
(2004) 11 RAJ CK 0010
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1748 of 2004

Rajendra Giri

APPELLANT

Vs

Judge, Labour Court and Others

RESPONDENT

Date of Decision : 29-11-2004

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 10

Citation : (2005) 104 FLR 1058 : (2005) 3 SLJ 267 : (2005) 2 WLC 169

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Advocate : B.S. Sandhu, for the Appellant; O.P. Boob, for the Respondent

Final Decision : Allowed

Judgement

Sunil Kumar Garg, J.—The petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India on 5.3.2004 against the respondents with a prayer that by an appropriate writ, order or direction the judgment and award dated 8.10.2003 (Annexure-1) passed by the learned Judge, Labour Court, (respondent No. 1) by which the learned Labour Court (respondent No. 1) treating the second reference as illegal and without going into merits of the case, rejected the reference, be quashed and set aside.

2. The learned Labour Court while rejecting the second reference in the case of the petitioner has placed reliance on the Division Bench judgment of this Court in the case of Virendra Bhandari v. Rajasthan State Road Transport Corporation 2001(1) LLJ. 396(Raj), wherein this Court has held that the appropriate Government is not competent to make second reference of the same dispute as the same is barred by principles of res judicata and upheld the order passed by the Single Bench of this Court.

3. It may be stated here that the judgment in the case of Virendra Bhandari (supra) on which reliance was placed by the learned Labour Court (respondent

No. 1) was challenged by the petitioner therein before the Hon''ble Supreme Court and the Hon''ble Supreme Court in the case of Virendra Bhandari Vs. Rajasthan State Road Transport Corporation and Others, , set aside the judgment passed by the Division Bench of this Court as well as Single Bench of this Court and remitted the matter to this Court by restoring the writ petition for fresh consideration on merits in accordance with law. The Hon''ble Supreme Court while remitting the matter in the case of Virendra Bhandari (supra) has observed as under :

"In the award made on the earlier occasion there was no adjudication of the dispute at all. All that was stated was that the parties concerned had not appeared before the Tribunal and in such an event, the Tribunal should have noted its inability to record the finding on the issue referred to it, not that the dispute itself does not exist. When there is no adjudication of the matter on merits, it cannot be said that the industrial dispute does not exist. If the industrial dispute still exists as is opined by the Government, such a matter can be referred u/s 10, ID Act as industrial disputes are referred to the Labour Court or the Industrial Tribunal for maintenance of industrial peace and not merely for adjudication of the dispute between two private parties. Therefore, it was permissible for the Government to have made the second reference."

4. Thus, the Division Bench judgment of this Court in the case of Virendra Bhandari (supra) on which reliance was placed by the learned Labour Court was set aside by the Hon''ble Supreme Court and in the case of Virendra Bhandari(supra), the Hon''ble Supreme Court has held that it was permissible for the Government to have made second reference and when this being the position, the findings recorded by the learned Labour Court in its judgment dated 8.10.2003 (Annexure-1) cannot be sustained as the same are against the law laid down by the Hon''ble Supreme Court and thus, the same are liable to be quashed and set aside and this writ petition deserves to be allowed.

5. For the reasons mentioned above, this writ petition is allowed and the judgment and award dated 8.10.2003 (Annexure-1) passed by the Labour Court, Sri Ganganagar (respondent No. 1) and notification dated 3.12.2003 (Annexure-2) are quashed and set aside and the matter is remitted back to the Labour Court, Sri Ganganagar for deciding the reference a fresh on merits in accordance with law after giving notices to all the parties.

No order as to costs.