
(2001) 01 RAJ CK 0015
In the Rajasthan High Court
Case No : C.S.A. (W) No. 957 of 2000

Ram Gopal Saini	Vs	APPELLANT
Judge, Labour Court No. II and Others		RESPONDENT

Date of Decision : 10-01-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F, 25G, 25H

Citation : (2001) 89 FLR 778 : (2001) 1 LLJ 1230 : (2001) 1 WLC 592

Hon'ble Judges : K.S. Rathore, J;Arun Madan, J

Bench : Division Bench

Advocate : Lokesh Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

K.S. Rathore, J.—Brief facts of the case are that the appellant preferred S.B. Civil Writ Petition No. 1950/2000 before this Hon"ble Court challenging the Award dated March 24, 2000 passed in LCR No. 1084/1998 by learned Labour Court No. 2, Jaipur, by which the claim of the petitioner appellant was dismissed holding that the appellant-petitioner failed to establish the fact that Sections 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as the "Act") have been violated by the respondent department.

2. In this Special Appeal (Writ), the appellant-petitioner again reiterated the fact that the respondents have grossly violated the provisions of Sections 25G and H of the Act, and also the fact that the persons junior to the appellant have not only been retained in service but also given the status of "semi-permanent employee".

3. After hearing learned counsel for the petitioner at the admission stage the learned single Judge held that learned Labour Court in its Award dated March 24, 2000, has rightly held that the petitioner was not entitled for any relief since the petitioner failed to prove the fact that the respondents have violated the provisions of Sections 25G and H of the Act. The petitioner worked in the

respondent department from March 2, 1988 to September 1, 1988 only on daily wages basis. The learned single Judge did not find any merit in the writ petition and the same was dismissed.

4. Mr. Lokesh Sharma, learned counsel appearing on behalf of the appellant urged that the order of removal is bad in eye of law and against the provisions contained in Sections 25-G and 25H of the Industrial Disputes Act, 1947 as the learned Labour Court seriously erred in not considering the fact that the persons junior to the appellant viz. Shivnath S/o Kalu Ram Saini, Jhuntha Ram S/o Bhagwana Ram and Mool Chand S/o Shankar Lal were engaged much after the appellant and are still in service. It is further submitted that after removal of the appellant, number of persons viz. Mahaveer Prasad S/o Mala Ram, Kajod Mal S/o Bhagwana Ram and Mahendra S/o Chothu Ram were appointed for the same work. He contended that the learned single Judge dismissed the writ petition without assigning any reason in the order dated July 20, 2000.

5. In support of his arguments, Mr. Sharma, learned counsel for the appellant placed reliance on Central Bank of India Vs. S. Satyam and others, wherein it was held as under in pp 823, 826 of LLJ:

"2. Re-employment of retrenched workmen Interpretation of the expression "retrenched workmen" in Section 25H - Not restricted only to the category of retrenched workmen covered by Section 25F who have been in continuous service for not less than one year, :

"10. Section 25H is couched in wide language and is capable of application to all retrenched workmen and not merely to those covered by Section 25F."

6. Mr. Sharma has also placed reliance on Govt. of N. C. T. of Delhi (through its Medical Superintendent. G.T.B.) Hospital, Shahdara, Delhi v. Balbir Singh reported in 1997 (67) DLT 468 (Delhi) wherein the Hon''ble Supreme Court considered whether Section 25H of the Act, would be applicable or not to the workmen who were not covered by Section 25F of this Act. The Hon''ble Supreme Court observed that there cannot be any doubt that when workmen had not served for a year, he would not be entitled to retrenchment notice u/s 25F of the Act. The question here, however, is different. It is whether a workman not covered by Section 25F is entitled to or not to the benefit of re-employment u/s 25H of the Act. Considering the case of Central Bank of India v. S. Satyam and Ors. (supra) which has already been referred by Mr. L.K. Sharma, learned counsel for the appellant, the Hon. Supreme Court held that Section 25H is couched in wide language and is capable of application to all retrenched workmen, not merely those covered by Section 25F. Thus, workmen/respondents herein cannot be denied benefit of Section 25H on the ground that they are not covered by Section 25F.

7. We have carefully gone through the arguments advanced by learned counsel for the appellant, the Award passed by learned Labour Court dated March 24, 2000, the judgment passed by learned single Judge dated July 20, 2000 and also

the cases cited by learned counsel appearing on behalf of the appellant.

8. We are of the view that the learned Labour Court after considering the fact whether the respondents have violated the provisions of Sections 25H and 25G, or not and after perusing the relevant record as well as the evidence adduced before it came to the conclusion that the petitioner has not completed 240 days of working in a calendar year, therefore, compliance of Section 25F of the Act, was not required in the instant case. Further the appellant utterly failed to prove this fact that respondents have violated the provisions of Sections 25H and 25G by way of any documentary evidence before the Labour Court which was to be proved by the appellant mere mentioning the names of the junior persons, who were alleged to have been appointed (sic) after retrenchment of the appellant, does not serve the purpose. Therefore, the judgments cited before us are also not applicable to the instant case. We do not want to interfere in the judgments passed by Labour Court dated March 24, 2000 and July 20, 2000 passed by the learned single Judge.

9. Consequently, the Special Appeal (Writ) is dismissed at admission stage without issuing notice to the respondents.