

(2000) 09 SC CK 0039

In the Supreme Court Of India

Case No : Civil Appeals Nos. 4940-41 Of 2000

Pyare Jan and Another

APPELLANT

Vs

Karnataka Electricity Board and Another

RESPONDENT

Date of Decision : 07-09-2000

Acts Referred:

Industrial disputes act — Section 25f

Citation : (2000) 10 JT 302 : (2000) 6 SCALE 521 : (2001) 9 SCC 209

Hon'ble Judges : U. C. Banerjee, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

G.B. Pattanaik and; U.C. Banerjee, JJ.-Leave granted.

2. These two appeals are by the two employees of Karnataka State Electricity Board. On their services being terminated, a reference was made to the Labour Court to find out whether the retrenchment is justified, and, if not, what relief the workmen are entitled to. The Labour Court answered this reference by an award dated 7-7-1994. It came to the conclusion that the termination of the services of the employees tantamounts to retrenchment under Section 2(oo) of the Industrial Disputes Act and the employer had not complied with the provisions of Section 25-F and consequently the termination is bad. The Labour Court also came to the conclusion that the workmen had not been gainfully employed subsequent to the period of their termination. Accordingly, the Labour Court directed for reinstatement of the appellants with full back wages. Before the Labour Court, the counsel appearing for the employer had pleaded that instead of direction of reinstatement and back wages, the workmen should be awarded some compensation, but that submission had not found favour with the Labour Court. Against the said award of the Labour Court, the State Electricity Board approached the High Court by filing a writ petition.

3. A learned Single Judge of the High Court while upholding the order of the

Labour Court to the effect that the termination is bad, the provisions of Section 25-F not being complied with, further came to the conclusion that it would be appropriate to direct payment of some compensation in lieu of the direction of reinstatement and back wages. The compensation amount was fixed at Rs 60,000. Against the said order of the learned Single Judge the workmen moved the Division Bench, but having been unsuccessful there, they are before this Court.

4. The question for our consideration is whether, in the facts and circumstances of the present case, the High Court was justified in directing payment of lump sum compensation in lieu of the direction of the reinstatement and back wages. The Labour Court itself has considered this question and it has come to the positive finding that Karnataka Electricity Board is a big organisation in which thousands of employees are employed, and, therefore, it may not be difficult for them to absorb the two employees in the service from which they were illegally terminated.

5. The court usually considers the case of payment of lump sum compensation instead of directing reinstatement and back wages when it appears that the employer has lost trust and confidence in the employee for some misconduct on the part of the employee. But this is not one of such cases and, therefore, taking into consideration the young age of the employees, it may not be proper to direct payment of compensation in lieu of the reinstatement. In course of hearing of this case, it was pointed out that even if the employees are reinstated, they would not be entitled to any promotion because of the qualifications prescribed by the Board. The employees are quite cognizant of the said qualifications and yet, the learned counsel appearing for them prayed that they should be reinstated in the services. In this view of the matter, we set aside the order of the learned Single Judge as affirmed by the Division Bench of the High Court.

6. Though the award of the Labour Court directing reinstatement of the two employees be implemented within one month from today, but the employees will not be entitled to any back wages for the period they were out of service.

7. The appeals stand disposed of accordingly.