
(2005) 04 MP CK 0076
In the Madhya Pradesh High Court
Case No : W. P. No. 1522 of 1999

Ramesh Gonekar

APPELLANT

Vs

Member Judge, State Industrial Court and Others

RESPONDENT

Date of Decision : 07-04-2005

Acts Referred:

Industrial Disputes Act, 1947 — Section 2(oo)(c), 25F

Citation : (2005) 3 MPLJ 344

Hon'ble Judges : A.K. Srivastava, J

Bench : Single Bench

Advocate : Anoop Nair for Respondents No. 2 to 4, for the Respondent

Judgement

A.K. Srivastava, J.

Perused the averments made in the petition and heard Shri Anoop Nair, learned counsel appearing for respondents 2 to 4.

By this petition, the petitioner is challenging the order dated 26-2-1999 (Annexure-P-1) passed by the Member Judge, Industrial Court, Jabalpur Bench reversing the order passed by the Labour Court.

Unfolded facts are that petitioner was an employee under the establishment of respondent No. 2. He met with an accident, as a result of which he became partially disabled upto the extent of 20%. On account of electro-shock, left hand, head and neck of the petitioner were seriously injured and he became totally unable to discharge the work. As the accident occurred during the course of employment, the compensation was paid to him in accordance with law. Shri Nair, learned counsel appearing for the employer has invited my attention to Para 5 of the return and has contended that compensation under the provisions of Workmen Compensation Act has been paid to the petitioner. Apart from this, petitioner is also getting annual pension, gratuity, provident fund and other monetary benefits treating him to have retired from service. All these aspects of the matter have been taken note by the Industrial Court in its order. Thus the

order of retirement of petitioner cannot be said to be "retrenchment" in terms of section 2(oo)(c) of the Industrial Disputes Act, 1947 (in short "the Act"). In the case of Anand Bihari and others Vs. Rajasthan State Road Transport Corporation, Jaipur and another, the Apex Court while considering the scope of sections 2(oo) (c) and 25-F of the Act explained the meaning of words "continued ill-health" and has held that "continued ill-health" covers defective or subnormal eyesight developed during the course of employment which would effect the normal functioning or discharge of duties. Another decision of the Supreme Court on the point is Hindalco Industries Ltd. v. Labour Court, Varanasi reported as, (2001) 9 SCC 178 .

In the present case also on account of electro-shock injuries sustained to the petitioner which had resulted into non-discharge of normal functions and duties. Therefore, according to me, the action of respondents retiring the petitioner would not amount to retrenchment as envisaged u/s 2(oo) of the Act and the case would come under Clause (c) of section 2(oo) of the Act.

4A. I have gone through Annexure-P-8 which order of retirement dated 18-2-1998. If this order is kept in juxtaposition to section 2(oo)(c) of the Act, it can safely be said that the order Annexure-P-8 is not faulty and the action of respondent No. 2 retiring the petitioner from service cannot be said to be arbitrary or in violation of any statutory provision. Indeed the employer has taken care of the employee (petitioner) and is regularly paying pension and other monetary benefits applicable to him in accordance with law.

I have given my anxious and bestowed consideration to the reasoning's assigned by the Industrial Court and I do not find anything in order to interfere with the well reasoned order either under Article 226 or 227 of the Constitution of India.

Eventually this petition is found to be devoid of any substance and the same is hereby dismissed. No costs.