

(2002) 05 RAJ CK 0067
In the Rajasthan High Court
Case No : Civil Special Appeal No. 931 of 2000

Satish Sharma

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-05-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (2002) 95 FLR 283 : (2002) 3 LLJ 714 : (2003) 2 RLW 840 : (2002) 3 WLC 656

Hon'ble Judges : Shiv Kumar Sharma, J; F.C. Bansal, J

Bench : Division Bench

Advocate : Kunal Rawat, for the Appellant; Prabhat Bhatnagar, for Bharat Vyas, for the Respondent

Final Decision : Allowed

Judgement

Sharma, J.—Delay condoned. In the instant special appeal the appellant has assailed the order dated May 10, 2000 of the learned Single Judge whereby the writ petition of the appellant seeking reference of the dispute in regard to termination of his services was dismissed.

2. We have reflected over the rival submissions and scanned the record.

3. It appears that the appellant had worked with the respondent No. 2 from November 28, 1986 till July 30, 1987 and the dispute was raised on November 10, 1998 before the Conciliation Officer. The respondent No. 1 vide order dated January 1, 2000 refused to refer the dispute on the ground that it was raised after a period of 11 years without any jurisdiction of long delay. The learned Single Judge was also of the view that asking the Government to refer the dispute after more than 13 years, the adjudication of which may take further long years, will only add to the miseries not only to the petitioner but to his family as well and in view of this observation, the reference was declined.

4. In *Sapan Kumar Pandit v. U.P. State Electricity Board CO*, their Lordships of

the Supreme Court had occasion to interpret Section 10 of the Industrial Disputes Act, 1947 and it was indicated that the words "at any time" as used in the section are prima facie indicator to a period without boundary. Their Lordships propounded that reference should not have been quashed merely on the ground of delay. Long, delay for making the adjudication could be considered by the adjudicating authorities while moulding its relief.

5. In Sapan Kumar Pandit's case (supra) the State Government of U.P. made a reference of industrial dispute for adjudication after a period of 15 year and because of the inordinate delay, the High Court of Allahabad quashed the reference order passed by the Government solely on the ground of such delay. The aggrieved workman thereafter approached the Hon'ble Supreme Court challenging the judgment of the High Court of Allahabad, their Lordships of the Supreme Court in para 12 of the judgment observed as under :

"There are cases in which lapse of time had caused fading or even eclipse of the dispute, if no body had kept the dispute alive during the long interval it is reasonably possible to conclude in a particular case that the dispute ceased to exist after some time. But when the dispute remained alive though not galvanized by the workman or the Union on account of other justified reasons it does not cause the dispute to was into total eclipse."

6. In the instant case the dispute does not cease to exist and reference ought not to have been declined merely on the ground of delay. We find under these circumstances the impugned order of the learned Single Judge as well as the order dated Jan. 31, 2000 passed by the respondent No. 1 contrary to the ratio laid down in the judgment of Sapan Kumar Pandit's case (supra).

7. Consequently we allow the instant appeal and set aside the order dated May 10, 2000 of the learned Single Judge and the order dated Jan. 31, 2000 passed by the respondent No. 1. We direct the respondent No. 1 to refer the dispute for adjudication to the Labour Court. Costs easy.