
(1999) 11 RAJ CK 0005
In the Rajasthan High Court
Case No : C.W.P. No. 2589 of 1996

Mangu Khan

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-11-1999

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (2000) 86 FLR 742 : (2000) 3 LLJ 1293 : (2000) WLC 354

Hon'ble Judges : J.C. Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

J.C. Verma, J.—The petitioner has challenged the order dated November 26, 1995 (Annexure-6) passed by the respondent No. 1 by which order the respondent No. 1 has declined to refer the matter of termination of services of the petitioner to the appropriate Labour Court for adjudication.

2. The petitioner as stated in the writ petition is said to have been appointed on the post of Peon/Class IV employee on June 1, 1991 as daily wage worker. It is stated that even though the performance of the petitioner was satisfactory, but still his services were terminated on February 10, 1992 without complying with the mandatory provisions of Section 25 of the Industrial Disputes Act. The petitioner challenged the order of oral termination of service and he had also mentioned that after removing the petitioner, four persons namely Vijay Kumar, Rajesh Kumar, Ghanshyam and Kailash were employed. Vide impugned order, the authorities had declined to refer the matter to the appropriate Court mainly on the reasons that the petitioner has been appointed on daily wages and that there was no merit in the case of the petitioner.

3. The petitioner submits that the termination of the services of the petitioner was an industrial dispute as defined under the Act and the respondents could not have declined to refer the matter on the grounds mentioned in the impugned

order and could not have usurped the powers of the Labour Court.

4. After hearing learned counsel for the petitioner, I am of the opinion that it is settled law and has been repeatedly so held by this Court and also by the Apex Court that the question of fact and question of law can only be determined by the appropriate adjudicatory authority which in this case is Labour Court or the Industrial Tribunal. Despite the fact that the law has since been settled, it is unfortunate that the Labour Authorities in the Union of India had unnecessarily dragged the petitioner in the abovesaid litigation causing a further delay of another five years. The impugned order Annexure-6 is quashed and the writ petition is allowed with a direction that the respondents shall consider afresh the dispute of the petitioner for reference to the appropriate Court within two months of receipt of a certified copy of this order and the Labour Court on receipt of the reference shall make all efforts to adjudicate it finally expeditiously.

5. With the abovesaid observations, the writ petition is allowed with a cost of Rs. 5,000/- which shall be shared equally by respondent No. 1 and 2.