
(2000) 11 P&H CK 0216
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition 3896 of 1985

Mukand Lal

APPELLANT

Vs

Labour Court Punjab

RESPONDENT

Date of Decision : 02-11-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 11 P&H CK 0216

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : Mr. Parminder Singh, for the Appellant; Mr. P.S. Chhina, Senior DAG, for the Respondent

Judgement

S.S. Sudhalkar, J.—The contention of the petitioner is that he was employed by respondent No. 2 as Ginning Supervisor and after two years his services were terminated in the year 1980 without notice, charge-sheet, inquiry or compensation. He raised an industrial dispute. However, respondent No. 1 vide impugned order dated 27.12.1983, copy Annexure P1, rejected the demand, by passing the following order : "I have been directed to draw your attention to above mentioned demand notice dated 16.10.1980 and clarify that the demand contained there is not fit for being referred for adjudication because your case has not been established." Petitioner's representation dated 1.9.1984 was rejected vide order dated 3.10.1984 by respondent No. 1, a copy of the same is Annexure P2. Another representation dated 30. 1.1985 was rejected by respondent No. 1 vide order dated 16.3.1985, copy of the same is Annexure P3.

2. Learned counsel for the petitioner argued that respondent No. 1 has gone beyond its jurisdiction and decided the matter on merits. On reading the impugned order, Annexure P1, the argument appears to be correct. Learned counsel for the petitioner has relied on a judgment in the case of S.C, Parida v. State of Haryana 1999(1) SLR 296 : 1999(2) SCT 563 (P&H). It has been held therein that when the reference was declined on the ground that the person was

not a workman as he was working in the supervisory capacity, the Government, as urged by (he learned counsel for the petitioner, while considering the question whether reference should be made or not, cannot delve into the merits of the dispute. Therefore, a direction was issued to make reference to the appropriate forum.

3. In the cases of Telco Convoy Drivers Mazdoor Sangh and Another Vs. State of Bihar and Others, , it has been held that the Government, while considering the question, whether reference may be made or not, cannot delve into merits of the dispute and determine the lis itself.

4. Considering the law laid down by the Courts, as mentioned above, and the reasons given by respondent No. 1 in Annexure P1, it is clear that he (respondent No. 1) has gone beyond jurisdiction by delving in the judicial aspects of the case and laking a decision itself which the Labour Court should have taken. The impugned order and the consequent orders of rejection of representations of the petitioner, therefore, deserve to be set aside.

5. As a result, this petition is allowed. Orders An-nexures P1 to P3 are set aside and the case is remanded to respondent No. 1 for taking decision in accordance with law after taking into consideration the law laid down by the Supreme Court and this Court. Respondent No. 1 shall take decision within a period of one month of the receipt of a copy of this order. If respondent No. 1 is not in a position to take decision within the time given by this Court, he shall apply for extension of time stating the reasons for delay.

Copy of the order be given to the learned counsel for the parties on payment of annual charges.

6. Petition allowed.