No : CWP No. 4678 of 2013

Jaidev

APPELLANT

Vs

State of HP

RESPONDENT

Date of Decision : 11-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 10

Citation : (2016) sup HimLR 2752

Hon'ble Judges : Mr. Ajay Mohan Goel, J.

Bench : Single Bench

Advocate : Mr. Gaurav Gautam, Advocate vice Ms. Archana Dutt, Advocate, for the Petitioner; Mr. V.S. Chauhan, Addl. Advocate General, for the Respondents

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J. - This petition has been filed praying for the following reliefs:-

i) That the impugned award dated 21.1.2013 passed by the Labour Court whereby the reference of the petitioner has been rejected, may kindly be quashed and set aside.

ii) That the respondent department may kindly be directed to reengage the services of the petitioner and the works and funds are available with the respondent department under various other schemes/projects, with all consequential benefits keeping in view the fact that the juniors of the petitioner have been reengaged in the respondent department.

2. The case of the petitioner is that Government of India, Ministry of Rural Development vide letter dated 27.9.2000 sanctioned Special Project for 'Gold Mines' for Upliftment of rural poor through adoption of mushroom cultivation, floriculture and sericulture in district Bilaspur, Himachal Pradesh. Total cost approved for the project was Rs. 8,40,35,000/-, out of which Centre and State

Government were to share the same in the ratio of 75:25. He was engaged by respondent No.4 as 'Beldar' on daily-wage basis w.e.f. 16.2.2001 and he continued to serve in the project continuously till 31.3.2006. He used to grow flowers in the Poly House as well as looked after the same. He also used to sell the flowers. His services were terminated w.e.f. 31.3.2006.

3. After the termination of his services, petitioner filed a demand notice before the Labour Inspector-cum-Conciliation Officer, Bilaspur dated 6.4.2006. However, no conciliation could be arrived at and the matter was referred to Labour Court. The learned Labour Court, vide award dated 21.1.2013 has dismissed the reference and feeling aggrieved by the said award passed by it, the petitioner has filed present petition.

4. I have heard learned counsel for the parties and have also perused the record of the case.

5. The learned counsel for the petitioner has argued that the impugned award is not sustainable in law because the learned Labour Court has failed to appreciate the controversy involved in the matter. He has contended that the petitioner was engaged as a Beldar and in his capacity as such, he worked to the entire satisfaction of the respondents uptill 31.3.2006, on which date his services were unceremoniously terminated without adhering to the law as contemplated in the Industrial Disputes Act dealing with the termination of a workman. He has further submitted that respondents No.3 and 4 are the agencies of the State Government and termination of the petitioner was not on the ground that either the work was not available or the funds were not available with the respondents. His services were terminated on the ground that the Exhibition Farm under the Gold Mine Project has been awarded to a private firm on 'Patta' for three years. Thus, according to the learned counsel for the petitioner, the act of the respondents of terminating the services of the petitioner on this ground was unsustainable in law and the learned Labour Court has failed to appreciate this important aspect of the matter. He has further argued that the work of mushroom cultivation, floriculture and sericulture in district Bilaspur is still available under the supervision of respondents No.3 and 4 and there are many other schemes in the project in which the petitioner can be reengaged by the respondents. He has further submitted that no gratuity etc. has been paid to the petitioner and the denial of the same to the petitioner is also illegal and this aspect of the matter has not been appreciated by the learned Labour Court. Therefore, he has contended that the impugned award is a result of misappreciation and misreading of the material on record and the same was liable to be quashed and set aside.

6. Learned Addl. Advocate General on the other hand has argued that there is no infirmity or illegality with the award passed by the learned Labour Court. He has contended that the petitioner was engaged in the project in issue on Co-Terminus basis and this fact was in the knowledge of the petitioner, that his engagement was co-terminus in the project. He has further argued that it is not only the

petitioner whose services were terminated but service of other persons who were employed in the project also came to an end on the completion of the project. None of the other persons who were working in the project along with the petitioner have been reengaged by the respondents and this fact stands admitted by the petitioner in his cross-examination before the learned Labour Court. Mr. Chauhan has further argued that the services of the petitioner were disengaged by the respondents, vide letter dated 31.3.2006.

This letter along with one months wage was received by the petitioner without any protest and therefore also the petitioner was estopped from challenging his termination. Thus, in nutshell, the case of the respondents is that no fault can be found with the award passed by the learned Labour Court because the petitioner was engaged in a project on co-terminus basis and his services were terminated when the project came to an end and there is no illegality or perversity in the award which had been passed by the learned Labour Court in the facts and circumstances of the case.

7. It is settled principle of law that once a person is employed in a project on co terminus basis then he cannot make any grievance when his services are terminated on the completion of the project or when such project comes to an end.

8. In fact, it has been held by the Hon^{ble} Supreme Court in M.D. U.P. Land Development Corporation v. Amar Singh, (2003) 5 SCC 388, that employees working under a scheme/project have no vested right so as to claim regularisation of their services with regular pay scales and when the scheme/project comes to an end, the services of the employees working in the project also come to an end.

9. In Jawaharlal Nehru Krishi Vishwa Vidyalaya, jabalpur, M.P. v. Bal Kishan Soni and others, (1997) 5 Supreme Court Cases 86, the Hon^{ble} Supreme Court has held that where the scheme in issue was sponsored by Indian Council of Agricultural Research, permanent posts cannot be created. The posts are coterminous with the scheme and on abolition of the scheme, the posts also necessarily stand abolished.

10. It has again been reiterated by the Hon^{ble} Supreme Court in Mohd. Abdul Kadir and another v. Director General of Police, Assam and others, (2009) 6 Supreme Court Cases 611, that on completion of the project or discontinuance of the scheme, those who were engaged with reference to or in connection with such project or scheme cannot claim any right to continue in service, nor seek regularisation in some other project or service.

11. In his statement of claim, the petitioner claimed to have been engaged in Gold Mine Scheme. The grievance of the petitioner was that without any fault of his and without any notice, by way of a verbal order his services were terminating on 31.3.2006. There is no averment to the effect that the scheme in which he was engaged was continuing when his services were terminated.

12. In reply filed by respondents to the statement of claim, it was mentioned in the preliminary objection that the engagement of the petitioner was on account of a scheme/project i.e. Gold Mines Project for economic Up-liftment of rural poor through adoption of Mushroom cultivation, Floriculture and Sericulture in district Bilaspur for a period of five years which stands completed w.e.f. September, 2006. It was further mentioned in the reply that the term of the project was for specific period of 5 years and the services of workman and other officials were co-terminus with the expiry of term of the project. It was also mentioned that on the completion of the project, the services of the petitioner were duly disengaged by issuing notice and advance salary which was duly accepted by the petitioner on 31.3.2006 itself. In his rejoinder, there was no specific denial to these contentions of the respondent.

13. It is in this background that this Court is to test the legality of the order passed by the learned Labour Court.

14. It is not the case of the petitioner that he was engaged on daily wage basis as a Beldar by the State. Even the case set up by him is to this effect only that his services were engaged in the Project. He has not been able to place any material on record to belie the contention of the respondents that the engagement of the petitioner in the project was on co terminus basis. Though the learned counsel for the petitioner has argued that the project was closed somewhere in the month of September, 2005 and he was continued till 31.3.2006, which according to the learned counsel for the petitioner was an indicator that work was available even after the closure of the project, however, Mr. Chauhan has submitted that the petitioner was permitted to continue till 31.3.2006 because after the project was ordered to be closed in September, 2005, the winding up of the same took some time. As per Mr. Chauhan the engagement of the petitioner was continued in the project even during the period when its winding up took place. However, according to him, no benefit of this can be taken by the petitioner of this, because it still remains a fact that his engagement was in a project and his termination was only when the project in issue came to an end.

15. Keeping in view the facts and law mentioned above, this Court is of the considered view that there is no infirmity or perversity with the award passed by the learned Labour Court.

16. The findings arrived at by the learned Labour Court cannot be said to be incorrect. There is no illegality with the termination of the services of the petitioner by the respondents on the completion of the project. It is not the case of the petitioner that his services were terminated during the continuance of the project. It is further not the case of the petitioner that other persons engaged along with him in the project were continued in any other project or any other department in lieu of their being engaged in the said project at the first instance. The petitioner has further failed to substantiate as to which provision of Industrial Disputes Act has been violated by the respondents by terminating his

services on completion of the project in which he was engaged on co terminus basis. Therefore, this Court does not finds any merit in the petition and the same is accordingly dismissed. No order as to costs.