
(2004) 08 DEL CK 0118

In the Delhi High Court

Case No : Writ Petition (C) No. 934 of 2002

Mangt. of CCW

APPELLANT

Vs

Partap Singh

RESPONDENT

Date of Decision : 03-08-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 25F

Citation : (2005) 116 DLT 307 : (2005) 105 FLR 227 : (2005) 2 LLJ 146

Hon'ble Judges : Madan B. Lokur, J

Bench : Single Bench

Advocate : A.K. Bhardwaj, for the Appellant; Sanjoy Ghosh, for the Respondent

Final Decision : Dismissed

Judgement

Madan B. Lokur, J.—A preliminary issue raised by learned Counsel for the petitioner is that the reference before the learned Central Government Industrial Tribunal (the Tribunal) was not competent inasmuch as jurisdiction in the case vested with the Central Administrative Tribunal since the respondent/workman was a Government servant.

2. There is no dispute that the petitioner is an industry nor is there any dispute that the respondent/workman is a workman within the meaning of the Industrial Disputes Act, 1947 (the Act). Quite clearly, the respondent/workman is entitled to invoke the jurisdiction of the machinery available under the Act notwithstanding the existence of the Administrative Tribunals Act.

3. It may be pointed out that in *A. Padmavalley v. CPWD*, 1991 (1) SLR 245, a Bench of five members of the Central Administrative Tribunal, Hyderabad Bench took the view that in matters pertaining to the Industrial Disputes Act, an applicant seeking relief must ordinarily exhaust the remedy available under that Act. I find no reason to take a different view and it must be held that the respondent/workman was entitled to avail the benefits of the provisions of the

Industrial Disputes Act.

4. As far as the merits of the case are concerned, the dispute referred for adjudication was as follows:

"Whether the action of the management of AIR, New Delhi in terminating the services of Sh. Partap Singh, Fitter on daily rated/Muster roll w.e.f. 26.12.87 is justified? If not, to what relief the concerned workman is entitled and from what date?"

5. The respondent/workman was employed as a Fitter and joined service some time in June, 1982. According to the petitioner, he joined some time in July, 1982. Be that as it may, according to the respondent/workman, his services were terminated by the petitioner some time in 1987 while according to the petitioner, the respondent/workman stopped working with effect from 16th May, 1983.

6. The petitioner was proceeded against ex parte by an order dated 16th July, 2000. The petitioner thereafter moved an application for recalling the ex parte order but that was dismissed on 5th January, 2001. The petitioner did not challenge the order whereby it was proceeded against ex parte.

7. The respondent/workman filed his affidavit by way of evidence and he gave his testimony by entering the witness box. The petitioner did not cross-examine the respondent/workman.

8. In view of the un rebutted evidence given by the respondent/workman, the learned Tribunal held that the services of the respondent/workman were terminated with effect from 26th December, 1987, as claimed. Since the respondent/workman had put in more than 240 days of continuous service, he was entitled to the benefit of Section 25F of the Industrial Disputes Act were not complied with inasmuch as no show cause notice was given to the respondent/workman before terminating his services.

9. The case put up by the petitioner that the respondent/workman abandoned service with effect from 16th June, 1983 was disbelieved since absolutely no evidence had been led by the petitioner in support of this contention.

10. I do not find any error or any perversity in the conclusions arrived at by the learned Tribunal. The petitioner chose not to contest the reference at its own peril.

11. I find no merit in the writ petition. The same is, accordingly, dismissed.