
(2016) 12 RAJ CK 0061
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7084 of 2004

Mohan

APPELLANT

Vs

Judge Labour Court, Bharatpur

RESPONDENT

Date of Decision : 06-12-2016

Acts Referred:

Industrial Disputes Act, 1947 — Section 25G

Citation : (2017) 2 CLR 247 : (2017) 153 FLR 100 : (2017) 1 LLJ 331

Hon'ble Judges : Mr. Alok Sharma, J.

Bench : Single Bench

Advocate : Dr. A.S. Khangarot, GC, for the Respondent; Mr. S.K. Singodiya, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. Alok Sharma, J. - Under challenge is the award dated 22-12-1999 passed by the Labour court Bharatpur holding that the termination of the petitioner workman by the Assistant Engineer, Public Works Department sub Division Karauli was not illegal. Consequent to which the reference made by the State Government on aforesaid question was decided against the workman.

2. The main contention of Mr. Singodiya, counsel for the petitioner is that the Labour court failed to take adverse inference against the department for not producing the relevant record with regard to service of the workman. He has also submitted the service of the workman was terminated while keeping his juniors in service, which action was against Section 25G of the Industrial Disputes Act, 1947 (hereinafter the Act of 1947). Therefore the reference should have been decided in favour of the workman. It was submitted that the workman had worked for over a period of 240 days between September, 1986 and 15-7-1988 prior to the termination of his service.

3. Dr. A.S. Khangarot, counsel for the department has supported the impugned award and submitted that the workman had not worked for 240 days prior to his

termination immediately preceding twelve months. The workman failed to prove his service for a period of 240 days or more therefore the Labour court has rightly dismissed the reference.

4. Heard. Considered.

5. A perusal of the impugned award shows that the workman has miserably failed to prove that he had worked for 240 days immediately preceding twelve months to his termination even reckoning for the additional 52 days with the aid of adverse inference for the period in respect of which records were sought by the Labour Court and yet not furnished by the department. Therefore the Labour Court has rightly dismissed the reference holding the workman's termination not to be in contravention of Section 25F of the act of 1947. And the petitioner workman produced no evidence for triggering Section 25G of the Act of 1947 in his aid and resultant setting aside of his termination as prayed. No interference with the impugned award 22-12-1999 is called for in the circumstances by this court.

6. There is no force in the petition. Dismissed.