

(1992) 05 AHC CK 0103

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6987 of 1986

Kripa Shanker Dwiedi and Others

APPELLANT

Vs

U.P. State Electricity Board and Another

RESPONDENT

Date of Decision : 01-05-1992

Acts Referred:

Citation : (1992) 3 AWC 1310

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : G.C. Bhattacharya, for the Appellant; S.C. Verma, for the Respondent

Final Decision : Allowed

Judgement

M. Katju, J.—Petitioners were permanent employees of M/s. Mirzapur Electric Supply Company Ltd. which was taken over by the U.P. State Electricity Board by an Ordinance from 1-9-1975. Since the Petitioner and other ex-employee of M/s. Mirzapur Electric Supply Company had not been taken Over in its service by the Board, they raised an industrial dispute which was decided against them by the Industrial Tribunal, Allahabad by its award dated 25-1-76. Against the said award the Petitioners filed writ petitions being Writ Petition No. 3351 of 1977 and Writ Petition No. 3809 of 1970 which were disposed of by a common judgment of this Court dated 10-2-82. True copy of the judgment is Annexure 1 to the writ petition.

2. A perusal of the said judgment shows that this Court had held that the five Petitioners in the present writ petition had wrongly been retrenched by the Mirzapur Electric Supply Company. This Court had further directed the Board to consider the question whether it would like to absorb these five workmen (Petitioners in the present writ petition). After the decision of this Court the Petitioners approached the Board repeatedly and requested the Board to take the Petitioners into its service but to no avail. Aggrieved the Petitioners have filed this writ petition.

3. A counter affidavit has been filed on behalf of the Respondents-board. In para 11 of the counter affidavit it is stated that although after the judgment of this Court in Writ Petition No. 3351 of 1977 and Writ Petition No. 3809 of 1970, the Petitioners had approached the Board for absorption but their request could not be considered in view of the directions prohibiting their recruitment True copy of the circular of the Board dated 30-1-82 has been filed as Annexure CA-4 to the counter affidavit.

4. I have heard learned Counsel for the Petitioner, and learned Counsel for other side and am disposing of the writ petition finally.

5. In my opinion the stand of the Respondent-Board is not tenable. The circular of the Board which has been enclosed as Annexure CA-4 cannot override the judgment of this Court dated 10-2-82 in Writ Petition No. 3351 of 1977 and Writ Petition No. 3809 of 1970, Hence there was no justification on the part of the Board for not considering the Petitioners for absorption when a judicial order is placed before the authorities. It is their duty to comply with the Court's order. Accordingly I allow this writ petition and direct the Respondent-Board to consider the case of the Petitioners for absorption in accordance with the relevant Rules ignoring the ban on recruitment. For this purpose the Petitioners shall make a fresh representation to the Board along with certified copy of this judgment within one month from today and the Board shall dispose of the same within one month of production of certified copy of this judgment before it.

6. In view of the above, the writ petition is allowed. There shall be no order as to costs.