
(2014) 01 RAJ CK 0071
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4669/2000

Rajasthan State Electricity Board and Others	APPELLANT
Vs	
Mathura Lal and Others	RESPONDENT

Date of Decision : 02-01-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 25-F, 33 (c)(2), 33(c)(2) — Payment of Wages Act, 1936 - Section 15

Citation : (2014) 01 RAJ CK 0071

Hon'ble Judges : Vijay Bishnoi, J.

Bench : Single Bench

Advocate : Ravi Bhansali, for the Appellant

Final Decision : Dismissed

Judgement

Vijay Bishnoi, J.—This writ petition has been preferred by the petitioners against the order dated 22.11.1999 passed by the Labour Court, Bhilwara (for short "the labour court" hereinafter) in Labour Dispute Case No. 16/1991 on an application preferred by the respondent-workman under section 33 (c)(2) of the Industrial Disputes Act, 1947 (for short "the Act of 1947" hereinafter), whereby the labour court has ordered that the respondent-workman is entitled to get the amount of salary as per the judgment and award dated 07.05.1975 passed by the Labour Court, Jaipur in Case No. L.C. 133/94.

2. The learned counsel for the petitioners has assailed the validity of the order dated 22.11.1999, while contending that the respondent-workman was never under the employment of the petitioners at any point of time and, therefore, the labour court has grossly erred in passing the impugned order on the application preferred by the respondent-workman under section 33(c)(2) of the Act of 1947, directing that the respondent-workman is entitled to get the benefits as per the impugned judgment and award dated 07.05.1975 from the petitioners. The learned counsel for the petitioners has argued that the judgment and award dated 07.05.1975 was passed against Chambal Civil Transmission Sub-Division,

Bhilwara and the petitioners were never the party before the labour court and, therefore, they are not liable to grant the benefits to the respondent-workman as directed under the judgment and award dated 07.05.1975. The learned counsel for the petitioners has also argued that the Chambal Civil Transmission Sub-Division, Bhilwara was never merged with the petitioners at any point of time and, therefore, the liability of the employees working under the Chambal Civil Transmission Sub-Division, Bhilwara cannot be fastened upon the petitioners. The learned counsel for the petitioners has also argued that the respondent-workman had filed the application under section 33(c)(2) of the Act of 1947 after a great delay but the labour court has not taken into consideration the same and illegally passed the impugned order on the said application.

3. Heard the learned counsel for the petitioners and perused the material placed on record.

4. The respondent-workman was appointed as labourer on 04.03.1966 with the Chambal Civil Transmission Sub-Division, Bhilwara and was declared semi permanent on 04.07.1968. However, his services were retrenched on 04.12.1969. The respondent-workman had raised an industrial dispute, wherein the appropriate Government made the following reference to the Labour Court, Jaipur vide notification dated 11.07.1974 for adjudication:

5. When none had appeared on behalf of the respondent-employer, despite service of notice, the Labour Court, Jaipur proceeded ex parte against the respondent - Chambal Civil Transmission Sub-Division, Bhilwara and held that the workman had served from 04.03.1966 up to 04.12.1969 with the respondent-employer and put in more than one year continuous service and completed 240 days. The labour court held that before terminating the services of the workman, the employer had not complied with the provisions of section 25-F of the Act of 1947 and, therefore, the removal of the respondent-workman from service by the employer is illegal and invalid and the workman is entitled to be reinstated and to get the wages from the date on which he joined duties but he is not entitled to get back wages.

6. It is noticed that on 01.01.1971, the Offices of the Chief Engineer RPs & Js DAMs Chambal Project, Kota had issued an office order to this effect, which reads as under:

"OFFICE OF THE CHIEF ENGINEER RPs & Js DAMs CHAMBAL PROJECT KOTA

OFFICE ORDER

In compliance to the govt. order No. F.2(153) POW/69 dated 25.8.79 is has been decided that all the Trans. Line under stage II may be transferred to Rajasthan State electricity Board with effect from 1.1.1971. The Ministerial, Subordinate, class IV servants working under Transmission Circle as per list enclosed is placed at the disposal of the RSEB w.e.f. 1.1.1971 for the time being on existing terms.

Sd/- Chief Engineer

No. E-3/25-38/H Dated 1.1.1971.

Copy forwarded to the following for information and N/A, "G". The Executive Engineer Transmission Division I.C.P. Bhilwara.

Sd/- Chief Engineer R.P.E. & J.E. Dama, C.P. Kota."

7. In pursuance of the said order, the Transmission Line of Chambal Project area under stage II were transferred to the Rajasthan State Electricity Board (for short "the RSEB" hereinafter), the petitioners w.e.f. 01.01.1971. When the respondent-workman was not taken on duty by the petitioners, who had taken over the work of transmission from Chambal Civil Transmission Sub-Division, Bhilwara in pursuance of the order dated 01.01.1971, the respondent-workman had filed an application before the Payment of Wages Authority (for short "the Authority" hereinafter) under section 15 of Payment of Wages Act, 1936 (for short "the Act of 1936" hereinafter) and claimed wages from October, 1979 to May, 1982. Before the Authority, the respondent-workman had also impleaded the Chief Engineer of the RSEB as party non-applicant. The said application of the respondent-workman was allowed by the Authority on 28.07.1984 and a direction was issued to the RSEB to make payment of Rs. 4300/- to the respondent-workman. The RSEB had thereafter moved an application on 25.08.1984 and prayed that it may be allowed to contest the claim of the respondent-workman. The said application of the RSEB was allowed by the Authority on 02.01.1985 and the matter was again heard. The Authority, after hearing RSEB as well as the respondent-workman, vide order dated 31.08.1987, had observed that the respondent-workman is the employee of the RSEB and ordered for payment of Rs. 4300/- to the respondent-workman by the RSEB. Against the order dated 31.08.1987, the RSEB preferred an appeal before the appellate authority provided under the Act of 1936 but the same was also dismissed on 28.08.1989.

8. The labour court, while passing the impugned judgment and award dated 22.12.1999, has observed that the contention of the RSEB that the respondent-workman is not the employee of it and that he had never joined his duties after passing of the award dated 07.07.1995 by the Labour Court, Jaipur, has specifically dealt with by the Authority in its order dated 31.08.1987 and after dealing with all the said contentions of the RSEB, the Authority had directed the Chief Engineer, RSEB to make the payment to the tune of Rs. 4300/- to the respondent-workman. It has also been observed by the labour court that the appeal against the order dated 31.08.1987 has been dismissed and the said order has attained the finality. After observing this, the labour court has held that when all the objections raised by the petitioners have already been decided by the Authority and has attained the finality, the respondent-workman is entitled to get the amount as per the judgment and award dated 07.05.1975 passed by the Labour Court, Jaipur.

9. The learned counsel for the petitioners has fairly admitted that against the

order dated 31.08.1987 (Annexure-8) passed by the Authority, the petitioners preferred an appeal before the appellate authority, however, the said appeal came to be dismissed and thereafter, the petitioner have not proceeded further and the order dated 31.08.1987 has attained the finality.

10. In such circumstances, when the order passed by the Authority has attained the finality and the petitioners have also made the payment of Rs. 4300/- to the respondent-workman, in pursuance of the directions given by the Authority, this Court does not find any infirmity or illegality in the impugned order passed by the labour court on the application preferred by respondent-workman under section 33(c)(2) of the Act of 1947.

11. Hence, there is no force in this writ petition and the same is hereby dismissed. There shall be no order as to costs.