
(2010) 03 AHC CK 0218
In the Allahabad High Court

Kanpur Electricity Supply Company and Another	APPELLANT
Vs	
Additional Labour Commissioner and Others	RESPONDENT

Date of Decision : 19-03-2010

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6H(1)

Citation : (2010) 03 AHC CK 0218

Hon'ble Judges : Prakash Krishna, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prakash Krishna, J.—All these writ petitions were heard together and are being disposed of by a common judgment, as was also jointly agreed by the learned Counsel for the parties. They agreed that the facts and issue involved in all of them are common. The facts from the writ petition No. 34578 of 2007 are being noted for deciding these petitions.

2. Raising a short controversy, these petitions have been filed on behalf of the employer and writ petition No. 34578 of 2007 arise out of order dated 26.6.2007 passed in Adjudication Case No. 305 of 1991 by Additional Labour Commissioner, Kanpur Region, Kanpur in exercise of power u/s 6H(1) of U.P Industrial Dispute Act in favour of the contesting respondents who are workmen.

3. The case of the petitioner is that the contesting respondents were engaged on daily wages. Their services were terminated which led the filing of the writ petitions being Writ Petitions No. 25707 of 2006, 8040 of 2006, 17255 of 2006 and 17255 of 2006. All these petitions were allowed by a Learned Single Judge by the judgment dated 31.8.2006 and the employer was directed that these employees shall be reemployed in service within the specified period and they shall be paid full back wages with interest @ 9%.

4. The said judgment was subject matter of Special Appeal No. 1417 of 2006 and others before a Division Bench of this Court. The Special Appeal was allowed in

part by the following order:

In our opinion, the time has come for the Court simply to said that they deserve reemployment, and they be given the same at least now. The order is accordingly passed, and within three days from the date hereof, each of the respondents, who are the clients of Mr. Agrawal, will be given reemployment; in case of failure to give such reemployment, they will be entitled to arrear wages from today until such reemployment is granted.

The appeal is thus, partly dismissed in confirming the order of reemployment, and is partly allowed striking out that portion of the order, which directs arrear wages to be paid also from the year 1991.

The common order will govern all five appeals.

5. Applications u/s 6H(1) of U.P Industrial Dispute Act giving rise to these petitions were filed by the workmen claiming wages as admissible to a regular workman. By the impugned order, the authority concerned has ordered the payment of the regular wages to all the workmen concerned as admissible to a regular workman.

6. The learned Counsel for the petitioner submits that the workmen-respondents worked on daily wages prior to the passing of the retrenchment order. The retrenchment order having been set aside, they will be deemed to have been engaged in that capacity in which they were working immediately preceding passing of the retrenchment order. The authority concerned has exceeded in its jurisdiction in granting them the regular pay scale, their being no such direction in the judgments of the High Court. The learned Counsel for the respondent on the other hand supports the impugned order.

7. Considered respective submissions of the learned Counsel for the parties and perused the record.

8. The only question mooted in the present writ petition is with regard to the payment of the regular wages to the respondent-workmen.

9. The facts are not much in dispute. It is not in dispute that before passing of the retrenchment orders, the concerned workmen were working on daily wages as Coolie. There being no direction in the final judgment of the High Court to pay wages to such person as admissible to regular workman, the authority concerned has exceeded in its jurisdiction in passing the impugned order granting them wages as admissible to regular Coolie and also granting them the revised pay scale. Power of such authority u/s 6H(1) of U.P Industrial Dispute Act is limited one. While exercising such power, disputed questions cannot be adjudicated upon. The power given u/s 6H(1) of the Act is in the nature of power of execution. There should be an adjudication of right of the respondents herein first before passing an order u/s 6H(1) of the Act. There being no order in favour of the contesting respondents entitling them to get the wages of regular employee, the authority concerned has exceeded in its jurisdiction by passing the

impugned order ordering the payment of wages as payable to a regular workman. However, it shall be open to the workmen to approach the appropriate authority in this regard for adjudication of their entitlement.

10. In view of above, the impugned orders cannot be allowed to stand. All the three writ petitions are therefore allowed and the impugned orders are set aside but without any order as to costs.