(2003) 12 AHC CK 0168

In the Allahabad High Court

Case No : C.M.W.P. No. 2080 of 1988

New Okhla Industrial Development Authority — APPELLANT

Vs

Presiding Officer, Labour Court and Others — RESPONDENT

Date of Decision : 03-12-2003

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6N

Citation : (2004) 2 AWC 1259

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : U.S. Awasthi, for the Appellant; A.K. Sinha, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard learned counsel appearing on behalf of the petitioner and the learned standing counsel for the contesting respondents.

2. Petitioner-New Okhla Industrial Development Authority, Ghaziabad aggrieved by the award of the labour court, Ghaziabad dated 30th June, 1987, passed in Adjudication Case No. 122 of 1985, copy whereof is annexed as Annexure-4 to the writ petition, approached this Court by means of present writ petition under Article 226 of the Constitution of India.

3. The following dispute was referred to the labour court for adjudication :

"Kya sewayojkon dwara apne shramik Sukh Pal Singh (putra Sri Balle Ram), mali ki sewayen dinak 7.9.1983 se samapt kiya jana uchit tatha/athwa Vaidhanik hai? Yadi nahi, to sambandhit shramik kya labh/anutosh (Relief) pane ka adhikari hai, tatha anya kis vivrdn sahit?"

4. Pursuant to the notice issued by the labour court, the parties have exchanged their pleadings and also adduced evidence, as they desire to adduce. In short, the case set up by the workman was that he was appointed by the petitioner-employers on 1st October, 1978 in the capacity of Mali. Thereafter, in February,

1980 he was transferred to Garden department where he was continuously working, but all of sudden his services were terminated without giving any notice whatsoever and without compliance of Section 6N of the U. P. Industrial Disputes Act, 1947 with effect from 7th September, 1983. The workman further stated that he was continuously working since his appointment without any complaint whatsoever to the satisfaction of his superiors.

5. The petitioner-employers has set up their case that the workman was employed only on dally wage basis, which was in purely temporary capacity with effect from 1st October, 1978 and he was paid wages only for the work which he has done. His attendance was recorded only as a muster role employee in the establishment of the employers. The employers have further taken the case that he was appointed as and when the work was required. The petitioner employers have also denied that the services of the workman were illegally terminated with effect from 7th September, 1983.

6. Learned counsel appearing on behalf of the petitioner-employers Shri U. S. Awasthi argued that since the workman concerned has not completed 240 days of continuous service in preceding twelve calendar months, therefore, the employers were not under obligation to comply with the provisions of Section 6N of the Act aforesaid. No other point was urged on behalf of learned counsel for the petitioner-employers.

7. The Apex Court in the case of U. P. Drugs and Pharmaceuticals Company Limited v. Ramanuj Yadav and Ors. 2003 (4) AWC 3328 (SC) : JT 2003 (Suppl)1 SC 383, has held that "it is not necessary for the workmen to complete 240 days in the preceding year and since workmen had completed 240 days in earlier calendar years preceding to 12 months on the date of retrenchment, they were deemed to be in a continuous service and hence their termination in violation of Section 6N of the U. P. Industrial. Disputes Act, 1947 is illegal, which is pari-materia of Section 25F of the Act aforesaid." in this view of the matter, the findings recorded by the labour court do not warrant any interference by this Court in exercise of power under Article 226 of the Constitution of India.

8. In view of what has been stated above, this writ petition has no force and is accordingly dismissed. The interim order, if any, stands vacated. However, on the facts and circumstances of the case, there will be no order as to costs.

