
(2007) 09 MP CK 0034
In the Madhya Pradesh High Court

Nagar Panchayat

APPELLANT

Vs

Om Prakash Shukla and Others

RESPONDENT

Date of Decision : 03-09-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C

Citation : (2007) 115 FLR 1162 : (2008) 1 LLJ 843

Hon'ble Judges : Sheela Khanna, J;A.K. Gohil, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Abhay Gohil and Sheela Khanna, JJ.—Heard Appellant advocate. The respondent No. 1 was appointed in 1980 on the post of LDC as daily wager. His services were terminated on July 26, 1982. He challenged the aforesaid order of his termination before the Labour Court. He requested the Government to refer the matter to the Labour Court and accordingly, the matter was referred to the Labour Court. The Labour Court found that the termination of the respondent No. 1 from service is illegal and therefore directed reinstatement of the respondent No. 1 with full back wages vide Award dated September 24, 1988 passed in Reference Case No. 53/1986. It was specifically directed that the salary which is being paid to other LDC be paid to respondent-employee, who is also working on the post of LDC. This order was challenged by the petitioner-Council in MP. No. 149/1989 before the Division Bench of this Court and vide order dated August 10, 1992 the said petition was dismissed. Thereafter, the respondent-employee initiated proceedings for recovery of the wages by way of filing petition u/s 33C(1) of the Industrial Disputes Act in which revenue recovery certificate was issued by the Labour Commissioner. Against this issuance of certificate the Municipal Council, Kailaras filed W.P. No. 1394/1997 before this Court which was disposed of on February 20, 2001 and the matter was remanded back to the Labour Commissioner and it was directed that the Labour Commissioner shall consider the objection of condonation of delay raised by the Municipal Council, Kailaras and after hearing the parties the order shall be passed in accordance

with law.

2. Then the Labour Commissioner by an order dated December 28, 2001 decided the said objections after hearing the parties and issued RAC in favour of the respondent-employee. Again, the Municipal Council, Kailaras filed petition bearing W.P. No. 1746/2002. The learned Writ Court by an order dated April 3, 2007 dismissed the aforesaid writ petition of the appellant-Council, holding therein that there is clear provision u/s 33C(1) of the Industrial Disputes Act and the Second proviso of Section 33C(1) of the said Act contemplates that any such application will be entertained after the expiry of the period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period and held that the authority has discretion to accept the application which was filed beyond the period of one year as the second Proviso clearly provides for condonation of delay and acceptance of the application showing sufficient cause. This was the only objection of the appellant-Municipal Council, Kailaras which was raised before the Labour Commissioner as well as before the Writ Court.

3. After hearing learned Counsel for the appellant and after going through the order passed by the learned single Judge, we are of the view that the learned single Judge has not committed any illegality in dismissing the petition after considering the provisions of law. Thus, no case is made out for any interference in this appeal. Accordingly, this appeal is dismissed.