
(2007) 12 RAJ CK 0040
In the Rajasthan High Court

Municipal Board

APPELLANT

Vs

Smt. Mangli Bai and Another

RESPONDENT

Date of Decision : 17-12-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2008) 118 FLR 684 : (2008) 3 LLJ 907

Hon'ble Judges : P.B. Majmudar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

P.B. Majmudar, J.—By filing this writ petition, the petitioner-Municipal Board, Lakheri has challenged the award of the Labour Court, Kota dated September 22, 2001, by which the Labour Court has passed the ordered reinstatement of the respondent No. 1 without back wages.

The respondent No. 1 raised an industrial dispute on the ground that her services were terminated in violation of Section 25-F of the Industrial Disputes Act, 1947. The respondent No. 1 was appointed as a Water Server in the department and it is her case that even though she had completed more than 240 days of service, her services were terminated without assigning any reasons on December 12, 1995. The Labour Court after considering the evidence on record ultimately came to the conclusion that the respondent No. 1 has completed more than 240 days" service, therefore, her services could not have been terminated without following the provisions of the Industrial Disputes Act. The Labour Court accordingly found that the termination order w.e.f. December 12, 1995 is contrary to law, but declined to grant any back wages and only ordered for reinstatement. The aforesaid award of the Labour Court is impugned in this writ petition at the instance of the petitioner-Municipal Board.

2. Learned Counsel for the petitioner Mr. K.N. Gupta submits that as and when work of Water Server is required, the petitioner is ready to re-employ the

respondent No. 1 in service. He also submits that the appointment of the respondent No. 1 was not as per the recruitment rules; therefore, the department is justified in terminating the services of the respondent No.

3. I have heard learned Counsels appearing for the parties. In the instant case, it is required to be noted that the petitioner-employer has violated the provisions of the Industrial Disputes Act. The Industrial Disputes Act is also a Central Act and the Labour Court was justified in granting the prayer in favour of the respondent No. 1 employee. It is not in dispute that the provisions of the Industrial Disputes Act are applicable in the instant case and simply because the appointment of the respondent No. 1 was not as per the recruitment rules, that itself cannot be a ground for coming to the conclusion that even the provisions of Industrial Disputes Act are not applicable.

4. The petitioner-Municipal Board can certainly take action against the erring officers who were responsible for such appointment, however, it cannot escape from the applicability of the Industrial Disputes Act. So far as the Industrial Disputes Act is concerned, it does not prescribe any distinction between those employees who have been appointed by regular selection process and those who have been appointed without following due process of law. The Act is applicable with all force to all types of employees, whether serving in a private institution or semiprivate institution or in a Government corporation. If the provisions of the Industrial Disputes Act are applicable to an institution, the question whether the appointment is de hors the recruitment rules, is of no relevance. Learned Counsel for the petitioner is also not in a position to point out that the respondent No. 1 has not completed 240 days during the relevant period or that there is no violation of Section 25-F Industrial Disputes Act.

5. Under these circumstances, I do find any error with the order of reinstatement of the respondent No. 1.

6. This writ petition, having no substance, is therefore, dismissed. Notices discharged. No order as to costs.