
(1995) 08 AHC CK 0123
In the Allahabad High Court
Case No : C.M.W.P. No. 11117 of 1990

Ram Kumar and Others

APPELLANT

Vs

Secretary, U.P. State Electricity Board and Others

RESPONDENT

Date of Decision : 03-08-1995

Acts Referred:

Apprentices Act, 1961 — Section 9

Citation : (1995) 3 AWC 1630 : (1996) 1 LLJ 1198

Hon'ble Judges : N.L. Ganguly, J

Bench : Single Bench

Advocate : S.C. Shukla, for the Appellant;

Final Decision : Allowed

Judgement

N.L. Ganguly, J.—The six petitioners were selected after interview as apprentices trainees by the respondent No. 1. The petitioner Nos. 1 and 2 were selected for apprentices training in Steam Turbine operators. Petitioner No. 3 was selected for Boiler Attendant Operator, Petitioner No. 4 was selected for Steam Turbine Operator, Petitioner No. 5 also was selected for Brick Mason.

2. According to the provisions of the Apprentices Act, 1961, the petitioners were selected and they had submitted the agreement, as required under the Act.

3. According to Section 9 of the said Act, practical and basic training of apprenticeship is to be given according to the procedure prescribed in the said Act. In short, the course of three years of apprenticeship includes three years related instructions (briefly known as R.I.) classes and in case of one year course, it includes one year R.I. classes. These R.I. classes/training is given by the Industrial Training Institute (in short I.T.I) as per provisions contained in the Act. The I.T.I has to impart the training in trade concerned.

4. The six petitioners had started the apprentices training with effect on May 14, 1987 After completion of the required period of three years of training at Panki Thermal Power House, Kanpur, the Executive Engineer, Personnel Manager

Division, Panki Power House, wrote letter to the I.T.I. to arrange for the R.I. Classes. The said letter was sent on October 14, 1988. A copy of the said letter sent to the Principal, ITI., Kanpur, is annexed as Annexure CA 3 with the counter affidavit of Sri Tribhuwan Nath. No response was given by the I.T.I.

5. Since after the apprenticeship training at Panki Thermal Power House, Kanpur, it was necessary for the petitioners to further undergo the remaining part of the training under the Act at I.T.I. Kanpur, they waited for direction / order from the Principal of the I.T.I. Kanpur for permission / calling them for joining the I.T.I. When they were not called for joining the training at I.T.I. Kanpur after the representations, they approached this Court by the present writ petition on May 6, 1990 and prayed for issuance of a writ of mandamus commanding and directing the respondents to complete the petitioners' basic training and R.I. within the stipulated period and further direct them to discharge their obligations. Further prayer has been made for issuing the necessary certificate of completion of the training, so that they may be absorbed in the concern, where they took training. Counter affidavit has been filed by Sri. P.K. Jain, Principal - cum-Assistant Apprenticeship Adviser, I.T.I. Kanpur. After the reply was submitted by Sri. P.K. Jain, an application under Article 215 of the Constitution was submitted by the petitioners of which notice was issued. It was said in the order dated October 9, 1990 by the Division Bench that "Let an interim mandamus be issued to the General Manager, Panki Thermal Power House, Kanpur either to make arrangement for the training in "R.I." of the petitioners within a period of one month from the date of service of a certified copy of this order or show cause. A counter affidavit has been filed by Sri Rameshwar Dayal Katiyar, General Manager, Panki Thermal Power House, Kanpur. In para 6 Sri Katiyar has stated that according to the provisions of the Apprentices Act of 1961, the Thermal Power Station, Panki, has in fact nothing to do in the matter. So far U.P. State Electricity Board is concerned, it is bound to give basic training as well as theoretical which has already been given to the petitioners for complete three years. So far R.I. is concerned, it is the respondent Nos. 2 and 3 to give the training of the aforesaid course.

Thus, according to the affidavit of Sri Rameshwar Dyal Katiyar, the basic training of practical as well as theoretical has already been given to the petitioners for three years and there remains only the R.I. training which is to be imparted at the I.T.I. In the counter affidavit of Sri. P.K.Jain, Principal-cum-Assistant Apprenticeship Advisor of I.T.I., it has been stated that there has been no contract between the I.T.I. and the petitioners, as such he has attempted to shirk his responsibility by taking shelter of provision of Section 4(1) of the Apprentices Act. It is further stated that the contract of apprenticeship entered as per Sub-section (1) is required to be sent to the employer within such period as may be prescribed to the Apprenticeship Advisor for registration. It has been said that the practical and basic training of the apprenticeship where the number of employees is more than 500 of the basic training shall be imparted to the apprentices either in separate parts of the workshop building or in a separate

building which shall be set up by the employer himself. But in the instant case, the respondent Nos. 2 and 3 are neither employer nor liable to provide any training to the incumbent. It has been said that as soon as the basic training of the apprentices were completed by the employer and after satisfaction in pursuance of the contract between them, the same may be referred for the purpose of registration before the respondent Nos. 2 and 3 whereupon the I.T.I. may register the contract in the Training Institute and thereafter the said contract shall be returned to the employer under the apprenticeship Act, 1961. The Principal, Sri Jain stated that I.T.I. has not registered the names of the petitioners in the Institution and there is no liability for registering the names of the petitioners in the institution. The net result of the counter affidavits shows that these six petitioners who are young persons joined the Apprenticeship in 1987 and after devoting three years at Panki Thermal Power House Kanpur has been made a shuttle cock to run from Panki Thermal Power House, Kanpur to I.T.I. Kanpur for enabling them to complete their apprenticeship and get registration with the employer for job in the trade after giving training. This is unfortunate to note that since 1990, the matter is pending before this Court and respondents also took no action to ventilate the grievance of the petitioners and the petitioners had to suffer for further five years period on the lethargic and callous attitude of the respondents;

6. After hearing the learned counsel for the petitioners and the learned Standing Counsel for the U.P. State Electricity Board and the learned Standing Counsel representing the I.T.I., I am of view that the writ petition deserves to be allowed with the direction that the respondent I.T.I. shall make such arrangement registering them after obtaining necessary papers from Panki Thermal Power House, Kanpur and such other documents which he considers necessary, within a period of six weeks and deemed that the petitioners have undergone the practical training and theory at Panki Thermal Power House, Kanpur, as required under the Act and shall take further steps and again to get their names registered for further completion of the remaining. R.I. within the next one month which they shall complete as required under the statute and thereafter the necessary procedure for awarding the certificate, if they are found suitable and qualified, after necessary examinations, if any. The respondent No. 1 U.P. State Electricity Board and the General Manager, Panki thermal Power House, Kanpur, are also directed to take necessary action and furnish such necessary documents needed by the I.T.I. within the aforesaid period. It is specified that in case the petitioners have crossed the age of appointment, under any statute, that shall be treated as condoned on account of the laches and inaction on the part of the respondents.

7. The writ petition is allowed accordingly. Parties to bear costs.