

(2002) 04 RAJ CK 0036

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3996 of 1998

Mahendra Singh Solanki

APPELLANT

Vs

Rajasthan State Agriculture Marketing Board and Others

RESPONDENT

Date of Decision : 02-04-2002

Acts Referred:

Citation : (2003) 3 RLW 1493 : (2003) 2 WLC 186

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Advocate : Mahendra Shah, for the Appellant; B.L. Gupta, for the Respondent

Final Decision : Allowed

Judgement

Misra, J.—The petitioner-herein had been appointed as a Stenographer, by the Rajasthan State Agriculture Marketing Board (for short "RSAMB"), whose services were terminated as a result of which a reference was initiated by the Department of Labour and Employment and the dispute was referred to the Labour Tribunal for adjudication as to whether the petitioner's services could be dispensed with and if not what relief or reliefs he is entitled to. The petitioner therein had come up with a specific case that he has been appointed as a work-charge Stenographer Grade-II on 26.10.85 on a salary of Rs.450/- per month and thereafter his appointment was extended from time to time but finally he was not absorbed on the post and his services were dispensed with without giving three months notice or pay in lieu of three months notice. The respondents-RSAMB contested the case of the petitioner before the Labour Court and submitted that he has not worked with the respondents-Management-RSAMB for the required number of days although it accepted the case of the petitioner to the extent that he was appointed as a Stenographer, but his claim for regularisation was denied on the ground that he had not worked for a period of 240 days in one calendar year.

2. The Labour Tribunal on a scrutiny of the evidence in regard to the nature and

terms of appointment of the petitioner passed an award in favour of the petitioner on 13.7.95 laying down therein that his termination was illegal and therefore, he was entitled to reinstatement, but without backwages. However, benefit of continuity of service was also granted to the petitioner. The respondents-RSAMB did not prefer any appeal against this award and thus acquiesced with the situation that the petitioner's regularisation was fit to be accepted. The story unfortunately does not end at this stage, since the respondents although complied the award of the Tribunal, it passed an order in favour of the petitioner absorbing him on a lower post of Munsif vide order dated 31.5.96 as contained in Annexure-3, which was challenged by the petitioner since his case through out- including the Labour Tribunal, was to the effect that he had been appointed as a Stenographer and the respondents also had accepted that he was appointed as a Stenographer and hence his absorption on the post of Munsif which is a lower post than a Stenographer was challenged as illegal and arbitrary as also being contrary to the award passed in his favour. One would have thought that the controversy after completely perusing the award regarding his claim for absorption on the post of Stenographer would come to an end, but unfortunately the respondents have raised another round of dispute in regard to the petitioner's absorption for they have come up with a case that the Tribunal did not give any direction to the respondents to absorb the petitioner on the post of Stenographer and, therefore, the respondents were not under an obligation to absorb him on the post of Stenographer. The counsel for the respondents Mr.B.L. Gupta also advanced extensive arguments to establish that the petitioner was not appointed as a Stenographer without caring for the admitted case of the respondents themselves-that as per their own averment, incorporated at Paragraph 8 of the award, the petitioner had been appointed on the post of Stenographer. The respondents, however, made a convenient interpretation of the operative portion of the impugned award and submitted that although an order for absorption of the petitioner has been passed by the respondents, it cannot be interpreted so as to infer that he had been ordered to be absorbed on the post of Stenographer.

3. This argument is absolutely devoid of any grain of substance since the respondents and their counsel is totally ignoring their own admitted case that as per their own averment, the petitioner had in fact been appointed as a Stenographer which finds mention in the award of the Labour Tribunal and if the petitioner was appointed on a post other than the Stenographer, it should be asserted before the Labour Tribunal itself or could have been challenged by way of an appeal. That having not been done, the absorption of the petitioner on a post other than that on which he was earlier appointed, cannot be permitted to be asserted and the respondents cannot be allowed to urge that since the operative portion of the award does not specifically mention that the petitioner should be absorbed on the post of Stenographer. It perhaps requires no mention, that any document including an award of the Labour Tribunal or any judgment or order has to be read as a composite whole and a particular meaning cannot be

attributed to it in a restricted and a piecemeal manner so that it can suit the situation in favour of a particular party. When the petitioner's case all-through was that he was initially appointed as a Stenographer on which he continued and this was also accepted by the respondents before the Tribunal, it does not lie in their mouth to contend that they are entitled to pass an order making convenient interpretation of the award contrary to their admitted case as disclosed in their written statement. This can obviously be treated as non-compliance of the Tribunal's award. Thus the controversy as to whether the petitioner was appointed as a Stenographer, or in the work-charge category, has already been decided by the Tribunal against which no appeal has been filed by the Management/respondents. The respondents thereafter were duty bound to comply the award in letter and spirit and it is not permissible for them to make a convenient interpretation of the award to suit their stand. It has already been stated that if the respondents were really serious about their assertion, they could have preferred an appeal against the award and they certainly cannot be permitted to raise a plea in this writ petition contrary to what they have stated before the Labour Court. The order dated 31.5.96 as contained in Annexure-3, therefore, is quashed and the respondents are directed to absorb the petitioner on the post of Stenographer Grade-11 in pursuance of the award of the Labour Tribunal dated 31.5.96 as the petitioner's absorption on the post of Munsif although he was entitled to be posted as a Stenographer the date of his absorption which is 31.5.96 on which date he should have been absorbed as a Stenographer instead of Munsif. All the arrears be paid to the petitioner expeditiously but not later than a period of three months from today. This writ petition accordingly stands allowed and disposed of.