

**(2009) 01 RAJ CK 0104**  
**In the Rajasthan High Court**

R.S.R.T.C. and Another

APPELLANT

Vs

Labour Court and Others

RESPONDENT

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**Date of Decision :** 09-01-2009

**Acts Referred:**

**Citation :** (2009) 01 RAJ CK 0104

**Hon'ble Judges :** Govind Mathur, J

**Bench :** Single Bench

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### **Judgement**

Govind Mathur, J.—While answering a reference made to it by the appropriate Government under a notification dt. 25th September, 1997, Labour Court, Bikaner under the award dt. 16th August, 2000 declared termination of the respondent workman from service bad and thus, directed for his reinstatement in service with 25% of back wages. Being aggrieved by the same, this petition for writ is preferred. The Court on 03rd January, 2002 while issuing notice to respondent workman limited scope of the petition for writ to the extent of grant of back wages only.

2. It is stated by Shri P.K. Lohra, appearing on behalf of petitioner Corporation that the petitioner remained in service of the employer from 30th April, 1985 to 06th January, 1986 and at the first instance, the workman raised his cause by way of filing civil suit on 27th October, 1988. The Civil Suit aforesaid came to be dismissed as withdrawn on 22nd December, 1995. After withdrawal of the suit aforesaid, the petitioner raised an industrial dispute, reference of which for adjudication was made on 25th September, 1997. It is asserted that whatever delay caused in the matter, that is because of the workman himself and therefore, the relief granted by the Labour Court relating to grant of back wages is wholly unjustified.

3. On the other hand, stand of the respondent workman is that his termination from service was made on 06th January, 1986 erroneously and therefore, the Labour Court rightly awarded 25% of total back wages.

4. I have examined entire record. The respondent workman remained in employment of the petitioner Corporation for a period of about eight months and after termination from service as a consequence of disciplinary action, he raised his cause for the first time on 27th October, 1988, that is after lapse of about two years and ten months from the date of termination. The suit was also withdrawn on 22nd December, 1995. After withdrawal of the suit, the workman raised industrial dispute, which was referred for its adjudication to the Labour Court in the year 1997.

5. Facts stated above clearly establish that whatever delay occurred in the matter, that is because of the workman himself and as such, Labour Court should not have allowed back wages to the workman. In normal course, back wages follow the order of reinstatement, however, while awarding back wages, Labour Court is required to consider conduct of the workman regarding raising his grievance before appropriate forum. In the instant matter, as stated above, petitioner remained silent for about a period of two years and ten months and then he availed remedy, for which he was otherwise not entitled and ultimately, he withdrew the suit on 22nd December, 1995. In these peculiar circumstances, I am of the considered opinion that Labour Court erred while awarding back wages to the petitioner.

6. In view of whatever stated above, the award impugned dt. 16th August, 2000 is modified to the extent it relates to grant of back wages to respondent workman. The respondent workman shall be entitled for reinstatement in service, however, no back wages as awarded under the award impugned are required to be given. The petition for writ is disposed of in terms above.

7. It is stated by learned Counsel for petitioner that the respondents are not making payment of wages to the workman in the applicable pay scale. Payment of wages in the applicable pay scale is totally a different cause and the workman is at liberty to raise his grievance in this regard by availing appropriate remedy.