

(2014) 09 RAJ CK 0072

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 676 of 2013 in Civil W.P. No. 199 of 2002

Rajasthan State Road Transport Corporation

APPELLANT

Vs

Panwar Kumar

RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B, 17B

Citation : (2014) 143 FLR 713 : (2015) 1 LLJ 227

Hon'ble Judges : Sunil Ambwani, Acting C.J.;Veerender Singh Siradhana, J

Bench : Division Bench

Advocate : H.R. Dhaka, Advocate for the Appellant; Pawan Kumar and Banwar Lal Gurjar, Advocate for the Respondent

Judgement

Sunil Ambwani, Actg. C.J. and Veerender Singh Siradhana, J.—Shri H.R. Dhaka, J.L.O., RSRTC, appears for the appellants. Shri Pawan Kumar and Shri Banwar Lal Gurjar, respondents, are present in person.

2. The writ petition filed by the appellants, challenging the order of the" Labour Court No. 2, Jaipur dated 5.3.2001, is still pending.

3. During pendency of the writ petition, the learned Single Judge has disposed of the application under section 17-B of the Industrial Disputes Act, 1947 (for short, "the Act"), directing the appellants to pay to the workmen the back wages at the rate of the last wages drawn by them before the termination of their service i.e. 16.7.1993, along with revision of pay and increments with effect from the date of award i.e. 5.3.2001.

4. The respondents-workmen have not been paid either back wages at the rate directed by the learned Single Judge, nor they have been paid regular wages, after they were reinstated on 23.7.2014.

5. On 4.9.2014, an order was passed directing the Officer representing Rajasthan State Road Transport Corporation present in the Court, as to why the

respondents have not been paid current wages. He informed the Court that necessary directions will be issued for release of salary.

6. It is submitted that necessary directions with regard to payment of current salary have been given, and that salary bills are being examined for sanction thereof. The respondents were reinstated on 23.7.2014 as daily wagers as they were last employed and were out of employment since long period of time.

7. We do not see any justification in delaying the payment of current wages to the respondents-workmen, from the date they have been reinstated.

8. So far as merits of the grounds taken in appeal is concerned, we find that the observations made by the learned Single Judge, while disposing of the application for compliance of section 170-B of the Act, suffer from an error of law. Section 17-B of the Act does not provide for back wages along with revision of pay and increments, to be paid during pendency of the challenge to the award.

9. In *Novartis India Ltd. Vs. State of West Bengal and Others*, : *Novartis India Ltd. Vs. State of West Bengal and Others*, the Supreme Court quoted, with approval, the ratio of its earlier decision in *Dena Bank Vs. Kiritikumar T. Patel*, in which it was held thus:--

31. In regard to the construction of the words "last pay drawn", learned Counsel has drawn our attention to the decision of this Court in *Dena Bank v. Kirti Kumar T. Patel*, wherein it was held:

"19. As per the decisions of the High Courts referred to above, the expression "full wages last drawn" in section 17-B can mean as under:

(i) Wages only at the rate last drawn and not at the same rate at which the wages are being paid to the workmen who are actually working. (*Daladdi Co-op. Agriculture Service Society Ltd. v. Gurcharan Singh*)

(ii) Wages drawn on the date of termination of the services plus the yearly increment and the dearness allowance to be worked out till the date of the award. (*Visveswaraya Iron and Steel Ltd. v. M. Chandrappa and Kirtiben B. Amin v. Mafatlal Apparels*)

(iii) Full wages which the workman was entitled to draw in pursuance of the award and the implementation of which is suspended during the pendency of the proceedings. (*Carona Sahu Co. Ltd. v. Abdul Karim Munafkhan, Macneil and Magor Ltd. v. Labour Court and P. Chennaiah v. Executive Engineer*)

20. The first construction gives to the words "full wages last drawn" their plain and material meaning. The second as well as the third constructions read something more than their plain and material meaning in those words. In substance these constructions read the words "full wages last drawn" as "full wages which would have been drawn". Such an extended meaning to the words "full wages last drawn" does not find support in the language of section 17-B: Nor can this extended meaning be based on the object underlying the enactment

of section 17-B."

10. The object of enactment of section 17-B of the Act is not to deprive the workmen of the wages last drawn by them, to be paid to them, for the period they were out of employment during pendency of the proceedings, against the award. Section 17B prevents the workmen to starve and enables them to defend the proceedings against the award of the Labour Court. The observations that the back wages will be paid on the wages last drawn, along with revision of pay and increments, therefore, cannot be sustained.

11. The Special Appeal is partly allowed to the extent that the payment of back wages on the salary last drawn, during pendency of the writ petition, will not include revision of pay and increments with effect from the date of award i.e. 5.3.2001.

12. Since the workmen have now joined the service, we direct that the entire back wages last drawn, as directed by the learned Single Judge, without the benefit of pay revision and increments as well as wages at the current rate from the date, they have joined the service i.e. 23.7.2014, shall be paid to them within a period of 30 days. Considering the financial difficulties, which the respondents are facing, no extension in the time will be allowed to the appellants for making the payment. Any breach of the order will be treated as a contempt of the directions issued by the Court.