
(2010) 04 AHC CK 0043
In the Allahabad High Court
Case No : Writ-C No. 23822 of 1995

Purendra Kumar Sharma

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 01-04-2010

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 4K

Citation : (2010) 125 FLR 654

Hon'ble Judges : Prakash Krishna, J

Bench : Single Bench

Advocate : Y.K. Sinha, G.M. Tripathi and I.N. Pandey, for the Appellant; C.B. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Prakash Krishna, J.—These are two connected writ petitions and they arise out of an award passed by the Labour Court in Adjudication Case No. 90 of 1992. The Writ Petition No. 23090 of 1995 has been filed on behalf of the employer while another writ petition has been filed on behalf of the workman. Respondent No, 3 Sri Purendra Kumar Sharma was engaged as helper. He was an unskilled labour. He worked according to the petitioner (employer) only one month and thereafter abandoned the employment w.e.f. 21.8.1990. At his instance a dispute was referred by the State Government u/s 4-K of the U.P. Industrial Disputes Act, 1947 to determine as to whether the termination order of the petitioner is valid and if so then to what relief he is entitled.

2. The parties filed their statements before the Labour Court who by the impugned award held that the disengagement of the petitioner w.e.f. 21.8.1990 is perfectly justified and valid. It was also held that the workman is not entitled for any back wages. However, in view of the stand taken by the employer in their written statements that they are prepared to reengage the workman, the Labour Court directed that the workman may be reinstated.

3. Challenging the said portion of the Award, the writ petition No. 23090 of 1995 has been filed by the employer.

4. Heard Sri C.B. Gupta, learned Counsel for the employer. None appeared on behalf of the workman. List has been revised.

Learned Counsel for the employer submits that even if it is found that the workman has not completed 240 days in a year and was employed only for a period of one month, there was no occasion for the Labour Court to direct the reinstatement of the workman. He submits that the jurisdiction of the Labour Court is limited and confined to the reference made by the State Government. The Labour Court was required to determine the legality and validity of the termination order dated 21.8.1990 and the consequential relief, if any, to the workman. If it found that the termination order dated 21.8.1990 is valid, the Labour Court had no further jurisdiction to provide the re-engagement of the workman, as per reference order. The Labour Court has exceeded in its jurisdiction by ordering the re-engagement.

5. Having heard the learned Counsel for the employer, I find sufficient force therein. Besides the above, it may be noted that the present writ petitions are pending in this Court for the last 15 years. An interim order was passed in favour of the employer staying the operation of the Award of the Labour Court. It follows, that the respondent workman has not been re-engaged or reemployed so far. He must be employed else where.

6. Taking into consideration the entire facts and circumstances of the case, the writ petition filed by the employer to the extent stated above i.e. to the extent of re-employment, succeeds and is allowed. The Labour Court was perfectly justified in not awarding back wages to the workman.

In the result Writ Petition No. 23090 of 1995 stands allowed and the Writ Petition No. 23822 of 1995 stands dismissed.