
(2016) 04 RAJ CK 0029

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4777 of 2002.

Narain Lal

APPELLANT

Vs

Judge, Labour Court, Bhilwara and another.

RESPONDENT

Date of Decision : 05-04-2016

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)

Citation : (2016) 2 CLR 547 : (2016) 150 FLR 349

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : R.S. Saluja, Advocate, for the Appellant; Harish Purohit, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sandeep Mehta, J. - By way of this writ petition, the petitioner Narain Lal has approached this Court challenging the award dated 11.07.2001 passed by the Labour Tribunal, Bhilwara in Labour Dispute No.77/1995 rejecting the labour dispute instituted at the instance of the petitioner workman.

2. Brief facts, necessary and relevant for disposal of the instant writ petition, are noted herein below.

3. The petitioner was employed with the respondent Corporation as a daily waged employee. His service was thereafter, regularised on the post of Driver vide order dated 01.10.1975. The petitioner claims that while serving the respondent Corporation as a Driver, he developed vision deficiency and thus being unable to perform duties as a driver, he was entrusted the work of inspection of vehicles.

4. While the petitioner was performing the duty of inspection of vehicles on 23.02.1989, he sustained injuries on his left leg and fingers at about 2330 hours. The petitioner informed about the incident to the Assistant Mechanical Engineer on 24.02.1989. Thereafter, he underwent treatment for his injuries between

27.03.1989 to 16.05.1989. During the treatment, a part of his left leg had to be amputated and a prosthetic limb was applied. The petitioner was sent for medical check-up at J.L.N. Hospital, Ajmer vide letter dated 27.05.1990. The Medical Board issued a report dated 12.03.1991 opining that the petitioner was no longer fit to perform duties as a Driver. Consequently, the Regional Mechanical Engineer, Ajmer served a show cause notice dated 20.03.1991 to the petitioner under Section 2(oo)(c) of the Industrial Disputes Act, 1947 as to why his services should not be terminated in view of his medical condition. The petitioner approached the concerned authorities praying that rather than terminating his services, he should be assigned duties of another post on which he could work looking to his medical condition. By order dated 31.01.1992, the petitioner's services were terminated. Thereafter, the petitioner raised an industrial dispute. However, the settlement proceedings failed and the matter was referred to the Labour Court, Bhilwara vide order dated 29.07.1995. The Labour Court framed the following issue for consideration:

"D;k eq[; izca/kd] jk0jk0i0i0fu0 vkxkj and HkhyokM+k }kjk vius Jfed Jh ukjk;.k yky ekyh vkRet Jh fxj/kkjh yky pkyd dks nq?kZVuk ds QyLo:i pkyd ds in ij v;ksX; gksus ds dkj.k mls ykbZV tkWc u fn;k tkdj Isok Is i`Fkd fd;k tkuk mfpr ,oa oS/k gS\\ ;fn ugha] rks Jfed fdl jkgr dks ikus dk vf/kdkjh gS\\"

5. The petitioner submitted his statement of claim. The respondents filed reply thereto. The Labour Court, at the conclusion of the inquiry, found the petitioner's claim that he received the debilitating leg injuries while performing duties of the Corporation, to be false. The petitioner, set up a case that he received injuries at about 2330 pm. on 23.02.1989. However, his duties hours on the relevant date were between 0800 hours to 1630 hours. The claim set up by the petitioner that pursuant to diminution of vision, he was assigned duties as an Inspector of Vehicles was also found to be false. The respondents offered compensation to the tune of Rs.23,384/- vide bill dated 03.02.1992 in lieu of termination to the petitioner in terms of the directions given by the Hon'ble Supreme Court in the case of Anand Bihari and Ors. v. RSRTC, Jaipur and Anr., reported in AIR 1991 SC 1003, which the petitioner accepted. Accordingly, the Tribunal rejected the petitioner's claim and answered the reference in negative by order dated 11.07.2001. Hence this writ petition.

6. Shri R.S. Saluja, learned counsel representing the petitioner, relied upon the judgment rendered by the Hon'ble Supreme Court in the case of Anand Bihari (supra) and urged that the Corporation is under an obligation to comply with the directions given by the Supreme Court in the said judgment in its letter and spirit. The respondents made no effort to consider the petitioner's adjustment against another suitable post. As per him, the quantum of compensation awarded to the petitioner in lieu of termination is also grossly inadequate. Thus as per him, the impugned order deserves to be quashed and the petitioner deserves to be directed to be continued in service on a suitable post in the Corporation with all consequential benefits or in alternative, the amount of

compensation awarded to the petitioner being inadequate should be enhanced.

7. Per contra, Shri Harish Purohit, learned counsel representing the respondents, vehemently opposed the submissions advanced by the petitioner's counsel. He urged that the two grounds set up by the petitioner before the Labour Tribunal viz. that he received injuries on his foot while performing duties and that he was already working as an Inspector of Vehicle because of diminution in vision were found to be false. He further contended that the respondent Corporation has already assessed and awarded proper compensation to the petitioner in light of directions given by the Hon''ble Supreme Court in the case of Anand Bihari (supra) and thus the petitioner is not entitled to any relief whatsoever and the writ petition should be dismissed.

8. I have heard the arguments advanced by the learned counsel for the parties and have gone through the impugned award as well as the entire material available on the record.

9. It cannot be denied that the case set up by the petitioner before the Tribunal that he received the debilitating injuries on his leg resulting into amputation while performing duties in the Corporation was patently false. The petitioner set up a case that he received the leg injuries at 2330 hours. The respondents led evidence to the effect that the duty hours of the petitioner on the relevant date were between 0800 hours to 1630 hours and therefore, definitely and without any doubt, the petitioner was not performing duties of the Corporation when he received the injury. The case set up by the petitioner in his statement of claim that he was assigned duty as an Inspector of Vehicles between 03.06.1986 to 26.03.1990 owing to diminution in vision was also found to be false. In his statement of claim which has been filed on record of the writ petition, the petitioner did not set up a case that he was assigned the duties of Inspector of Vehicles on account of diminution of vision. No such plea has been set up in the petitioner's affidavit as well. The show-cause notice of proposed termination was issued by the Corporation under Rule 2(oo)(c) of the Industrial Disputes Act in reference to the Medical Board's report that the petitioner had become medically unfit to drive heavy vehicles owing to loss of limb as well as diminution of vision. While terminating the petitioner's services, the respondents awarded him compensation to the tune of Rs. 23,384/- which the petitioner accepted way back in the year 1992. The Labour Dispute was instituted in the year 1995. The petitioner's counsel was unable to demonstrate as to how the quantum of compensation awarded to the petitioner in lieu of termination was inadequate.

10. In this background, this Court is of the opinion that the respondents duly complied with the directions given by the Hon''ble Supreme Court in the case of Anand Bihari (supra) and were totally justified in terminating the petitioner's services on the ground of continued ill-health as defined under Rule 2(oo)(c) of the Industrial Disputes Act and paying compensation to the tune of Rs. 23,384/- in view of reinstatement to him.

11. As a consequence, the impugned order passed by the Labour Tribunal, Bhilwara rejecting the reference instituted at the instance of the petitioner workman cannot be said to be illegal, arbitrary or perverse so as to call for any inference in the exercise of extraordinary writ jurisdiction of this Hon"ble Court.
12. Accordingly, the writ petition being devoid of any merit is hereby dismissed.
13. No order as to costs.