
(2005) 02 RAJ CK 0078

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1073 of 2005

Radhey Shyam Chipa

APPELLANT

Vs

RSRTC and Another

RESPONDENT

Date of Decision : 15-02-2005

Acts Referred:

Industrial Disputes Act, 1947 — Section 33(2), 33(C)(2)

Citation : (2005) 3 RLW 1592 : (2005) 2 WLC 533

Hon'ble Judges : Ashok Parihar, J

Bench : Single Bench

Advocate : B.L. Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Ashok Parihar, J.—Application u/s 33 of the I.D. Act filed by the respondent-Corporation was dismissed the Industrial Tribunal, Jaipur vide order dated 6.10.2004. The approval was not granted by the Tribunal on the ground that no charge has been proved against the petitioner. The writ petition has been filed by the petitioner with the following prayers:-

"(i). by issuing as appropriate writ, order of direction may be pleased to hold the petitioner entitled to be reinstated in service with all the consequential benefits as if no order of termination was ever passed against him;

(ii) by an appropriate writ, order or direction this Hon"ble Court may further be pleased to direct the respondents to reinstate the petitioner on the post of Conductor with all consequential benefits with continuity of service;

(iii). by an appropriate writ, order or direction, this Hon"ble Court may further be pleased to direct the respondents to pay the salary to the petitioner for the period from 20.3.1993 till the date the petitioner is allowed to joint his duties with interest at the rate of 12% per annum."

2. There cannot be any dispute and as has also been held time and again by the

Apex Court that in case of rejection of approval application, the concerned workman shall have to be treated as continuing in service as if no order of termination has ever been passed. As such, there is no requirement of any further declaration of any court holding the concerned workman entitled for reinstatement.

3. Learned counsel for the petitioner has relied on the judgments of the Supreme Court in the case of M.D., Tamil Nadu State Transport Corporation Vs. Neethivilangan Kumbakonam, as also in the case of Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. Vs. Ram Gopal Sharma and Others,

4. In the case of T.N. State Transport Corporation (supra) the Supreme Court has clearly held that where the Tribunal refuses to accused approval to the action taken by the employer and rejects the petition filed u/s 33(2)(b) of the Act on merits, the employer is bound to treat the employee as continuing in service and give him all consequential benefits. It has further been observed that the employer was duty bound to pay him his wages. So far as the case of Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. v. Ram Gopal Sharma and Ors. (supra) is concerned, the facts were entirely different and consideration and controversy before the Supreme Court was also altogether different. In the present case, the approval application been rejected on merits, the petitioner has to be treated as continuing in service and is also entitled for all consequential benefits from the date of termination till he is reinstated. No specific declaration is required to be made by this Court. It is for the petitioner to approach the Labour Court u/s 33(2) (b) or even the Payment of Wages Authority claiming his due salary and computation can be made by the concerned court/Authority only as per the evidence led by both the sides. This court under its writ jurisdiction does not sit as an executing court in such matters, moreso, when the petitioner has sufficient effective alternative remedies under the various labour laws itself. Thus, no interference is called for by this court in the present matter at this stage. The writ petition is dismissed accordingly as having no merits.