

(2010) 11 SHI CK 0233
In the High Court Of Himachal Pradesh
Case No : LPA No. 199 of 2010

Ram Chand

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 15-11-2010

Acts Referred:

Industrial Disputes Act, 1947 — Section 25H

Citation : (2010) 11 SHI CK 0233

Hon'ble Judges : Kurian Joseph, C.J.;V.K. Ahuja, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Kurian Joseph, C.J.—This appeal is filed against the judgment dated 15th July, 2010 in CWP No. 2591 of 2009. The Respondents have challenged the Award passed by the Industrial Tribunal dated 31st December, 2008 whereby the Appellant herein has been directed to be re-instated in service. The learned Single Judge found that the Petitioner had only been engaged for the purpose of a Project and on completion of Project, the Petitioner was duly dis-engaged and hence there was no room for any grievance. The contention of the Petitioner that he should have been granted the benefit of Section 25H of the Industrial Disputes Act, 1947 was also turned down. The learned Single Judge set aside the Award and thus aggrieved, this appeal is filed.

2. It is not in dispute that the Appellant had filed OA No. 1212 of 1992 before the Administrative Tribunal, when he was sought to be retrenched. Though the Tribunal granted an interim order, the same was later vacated and the OA was dismissed in the following terms.

The Respondents have taken a specific stand that during April/May, 1990 when survey/work under which the applicants were initially engaged i.e. U.S. Aid Project was completed, the Assistant Soil Survey Officer, Sundernagar retrenched the services of the applicants. In view of specific averments of the Respondents

that the applicants were engaged initially under U.S. Aid Scheme and the said scheme has been completed, the posts of the applicants are no longer under this project, which has come to an end. Hence, they are not entitled to serve under the said project.

We seek further support from the order passed by the Apex Court in State of H.P. v. Sanjay Sharma and Ors. in SLP (C) No. 13957 of 1993 decided on November 1, 1993 by the Hon''ble Supreme Court.

In view of above, this application is rejected with no order as to costs. The stay granted on October, 1992 is hereby vacated.

3. The Administrative Tribunal in OA No. 1212 of 1992 having thus entered a specific finding that the Appellant had been retrenched on completion of the Project for which his services had been utilized, the Appellant could not have initiated another proceedings on the only ground of the termination being bad for non-compliance of the provisions of Section 25H of the Industrial Disputes Act, 1947. As rightly held by the learned Single Judge, the Appellant having continued only on the basis of the interim order passed by the Tribunal in OA No. 1212 of 1992, a subsequent petition itself was not maintainable. Even otherwise, the finding entered by the Tribunal, as extracted above, has become final, the same cannot be collaterally attacked unless otherwise permitted by the Administrative Tribunal in another proceedings, be it under the provisions of the Industrial Disputes Act, 1947. That would amount to abuse of the process of the Court. In that view of the matter, we do not find any merit in the appeal and the same is dismissed.