

(2012) 11 RAJ CK 0045
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4679 of 2006

Smt. Sua Bai

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-11-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (2013) LabIC 997

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Y.P. Khileree, Dy. Govt. Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Govind Mathur, J.—This petition for writ is preferred to question validity, correctness and propriety of the order dated 6.1.2003 passed by the Labour Court, Jodhpur in Complaint Case No. 3/1998, By the order aforesaid, Judge, Labour Court, Jodhpur dismissed the application preferred by the petitioner-workman as per provisions of Section 33-C(2) of the Industrial Disputes Act, 1947 (for short "the Act of 1947" hereinafter). The factual matrix necessary to be noticed is that the petitioner entered in the services of the respondents being appointed as "Safal Karamchari" on 19.9.1976. Against the services rendered, she was paid monthly salary of Rs. 75/-. To have regular pay-scale, she preferred a petition for writ (S.B. Civil Writ Petition No. 179/1995) before this Court and that came to be allowed on 26.5.1995. The order passed by this Court reads as under:--

This petition was heard along with a bunch of similar cases.

The case law on the point has been discussed in details in S.B. Civil Writ Petition No. 3453/94 (Anskalin Samaj Kalyan Sangh, Banswara v. State & others).

In the facts and circumstances of the case. it is held that the petitioner is discharging duties of a full time servant.

The petition is allowed. The respondents are directed to pay to the petitioner minimum pay in the lowest pay scale applicable to the post of regular Class IV servant/Sweeper from the date of filing of the petition and consider regularisation of his services in the light of directions made in order being passed today in S.B.C.W. Petition No. 3453/94 (Anskalin Samaj Kalyan Sangh, Banswara v. State & others), decided on May 26, 1995. The relief will be given only if the petitioner was in service on the date of filing of the petition. No order as to costs.

2. After acceptance of the writ petition, the petitioner preferred an application u/s 33-C(2) of the Act of 1947 to determine all her dues in accordance with the directions given in Writ Petition No. 179/1995. Learned Labour Court after considering the averments contained in the pleadings arrived at the conclusion that the applicant-petitioner was discontinued from service in the year 1991, therefore, she was not entitled for getting any relief as prayed. Suffice to mention that in the order dated 26.5.1995, this Court in quite specific terms mentioned that the relief will be given only if the petitioner was in service on the date of filing of the writ petition. Learned Labour Court while rejecting the application u/s 33-C(2) noticed that on the date of filing the writ petition, the petitioner was not in service.

3. From perusal of the order dated 26.5.1995, it is apparent that the regular pay-scale was required to be given to the petitioner, only if she would have been in service on the date of filing the writ petition. The respondents before the Labour Court came with a specific case that the petitioner was terminated from service much back in the year 1991.

4. In view of the stand taken by the employer, the entitlement of the petitioner to have regular pay scale was to be decided first. No such entitlement can be settled while exercising powers u/s 33-C(2) of the Act of 1947, as such, Labour Court has not committed any wrong while rejecting the application. The petition for writ, therefore, is dismissed. The petitioner, however, shall be at liberty to get her entitlement settled by raising industrial dispute as per provisions of Section of the Act of 1947.