
(2009) 04 RAJ CK 0056
In the Rajasthan High Court

Laldin	Vs	APPELLANT
Judge, Labour Court and Another		RESPONDENT

Date of Decision : 08-04-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)(c)

Citation : (2009) 2 WLN 173

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

H.R. Panwar, J.—By the instant writ petition under Article 227 of the Constitution of India, award Annex. 3 dt. 21.12.2002 passed by the respondent No. 1 Labour Court, Jodhpur (for short "the labour Court" hereinafter) has been challenged by the petitioner workman.

2. I have heard learned Counsel for the parties.

3. It is contended by learned Counsel for the petitioner that the labour Court fell in error in passing no dispute award. Learned Counsel for the petitioner has relied on a Division Bench decision of this Court in Pappu Ram v. The Labour Court, Jodhpur and Ors. 2005 (3) WLC 616, wherein the Division Bench held that a Tribunal cannot answer reference made by appropriate Govt. u/s 10(1)(c) in the name of no industrial dispute award. The reference proceedings does not abate even on the death of workman what to talk of absence of workman. It was obligatory on a Labour Court or a Tribunal to answer a reference made u/s 10(1)(c) on merit after proper adjudication. It is for the Tribunal to evolve its own procedure in conformity with the rules and exercise the power vested with it to make an award on the basis of material available on record. The Court or the Tribunal with a view to settle the industrial dispute keeping in mind the sense of doing complete justice to the parties concerned, may obtain additional material, if so required.

4. In the instant case, from the award impugned it appears that the workman failed to file affidavit and in absence of affidavit, the respondent Labour Court made no dispute award. In my view, the Tribunal fell in error in making no dispute award. A similar controversy came to be considered by Hon''ble Supreme Court in Virendra Bhandari Vs. Rajasthan State Road Transport Corporation and Others, wherein Hon''ble Supreme Court observed as under:

A perusal of the award made on the earlier occasion will clearly indicate that there is no adjudication of the dispute at all. All that was stated was that the concerned parties had not appeared before the tribunal and in such an event, the Tribunal should have noted its inability to record the finding on the issue referred to it not that the dispute does not exist. When there is no adjudication of the matter on merits, it cannot be said that the industrial dispute does not exist. If the industrial dispute still exists, as is opined by the Government such a matter can be referred u/s 10 of the Industrial Disputes Act. What is to be borne in mind in proceedings of this nature is that the industrial disputes are referred to the labour Court or the industrial Tribunal for maintenance of industrial peace and not merely for adjudication of the dispute between two private parties. That aspect seemed to have been lost sight of by the Tribunal on the first occasion and by the High Court in the order under appeal. In this background, it was certainly permissible for the Government to have made the second reference on which occasion after inquiring into the matter, the Tribunal adjudicated the matter finally.

5. Keeping in view the decision of Hon''ble Supreme Court as well as the Division Bench decision of this Court, in my view, the award impugned cannot sustain and the matter deserves to be remanded to the Labour Court for adjudication.

6. Consequently, the writ petition is allowed. The no dispute award dt. 21.12.2002 Annex.3 passed by respondent No. 1 Labour Court is set aside and the matter is remanded to the Labour Court to adjudicate the reference on merit. The parties are directed to appear before the Labour Court on 18.05.2009 without there being fresh notice to the parties. No order as to costs.