
(2005) 11 RAJ CK 0085

In the Rajasthan High Court

Case No : Civil Writ Petition No. 8005 of 1992

Municipal Council

APPELLANT

Vs

Judge, Labour Court and Others

RESPONDENT

Date of Decision : 21-11-2005

Acts Referred:

Citation : (2005) 11 RAJ CK 0085

Hon'ble Judges : Ashok Parihar, J.

Bench : Single Bench

Final Decision : Allowed

Judgement

Ashok Parihar, J.—A dispute in regard to regularisation of services of the respondent No. 3, the concerned workman was raised and the same was referred accordingly by the State Government to the Labour Court, Jaipur, After considering evidence and material on record, the Labour Court vide award dated 18.11.1988 observed that in absence of any regular post, the regular pay scale cannot be granted to the concerned workman, however, as and when any regular post is made available, the services of the concerned workman may be regularized and he may be given regular pay scale from the same date of regularisation.

2. After passing of the award, it appears that the petitioner filed writ petition before this Court claiming regular pay scale on the post in question on the principle of equal pay for equal work. However, in view of the observations made by the Labour Court in the award, referred above, though this Court did not issue any directions, however, the writ petition was dismissed as withdrawn with liberty to file an application under Section 33(c)(2) of the Industrial Disputes Act as prayed by counsel for the workman. Thereupon in the application filed under Section 33(c)(2) the Labour Court computed a sum of Rs. 49112/- in favour of the concerned workman on the basis of principle of equal pay for equal work granting the relief from the date of initial appointment i.e. 01.01.1980.

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

4. There cannot be any dispute that computation under Section 33(c)(2) can not be made until and unless adjudication in regard to the relief claimed is made by a competent court in favour of the concerned workman. In the present case, there is no adjudication whatsoever as to whether the concerned workman is even entitled for minimum of pay scale for the post In question from a particular date on the principle of equal pay for equal work The Supreme Court has even gone to the extent of deprecating he practice of High Court in allowing minimum of the pay scale on the principles of equal pay for equal work under writ jurisdiction in case of State of Haryana and Another Vs. Tilak Raj and Others, Under the circumstances, the impugned order passed by the Labour Court under Section 33(c)(2) cannot be sustained in the eyes of law.

5. Accordingly, the writ petition is allowed. The impugned order dated 12.11.1991 passed by the Labour Court is set aside. Though there has been interim stay initially, however, the same was modified by this Court vide order dated 27.8.1993 by which the petitioner was directed to pay a sum of Rs. 20,000/- to the concerned workman and the above sum of Rs. 20,000/- has already been paid to the concerned workman. For the sake of equity as also in the interest of justice and further the concerned workman been a low paid employee, I deem it proper now to direct the petitioner not to recover the above amount of Rs. 20,000/- from the concerned workman.