
(1999) 03 RAJ CK 0004
In the Rajasthan High Court
Case No : C.W.P. No. 5949 of 1994

Municipal Corporation

APPELLANT

Vs

Sushila Smt. and Another

RESPONDENT

Date of Decision : 16-03-1999

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2000) 1 LLJ 330 : (1999) WLC 295

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : Sanjay Pareek, for the Appellant; Mahesh Sharma, for the Respondent

Final Decision : Partly Allowed

Judgement

Ashok Parihar, J.—The case has come up on an application filed on behalf of respondent No. 1 (hereinafter to be referred as "the concerned workman") u/s 17-B of the Industrial Disputes Act. However, on joint request of counsel for the parties, the matter has been heard finally on merits also.

2. Petitioner has challenged Award dated July 31, 1993, passed by Labour Court, Kota, by which termination of services of the concerned workman has been held to be illegal and unjustified and he has been ordered to be reinstated with continuity of service and full back wages.

3. After hearing counsel for the parties, I have carefully gone through the material on record and also the impugned Award.

4. The Labour Court, on the basis of evidence and material on record, has come to a finding of fact that the concerned workman had worked for more than 240 days in the last 12 calendar months. However, before terminating her services compliance of mandatory provisions of Section 25-F of the Industrial Disputes Act was not made, as such, the termination was not legal. Though, a plea was taken by the petitioner Corporation that at the time of termination the concerned

workman was offered one month's pay by cheque. However, it has not been disputed that no retrenchment compensation was included in the offer made as alleged above. The witness, on behalf of the petitioner-Corporation, also admitted that the retrenchment compensation was not paid or even offered to the concerned workman.

5. The statement of the concerned workman that new persons were appointed after termination of her services was also not controverted by the petitioner-Corporation before the Labour Court. Since it is a finding of fact, I find no error or illegality in the Award to that extent. However, the concerned workman worked only from February, 1985 to January 1986, I find no justification in awarding any back wages to the concerned workman looking to the nature of work, employment and appointment.

6. Accordingly, the writ petition is partly allowed. The termination of services of the concerned workman is held to be illegal and unjustified and she is ordered to be reinstated with continuity of service. However, she will be entitled for wages only from the date of the Award i.e. July 31, 1993 on the same terms and conditions she was employed at the time of her termination. Since the termination relates back to the year 1986, in the interest of justice, I deem it proper to direct the petitioner-Corporation to reinstate the concerned workman within thirty days from the date of receipt of certified copy of this order and also make payment of salary to the concerned workman as ordered above i.e. from the date of Award till her reinstatement within thirty days thereafter. There will be no order as to costs.