

(1990) 09 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2470 of 1987

Sham Lal

APPELLANT

Vs

Pepsu Road Transport Corporation and Another

RESPONDENT

Date of Decision : 03-09-1990

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 25F

Citation : (1992) 1 ILR (P&H) 310

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : Sabina, for the Appellant; Varinder Pal Singh, for the Respondent

Judgement

S.S. Sodhi, J.—The matter here concerns Sub-clause (bb) of Section 2(00) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act").

2. The two Petitioners Sham Lal and Hakam Singh were employed as labourer and cleaner respectively by the Pepsu Road Transport Corporation for a fixed term couple of months at a time. Sham Lal had worked for over two years and Hakam Singh for about 17 months, when no further extension of service was granted to them. This happened before August 19, 1988, when by Act No. 49 of 1984, Sub-section (bb) came to be inserted in Section 2(00) of the Act.

3. It was the case of the Petitioners that as their services had been terminated before the coming into effect of Clause (bb) of Sub-section 2(00) of the Act the termination of their employment entitled them to the benefit of the provisions of Section 25F of the Act, and in terms thereof, the termination of their services was illegal.

4. A reading of the impugned award of the Labour Court would show that the claim of the Petitioners was negated on the ground that in view of the insertion of Clause (bb) of Section 2(00) of the Act, termination of services of the Petitioners amounted to retrenchment and they were thus not entitled to the relief sought. It being observed in this behalf that this amendment in the Act had

retrospective effect.

5. It now, however, stands settled by the judgment of the Division Bench of the High Court of Gujarat in *Bharat Heavy Electricals Ltd. Baroda v. R.V. Krishnarao* 1989 Lab I.C. 1914, that the amendment in the Act which brought in Clause (bb) in Section 2(00) was prospective in nature and would consequently apply to only such terminations as take place after this provision was brought on to the statute book. Such thus being the established position in law, there can be no escape from the conclusion that the termination of the services of the Petitioners amounted to retrenchment. They thereby came within the purview of the provisions of Section 25F of the Act.

6. The impugned Award of the Labour Court cannot, therefore, be sustained and is accordingly hereby set aside and the matter is remitted to the Labour Court to determine the relief to be granted to the workmen, in the context of Section 25F of the Act, including back wages, keeping in view their gainful employment, if any, during the relevant period. Both the writ petitions are consequently hereby accepted, in these terms, with costs. Counsel fee Rs. 500. (one set only).