

(2002) 08 AHC CK 0035
In the Allahabad High Court
Case No : Second Appeal No. 16 of 1982

Kanhaiya Lal

APPELLANT

Vs

Town Education Society and Others

RESPONDENT

Date of Decision : 01-08-2002

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 10, 4K

Citation : (2002) 4 AWC 2912 : (2002) 94 FLR 1223

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : R.N. Singh, S.N. Singh and S.C. Rai, for the Appellant; V.D. Ojha, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—This second appeal is directed against the judgment and decree dated 13th October. 1982, passed by the 1st Additional District Judge, Ballia in Civil Appeal No. 177 of 1981 allowing the defendants' appeal arising out of Original Suit No. 368 of 1975, Kanhaiya Lal v. Town Educational Society and Ors., decreeing the suit with costs against the defendants.

2. Vide order dated 21.2.1983, the appeal was admitted on the question as to whether the suit was maintainable in civil court. It is alleged that the findings of the lower appellate court are manifestly erroneous and without jurisdiction. It is further alleged that the suit filed by the plaintiff-appellant was only for injunction restraining the defendants-respondents from terminating the services of the appellant and the view taken by the trial court was correct and that of the lower appellate court is manifestly erroneous.

3. This case is covered by the recent decision of the Constitution Bench of the Apex Court in the matter of Chandrakant Tukaram Nikam and Others Vs. Municipal Corporation of Ahmedabad and Another, , in which it has been held that :

"It may be borne in mind that the Industrial Disputes Act was enacted by the Parliament to provide speedy, inexpensive and effective forum for resolution of disputes arising between workmen and the employers, the underlying idea being to ensure that the workman does not get caught in the labyrinth of civil courts which the workman can ill-afford, as has been stated by this Court in Rajasthan State Road Transport Corporation case (supra). It cannot be disputed that the procedure followed by civil courts are too lengthy and consequently, is not an efficacious forum for resolving industrial disputes speedily. The power of industrial courts also is wide and such forums are empowered to grant adequate relief as they think just and appropriate. It is in the interest of the workmen that their disputes, including the dispute of illegal termination are adjudicated upon by an industrial forum.....

In the aforesaid premises and having regard to the relief sought for in the suits filed in the civil court, we have no manner of hesitation to come to the conclusion that in such cases, the jurisdiction of the civil court must be held to have been impliedly barred and the appropriate forum for resolution of such dispute is the forum constituted under the Industrial Disputes Act. We, therefore, do not find any infirmity with the impugned judgment of the High Court requiring our interference. The appeals, accordingly, fail and are dismissed. We would, however, observe that it would be open for the appellants-workmen to approach the appropriate industrial forum and such forum, if approached, will dispose of the matter on its own merits. There will be no order as to cost."

4. In view of the fact that this case is covered by the decision of the Apex Court referred to above, the appeal is decided against the plaintiff-appellant and the suit is dismissed. It is, however, directed that the plaintiff-appellant may raise an industrial dispute before the Deputy Labour Commissioner, who shall refer the same to the labour court, industrial tribunal for adjudication within a month as provided under the U. P. Industrial Disputes Act, 1947. Thereafter the labour court, industrial tribunal shall decide the matter within six months from the date of receipt of a certified copy of this order and if need be the hearing of the case may be on day-to-day basis as provided under Rule 12 framed under the U. P. Industrial Disputes Act.

5. With the aforesaid observations, the second appeal is dismissed.