
(2004) 02 AHC CK 0087
In the Allahabad High Court
Case No : C.M.W.P. No. 28687

Jaiprakash Singh

APPELLANT

Vs

Presiding Officer Labour Court (I) and Others

RESPONDENT

Date of Decision : 17-02-2004

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 2

Citation : (2004) 3 AWC 1930 : (2004) 101 FLR 833 : (2004) 2 UPLBEC 1729

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—This writ petition has been filed challenging the award dated 2.1.1997 given by the Labour Court (1), U.P. Kanpur in Adjudication Case No. 68 of 1993 holding that the petitioner was not a workman under the U.P. Industrial Disputes Act.

2. The petitioner was initially appointed as Dairy Supervisor and was promoted as the Manager Grade-IV on 1.7.1986 and was posted at Barabanki in the grade of Rs. 2,200-4,000. He was charge sheeted and after domestic enquiry he was reverted to his original grade of Rs. 1,400-2,600 on 29.10.1990. The petitioner raised an industrial dispute which was referred for adjudication by the State Government by G.O. dated 11.3.1993.

3. Before the Labour Court the employers raised objection in their written statement that the petitioner was not a workman as he was performing managerial functions.

4. Both the parties led evidence about the duties and functions of the petitioner. Besides other documents the employers filed duty chart of the petitioner. The Labour Court framed a preliminary issue about the fairness of the domestic enquiry. After taking evidence, it held that the domestic enquiry was held according to the principles of natural justice and was legal and fair.

5. The employers filed Exhibit 19, which showed that the petitioner was posting employees at the depot on various jobs, used to take overtime work from the employees and paid over-time wages to them. Exhibits 4 and 5 show that he used to check work of the other employees and took explanation about their work.

6. The counsel for the petitioner has argued that though the petitioner was holding the post of Manager Grade IV but he had no administrative powers and his duties were of technical nature and he was not performing supervisory functions, hence he was a workman as defined in the U.P. Industrial Disputes Act.

7. The Labour Court held that the petitioner used to post the workers on different jobs, used to verify the attendance of the workers, called explanations for not completing the work from the Dairy Supervisor and recommended for action on finding explanation as unsatisfactory, took over-time and arranged payment of over-time. Exhibit 9 is duty chart according to which he was overall incharge of the, depot. These duties are of managerial-cum-supervisory nature.

8. The counsel for the petitioner has placed reliance on (1) Ved Prakash Gupta Vs. Delton Cable India (P) Ltd., ; (2) Arkal Govind Raj Rao Vs. Ciba Geigy of India Ltd. Bombay, and (3) National Engineering Industries Ltd. Vs. Shri Kishan Bhageria and Others,

9. Ved Prakash Gupta v. Delton Cable India (P.) Ltd. (supra) deals with a case of security guard posted at the factory gate. He did not perform any supervisory or administrative duties. Sending of security guards to watch-towers was neither supervisory nor administrative function. The Apex Court held that such work was not administrative.

10. In the case of Arkal Govind Raj Rao v. Ciba Geigy of India Ltd. (supra), the Apex Court held that the dominant purpose of employment has to be determined on the test of actual duties and not additional duties. Here the workman was appointed to supervise the work of other employees at depot. No technical work was assigned to him. This is not the situation here. Similarly, National Engineering Industries Ltd. Vs. Shri Kishan Bhageria and Others, has no relevance. It is a case of Internal Auditor who had no supervisory or managerial functions, which were assigned to concerned person. Thus, these cases are not applicable to the instant case. The Labour Court has held that the petitioner was performing supervisory duties.

11. There is another aspect of the matter. The definition of workman in U.P. is different. A supervisor drawing more than Rs. 500 a month is excluded from the definition of workman. Admittedly, the petitioner was drawing more than Rs. 500 a month. The duties assigned to him have been held to be supervisory. It is not necessary that unless a person performs administrative duties, he cannot be supervisor. The conclusion drawn by the Labour Court is not perverse.

12. In view of the facts and circumstances of the case stated above the award

impugned cannot be interfered with under Article 226 of the Constitution.

13. The petition is dismissed. The interim order, if any, is vacated. No order as to costs.