

(1992) 02 AHC CK 0069
In the Allahabad High Court
Case No : C.M. W.P. No. 2473 of 1992

Sadhu Charan Singh

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 18-02-1992

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 2A

Citation : (1993) 1 LLJ 1224

Hon'ble Judges : P.P. Gupta, J

Bench : Single Bench

Advocate : P.C. Jhingan, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

P.P. Gupta, J.—The petitioner, Sadhu Charan Singh, was a workman in the service of M/s. Hari Fertilizers, Sahupuri, Varanasi. He was dismissed from service with effect from March 21, 1988. He raised an industrial dispute before the Regional Conciliation Officer, Varanasi Region, Varanasi, under S.2A of the U.P. Industrial Disputes Act, 1947 (hereinafter referred to as the "Act") in respect of his illegal dismissal. However, no conciliation and settlement could be arrived at by the Conciliation Officer, who submitted his failure report to the Government. Respondent No.1, by his letter dated July 26, 1989 (Annexure "I" to the petition), informed the petitioner that the conciliation case of the petitioner was not considered fit for reference by the State Government, hence the same had been consigned to the record room. The petitioner by his letter dated September 8, 1989 (Annexure "II" to the petition), addressed to the Joint Secretary, Labour Department (I), Kanpur, contended that the order dated July 26, 1989, passed by respondent No.1, was illegal, inasmuch as that it did not contain any reason and had been passed without application of mind. This representation was also rejected by respondent No. 3 by order dated May 7, 1990 (Annexure "III" to the petition). The petitioner again submitted a representation (Annexure "IV" to the petition) to the Labour Minister, U.P. reporting the entire facts and alleging that

neither the order dated July 26, 1989 nor the order dated May 7, 1990 contained any reason. This representation also met the same fate by an order dated September 10, 1991 (Annexure "VII" to the petition) communicated to the petitioner by respondent No. 3. The contention of the petitioner is that all the aforesaid orders were not speaking orders and had been passed without application of mind and so they were illegal.

Despite time having been granted to the respondents, no counter affidavit was filed.

Learned counsel for the petitioner and the learned Standing Counsel were heard and the record of the case was perused.

2. It is an undisputed fact that the petitioner was a workman employed in the service of M/s. Hari Fertilizers, Sahupuri, Varanasi. He was: dismissed from service with effect from March 21, 1988. The reconciliation efforts could not succeed and the petitioner was informed by respondent No.3 that the conciliation case of the petitioner was not considered by the Government to be fit for reference. The order communicated by respondent No. 3 is Annexure "I" to the writ petition. It is a cyclostyled order and only blanks have been filled in. No reasons whatsoever have been given by the Government for not finding the case fit for reference. It is a non-speaking order without containing any reasons. It appears that there was no application of mind by the authorities concerned. The petitioner again represented against this decision of the respondent No. 3, but that too was rejected again by a cyclostyled order, which too did not contain any reasons whatsoever. Another representation made by the petitioner to the Labour Minister was also rejected by a similar non-speaking order. Thus none of the orders, referred to above, contain any reasons whatsoever. It is, no doubt, true that the power vested in the Government to make a reference is discretionary, but when the Government chose not to make a reference, it has to record reasons for not doing so and to communicate the same to the concerned party. This is a mandatory duty of the Government. The discretion vested in the Government in this regard has to be properly exercised and with acceptable reasons for the decision.

3. In this case, despite successive representations having been made by the petitioner, the respondents did not disclose any reasons whatsoever for not finding his case fit for reference. In these circumstances, it cannot be said that the discretion vested in the Government has been exercised properly and after application of mind. It is not clear as to what reasons prevailed with the respondents for not finding the case of the petitioner fit for reference. It cannot, therefore, be scrutinised as to whether the reasons that prevailed upon the respondents could be accepted as reasonable and correct. For the reasons given above, the impugned orders of the respondents holding the case of the petitioner not fit for making reference cannot be sustained.

4. In view of the above discussions, the writ petition is allowed and the

respondents are directed to give specific reasons for not making a reference to the petitioner's case within a period of two months from the date a certified copy of this order is produced before them. There will be no order as to costs.