

(2001) 02 P&H CK 0040
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 26 of 1986

Ram Achal Singh	Vs	APPELLANT
Presiding Officer, Labour Court, Ambala		RESPONDENT

Date of Decision : 02-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 2(a)
Industries (Development and Regulation) Act, 1951 — Section 2

Citation : (2001) 02 P&H CK 0040

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : Mr. Parminder Singh, for the Appellant; Mr. Harsh Aggarwal, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sudhalkar, J.—By this writ petition, the workman is challenging the award of the Labour Court dated 18.3.1995 (copy annexure P/1) vide which his claim for reinstatement with consequential benefits was rejected. The reference was not entertained because the dispute was not referred to the appropriate Government. The petitioner was employed by respondent No. 2 and the case of the petitioner is that he had worked for 11.3.1982 to 1.12.1983 and thereafter his services were terminated. He raised an industrial dispute.

2. Hindustan Petroleum Corporation Limited, respondent No. 2 contested the claim of the workman stating that the dispute was referred through the Joint Secretary to Govt. Haryana, Department of Labour and that he had no power to make such reference. According to respondent No. 2 it was controlled industry which was engaged in petroleum products and, therefore, the appropriate Government was the Central Government and not the State Government.

3. I have heard learned counsel for the parties.

4. Learned counsel for respondent argued that the Central Government had issued notification u/s 2(a) of the Industrial Disputes Act (hereinafter referred to as the "Act"). Copy of the same is at annexure P/4. It is as under :

Ministry of Labour and Rehabilitation (Department of Labour) Notification New Delhi, the 21st June, 1984 S.O.457(E) - In pursuance of sub-clause (i) of clause (a) of Section 2 of the Industrial Disputes Act, 1947 (15 of 1947) the Central Government hereby specified for the purposes of that sub-clause, the controlled industry engaged in the manufacture or production of mineral oil (crude oil) motor and aviation spirit, diesel oil, kerosene oil, fuel oil, diverse hydrocarbon oils and their blends including synthetic fuel, lubricating oils and the like which has been declared as a controlled industry u/s 2 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). This notification shall be in force for a period of two years from the date of publication in the official gazette.

A.S. Ailwai

Joint Secretary of India

No. S-11025/23/83 D.I.A."

5. The date of termination of service is 1.12.1983 and the demand notice is dated 4.12.1983 and the reference is dated 27.7.1984. Counsel for the respondent has argued that in view of notification dated 21.6.1984 which was u/s 2(a)(i) of the Act, the appropriate Government was the Central Government. Section 2(a)(i) of the Act defines the term "appropriate Government." Counsel for the petitioner has argued that the notification applies to the manufacture of the products mentioned in it and that the respondent is not doing the manufacturing work. It is not possible to accept the argument of counsel for the petitioner that the respondent is not doing any manufacturing work.

6. Moreover, counsel for the respondent has drawn my attention to the Seventh Schedule of the Constitution which is List No. 1 (Union List). He has referred to item No. 53 in the list which is as under :

"53. Regulation & Development of Oils fields and minerals oil resources; petroleum & petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable."

7. Along with the written statement, the respondent has produced at annexure R/3 the "performance highlights" of the respondent-corporation. It mentions "crude throughout from Bombay Refinery, Visakh Refinery and the market sales." The respondent has also stated in the written statement that it is denied that it only sells the petroleum products obtained from other companies and it is stated that the true position is that it is engaged in manufacture and production of motor and aviation spirit, diesel oil, kerosene oil and the other items mentioned of the notification. From the annexure R-3 produced by the respondent, the say of the respondent has to be accepted.

8. In view of the above position and considering the provision in the Union List as also in annexure R-3, I do not find that the Labour Court has erred in coming to the impugned conclusion.

9. This writ petition is, therefore, without merit and is dismissed.

10. Petition dismissed