
(2005) 03 RAJ CK 0041
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1318 of 2005

Sawa Ram

APPELLANT

Vs

The Municipal Board and Another

RESPONDENT

Date of Decision : 14-03-2005

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 2, 25F

Citation : (2005) 105 FLR 956 : (2005) 2 RLW 1157

Hon'ble Judges : R.P. Vyas, J

Bench : Single Bench

Advocate : Vikram Singh Charwas, for the Appellant;

Final Decision : Dismissed

Judgement

R.P. Vyas, J

1. Heard at admission stage.
2. The instant petition has been filed by the petitioner with the prayer that the judgment dtd. 18.5.2004 (Annex.P/1) passed by the learned Labour Court, Jodhpur may be quashed and set aside and the petitioner may kindly be ordered to be reinstated in services with all consequential benefits.
3. The brief facts of the case are that the petitioner raised an industrial dispute before the Conciliation Officer.
4. However, the said conciliation proceedings failed and the Conciliation officer submitted failure report to the appropriate Government. The appropriate Government vide notification dtd. 30.8.2001 referred the matter for adjudication to the learned Labour Court, Jodhpur.
5. The learned Labour Court issued notices to the parties. The petitioner submitted statement of claim alleging inter alia that he was appointed as driver by the respondent No. 1 on 3.1.1997 on a consolidated salary of Rs. 1500/-.

After completion of one year's regular service, his salary was increased to Rs. 2200/-. It has further been averred by the petitioner in the claim petition that he rendered regular services from 10.2.1997 to 1.8.1999 and he made an application to the respondents for regularisation of his services on the post of Driver. However, the services of the petitioner were terminated by an oral order dtd. 23.7.1999. It was also alleged in the claim petition that before terminating the services of the petitioner, no notice was given to the petitioner. Neither pay in lieu of notice nor any terminal benefits were given to the petitioner and the basic ground for termination of the services of the petitioner was to give appointment to a blue eyed person. It was also alleged in the claim petition that before terminating the services of the petitioner provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act of 1947) have not been complied with.

6. Written statement was filed by the respondents in which it was alleged that the petitioner was engaged purely on contract basis and payment has been made to him for the period during which he worked. It was also alleged that the petitioner submitted the application for appointment on contract basis and in pursuance to his application, the petitioner was appointed on contract basis. It was also alleged that after expiry of period of contract, the services of the petitioner automatically came to an end and there was no requirement of driver.

7. After recording evidence of both the parties, the learned Labour Court, vide its judgment and award dtd. 18.5.2004 (Annex.P/1), dismissed the claim petition filed by the petitioner.

8. In the instant petition, the main contention of the petitioner is that he has completed 240 days of service in a calendar year, but before terminating the services of the petitioner provisions of the Act of 1947 have not been complied with. It has also been argued that after completion of one year's service, his salary was increased to Rs. 2200/- which clearly shows that the petitioner was not appointed on contract basis.

9. I have heard the learned counsel for the petitioner at length and scrutinised and scanned the material available on record.

10. The learned Labour Court has recorded a finding of fact on the basis of material available on record that the petitioner was appointed on contract basis for a limited period and the petitioner himself submitted an application for his appointment as driver on contract basis.

11. Further more, as per Section 2(oo)(bb) of the Act of 1947, when appointment is made for a limited period and services of an employee are terminated on expiry of period of contract, then in such cases, provisions of Section 25F of the Act of 1947 are not attracted.

12. In these circumstances, the learned Labour Court has rightly held that the services of the petitioner came to an end on expiry of period of contract and such

termination does not fall within the definition of "retrenchment" as defined in the Act of 1947.

13. In my considered opinion, the findings of facts recorded by the Labour Court are based on correct appreciation of entire evidence and material available on record and it cannot be said that the findings of the Labour Court are erroneous or perverse or patently unreasonable or based on no material on record. The findings of facts recorded by the Labour Court do not suffer from any basic illegality or infirmity,

14. Apart from that, under Article 227 of the Constitution of India, the High Court cannot interfere with the exercise of the discretionary power vested in the inferior Court or Tribunal, unless its findings are clearly perverse or patently unreasonable. While exercising the powers under Article 227 of the Constitution of India, the High Court does not act as Court of appeal.

15. The High Court's power of revision under Article 227 of the Constitution would be restricted to interference in cases of grave dereliction of duty or flagrant violation of law, and would be exercised most sparingly, in cases where grave injustice would be done unless the High Court interferes. It cannot be used as appellate or revisional power nor will the High Court, in exercise of this power, substitute its own judgment for that of the inferior Court, whether on a question of fact, or of law, or interfere with the intra vires exercise of a discretionary power, unless it is arbitrary or capricious, or unless there was no evidence at all on which the inferior court could have come to conclusion it did or there was error of finding on a jurisdictional fact.

16. From perusing the judgment and award dtd. 18.5.2004 (Annex.P/1) passed by the learned Labour Court, it does not reveal that there is patent illegality and irregularity or error of law apparent on the face of record and the findings recorded by the learned Labour Court are perverse.

17. Thus, the judgment and award dtd. 18.5.2004 (Annex.P/1) passed by the learned Labour Court cannot be said to be suffering from the basic infirmity" and illegality and the same does not require any interference by this Court under Article 226/227 of the Constitution of India.

18. For the reasons mentioned above, the present writ petition is dismissed. No order as to costs.