

(2002) 10 AHC CK 0229
In the Allahabad High Court
Case No : C.M.W.P. No. 5585 of 1999

Kisan Sahkari Chini Mills Ltd.

APPELLANT

Vs

Presiding Officer Labour Cour, Gorakhpur and Another

RESPONDENT

Date of Decision : 11-10-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Industrial Disputes Act, 1947 — Section 6N

Citation : (2002) 10 AHC CK 0229

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : A.K. Misra, for the Appellant; S.F.A. Naqvi and A. K. Singh, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—By means of this writ petition under Article 226 of the Constitution of India, the Petitioner-employer has challenged the award of the labor court, Gorakhpur, dated 31st March, 1998, passed in Adjudication Case No. 175 of 1988. The State Government referred the following dispute for adjudication to the aforesaid labor court:

other language

2. After exchange of the pleadings, the case as set up by the respective parties is as under:

The Petitioner a Co-operative Sugar Mill acquired the land which is required for establishment of the aforesaid Mill including the land which, according to the workman, belongs to him, as is clear from the revenue records. The said acquisition of the land was with the condition that such person, whose land is being acquired, will be given employment in the Mill. The Respondent No. 2 (hereinafter referred to as the "Workman") is one of the person along with many others, whose land has been acquired. This fact has not been disputed. However,

the employer has disputed that in the revenue record, the name of the workman has been recorded a mutawalli and the land is recorded in the name of Allahtala. The workman has further set up the case that similarly situated persons, whose land has been acquired, have been given employment. Even in the case of the workman's own brother, who was similarly situated as that of workman-Respondent No. 2, when the proceeding for conciliation was initiated, the matter was settled and he was employed and is still working. Since the workman was initially appointed and thereafter the Petitioner-employer terminated the services of the workman with effect from 3.3.1987 without complying with the provisions of law, particularly, the provisions of Section 6N of the U.P. Industrial Disputes Act, 1947 (hereinafter called the "Act"). The employer have admitted that the workman had been working with the employer but they have denied this fact that the workman has worked for 240 days as is required to claim the benefit of Section 6N of the Act. The workman has pressed that similarly situated persons, whose land has been acquired, were offered employment and they were employed and they are continuing in the employment whereas the services of the Respondent No. 2 after employment, as stated above, were terminated with effect from 3.3.1987. The labour court after going through the evidence on record and respective pleadings of the parties have arrived at the conclusion that the workman's land was acquired and he was employed also but subsequently his services were terminated without there being any reason and by terminating the services of the workman, the employer have not complied with the provisions of Section 6N of the Act and the action of the employer is hit by the provisions of Article 14 of the Constitution of India.

3. Dealing with the objection raised by the Petitioner-employer that the workman has not completed 240 days and he worked only 45 days, the labour court has recorded a finding against the workman that the workman has failed to prove that he has worked for 240 days. From the Attendance Register, it is clear that he has worked 45 days. Therefore, on this basis, the workman is not entitled for reinstatement but the labour court has observed that a powerful argument is there in favour of the workman that his land has been acquired and such persons, whose land has been acquired, particularly this fact referred to in the pleadings, were employed by the Petitioner-employer but he has not been employed. The labour court rejected the case set up by the employer that the land was recorded in the name of Allahtala and the workman was recorded as mutawalli. The labour court has recorded a finding that when it is established that such persons, whose land was acquired, were given employment, there is no reason as to why the Respondent No. 2 should not be treated in the same category. The labour court, therefore, gave an award that the workman should also be treated to be in employment from the date when other persons, whose land were acquired, were given appointment and the action of the Petitioner-employer in terminating the services of the workman with effect from 3.3.1987 is illegal and not justified.

4. Learned Counsel for the Petitioner has argued that the labour court has

exceeded in its jurisdiction in directing them to issue appointment in favour of the Respondent No. 2 which was not even in the reference made by the State Government. Learned Counsel for the Petitioner further argued that the labour court has no such jurisdiction while answering a reference referred to it by the State Government.

5. This argument is fallacious, firstly reference itself has been answered by the labour court and it has found, according to the pleadings set up by the parties, that such persons, whose land were acquired, were employed, then action of the Petitioner-employer in terminating the services of the Respondent No. 2, workman, with effect from 3.3.1987, is definitely illegal and unjustified. The labour court, therefore, was well within its jurisdiction in issuing the aforesaid directions. There is no error of law much less error apparent on the face of record so as to warrant interference by this Court in exercise of power under Article 226 of the Constitution of India.

6. In view of what has been stated above, this petition deserves to be dismissed and is hereby dismissed. The interim order, if any, stands vacated. There is no order as to costs.