
(2014) 09 RAJ CK 0040
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3927/2013

Madan Singh Purviya

APPELLANT

Vs

The Learned Labour Court and Others

RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2014) 09 RAJ CK 0040

Hon'ble Judges : Mohammad Rafiq, J.

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by petitioner against the award of Labour Court dated 28.5.2012, whereby an industrial dispute referred to Labour Court, Bharatpur by appropriate government on 13.3.2008, was answered against the workman. The terms of reference included the questions (i) whether raising of the dispute of removal from service by the workman with delay of 19 years is justified, (ii) whether the workman has worked under the respondents for 240 days in any calendar year from the period 1986 to 31.8.1988 (iii) whether the removal of workman by the employer vide order dated 31.8.1988 is justified and if not, what relief workman is entitled to?

2. Contention of the petitioner is that being appointed as Work Charge Employee (Beldar), he worked continuously from the year 1986 to 31.8.1988 and, therefore, he worked for more than 240 days with the respondents in a calendar year. The Labour Court though found the working of petitioner for 240 days in a calendar year proved and that there is violation of Section 25F of the I.D. Act while his removing him from service, but has declined to grant relief on the ground of delay of 19 years. Though the petitioner has explained the delay satisfactorily, but the same has not been considered by the Labour Court properly. It is contended that the Labour Court has rejected his claim solely on the ground of delay which is not proper. In this regard, reliance has been placed

on the judgment of the Hon''ble Supreme Court delivered in the case of Mahavir Singh Vs. U.P. State Electricity Board and Others, wherein it has been held that once the termination was held to be illegal, the entire reference could not have been rejected. Hence, the impugned award is liable to quashed and set aside.

3. The Labour Court has held that petitioner has not given justified reasons for delay of 19 years in raising the dispute. It was held by the Labour Court that the cause of action arose when the petitioner was removed from service on 31.8.1988. The Labour Court has not accepted the explanation of the petitioner that petitioner stood idle on mere assurance of the management. He has not given instances of the officer/officers, who gave such assurance and when the date he met with him/them. The Labour Court has also found that ignorance of law is not an excuse and the person cannot take any advantage of his being illiterate on this count. The Labour Court in support of its award has relied on judgments of the Supreme Court in C.E. Ranjeet Singh Dham v. Shyam Lal, 2006(4) RLW Page 3171 ; Assistant Engineer, C.A.D., Kota Vs. Dhan Kunwar, ; U.P. State Road Transport v. Babulram, 2000 SCC(L&S) Page 1113 and judgment of Division Bench of this Court in the case of Gopi Lal Vs. State Of Rajasthan and Another, and UP State Road Transport v. Babulram- 2000 SCC (L&S) page 1113. In all the aforesaid judgments it was held by the Supreme Court as well Division Bench of this Court that if reference is made with enormous delay, the Labour Court can decline to grant any relief to the workman on that count alone.

4. Having perused the contents of writ petition and the impugned award, I am of the opinion that delay of 19 years is enormous in the present matter and when the first question was with regard to delay, there was no compulsion for the Labour Court to go into the other aspect as the law is well settled that industrial dispute if not timely raised, is ceased to be alive and in such eventuality even if the reference of industrial dispute has been made, the Labour Court can decline to make reference on the ground of delay alone. The Labour Court cannot be said to have erred in law in holding that the petitioner would not be entitled to any relief because he raised the dispute with delay of 19 years.

5. The Supreme Court in The Management of M/s. Indian Iron and Steel Co. Ltd. Vs. Prahlad, has held as under:--

"Whether relief can be declined on the ground of delay and laches, depends on the facts and circumstances of each case. In this case claim was made almost after a period of 13 years without any reasonable or justifying ground and there was nothing on record to explain this delay as held by the Tribunal. When the respondent did not make claim for 13 years without any justification and on merits also he had no case, the Tribunal did not rightly grant him any relief. Even otherwise the findings of facts recorded by the Tribunal in the light of the Standing Orders aforementioned cannot be said to be untenable or perverse.

Thus we find merit in the appeal. Hence it is allowed for the reasons stated above. The order of the learned single Judge and that of the Division Bench

affirming the same impugned in this appeal are set aside and the award of the Tribunal is restored. Parties to bear their own costs in this appeal."

6. The Supreme Court in *Sapan Kumar Pandit Vs. U.P. State Electricity Board and Others*, made certain useful observation in para 15, which may be of relevance for deciding the present cases. It read as under:--

"15. There are cases in which lapse of time had caused fading or even eclipse of the dispute. If nobody had kept the dispute alive during the long interval it is reasonably possible to conclude in a particular case that the dispute ceased to exist after some time. But when the dispute remained alive though not galvanized by the workmen or the Union on account of other justified reasons it does not cause the dispute to wane into total eclipse. In this case when the Government have chosen to refer the dispute for adjudication under Section 4K of the U.P. Act the High Court should not have quashed the reference merely on the ground of delay. Of course, the long delay for making the adjudication could be considered by the adjudicating authorities while moulding its reliefs. That is a different matter altogether. The High Court has obviously gone wrong in axing down the order of reference made by the Government for adjudication. Let the adjudicatory process reach its legal culmination."

7. In view of above, I do not find any infirmity or illegality in the impugned award.

8. In the result, the writ petition is dismissed.