

(1983) 08 RAJ CK 0027
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1453/82

Rajasthan State Road Transport

APPELLANT

Vs

Mangi Lal Chaudhari

RESPONDENT

Date of Decision : 22-08-1983

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 25F, 25J

Citation : (1983) WLN 751

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

G.M. Lodha, J.—This writ petition has been directed by the Rajasthan State Road Transport Corporation, Jaipur (hereinafter called as "Corporation") against the judgment of the Industrial Tribunal on a reference u/s 10(1)(c) of the Industrial Disputes Act.

2. It is not in dispute that Mangi Lal, employee of the Corporation was removed from the service and at the time of his removal since he has completed 240 days, he was to be governed by the provisions of Industrial Disputes Act. The finding of the Tribunal is that the Corporation has not complied with Section 25F(b) in as much as retrenchment compensation has not been paid.

3. Mr. Jain, learned Counsel for the Corporation submitted that present one was not a case of retrenchment because removal was made under the Standing Orders of the Corporation and not under the Industrial Disputes Act.

4. I have considered the submissions of Mr. Jain, carefully. After the judgments of the Hon'ble Supreme Courts in The State Bank of India Vs. Shri N. Sundara Money, , Santosh Gupta Vs. State Bank of Patiala, , Surendra Kumar Verma and Others Vs. Central Government Industrial Tribunal-Cum-Labour Court, New Delhi and Another, , and L. Robert D'Souza v. Executive Engineer AIR 1981 S.C. 854, it is well established that in the matter of termination of services of the industrial

workers all types of removal except those which are based on misconduct, are covered by the definition of retrenchment as contemplated by the Industrial Disputes Act and the industrial workers are entitled to the benefits of the provisions in respect of retrenchment.

5. In my considered opinion Section 25(J) of the Industrial Disputes Act makes it explicit that the provisions of this Chapter-V of the Industrial Disputes Act relation to retrenchment would apply notwithstanding any thing inconsistent therewith contained in any other law including Standing Order Made in the Industrial Employment Standing Order, 1946.

6. It has further been mentioned in the proviso that a workman is entitled to benefits in respect of any matters which are more favourable to him than those to which he would be entitled under this Act. Again Clause (2) of Section 25J affirms that rights and liabilities of the workers and workmen in so far as they relate to retrenchment shall be determined in accordance with the provisions of this Chapter.

7. Section 25(J) reads as under:

(1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law (including Standing Orders made under the Industrial Employment) (Standing Order) Act, 1946 (20 of 1946):

Provided that there under the provisions of any other Act or rules orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to the more favourable benefits in respects of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to effect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.

8. A comprehensive study of Chapter-V of the Industrial Disputes Act and specially Section 25J makes it clear that amendment introduced by Section 25J of the Industrial Disputes Act done for the purposes of removing doubts about the application of retrenchment provisions in cases of workmen, who were governed by the Standing Orders or any Rules or Regulations of the conditions of service or the conduct about the employer and the employee.

9. It is well known that the Industrial Disputes Act is a progressive legislation enacted for the purposes of emancipating the workman from the exploitation by

the employer taking advantage of their weak position in comparison to the employers aid to elevate the weaker section of the society, which formed the workmen or labour segment in the industries. Various safe-guards have been provided in this Chapter in respect of retrenchment and compensation to be paid is one of those safe-guards. Both the Proviso to Clause (1) as well as Clause (2) of Section 25J articulate and emphasize the legal requirement of compliance of this Chapter in respect of all workmen, who are sought to be retrenched irrespective of other law; The only exception made is that if other provisions of any other Act or rules give more benefit to the workmen then the employer would not be allowed to use this Chapter as a shield in default for non application of those laws. The substance of the scheme of this Chapter is that wherever and whenever and in "whichever law better favourable conditions have been prescribed for the workman then they would apply.

10. It is well known that various restrictions have been placed in this Chap. and those restrictions are for the purposes of providing protection to the workmen against whim, caprice, arbitrary removal, termination or dismissal by the employers of the employees and to stop and prohibit the old obsolete weapon of higher and fire which was used by the employer before this progressive legislation was amended from time to time.

11. I am, therefore, convinced that the view taken by the Tribunal that Section 25F applies to the workmen of the Corporation, who is governed by the Standing Orders and the provisions of Section 25J applied in addition to the other requirements of the Standing Order, is just and proper and calls for no interference.

12. It may also be mentioned here that in the matter of employer and the employees, who are governed by the Industrial Disputes Act, the labour Court and Industrial Tribunals to whom references are made u/s 10 normally should be allowed to adjudicate the various issues involved and this Court should not be made an appellate forum for judicial security of those judgments. The scheme of the Industrial Disputes Act contemplates that special forum has been provided for the adjudication of disputes and that forum subject to the infirmities of the jurisdiction, if any, should be treated as final.

13. The result of the above discussion is that the findings of the Tribunal calls for no interference and, therefore, the writ petition is dismissed.