
(2010) 10 SHI CK 0229
In the High Court Of Himachal Pradesh
Case No : CWP No. 2766 of 2008

State of H.P. and Another

APPELLANT

Vs

Prithvi Singh

RESPONDENT

Date of Decision : 18-10-2010

Acts Referred:

Citation : (2011) 129 FLR 114

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—This writ petition is directed against the award of the learned Presiding Judge, H.P. Labour Court, Shimla, in Reference No. 170 of 1998 decided on 30.04.2003, whereby the Labour Court has held that the petitioner was retrenched from service without following the procedure prescribed by law and, hence, was entitled to reinstatement in service, but was not granted back wages.

2. The undisputed facts of the case are that the petitioner was employed in the office of the Deputy Director of Agriculture, Nahan.. It appears that his services were retrenched sometime in the year 1987..He approached this Court by filing CWP No. 157 of 1988.. In the said writ petition, an affidavit was filed by the Director of Agriculture, Himachal Pradesh, that the petitioner would be offered employment in terms of letter dated July 19, 1988 and his services would not be terminated except in accordance with law..This writ petition was disposed of on 20th July, 1988 and it was directed that this offer would remain open till 31st July, 1988. It appears that, in fact, the petitioner only reported for duty on 30.07.1988 and worked as such till 02.08.1988.. The stand of the petitioners is that after 02.08.1988, the petitioner abandoned the service of his own accord.

3. The learned Presiding Judge came to the conclusion that the stand of the employer that the petitioner had abandoned service cannot be accepted to be

correct in view of memo dated 02.08.1988, wherein it has been clearly mentioned that the employee should not report for duty on the next date. Though this portion has been scored off, it is clear that there was some dispute with regard to the nature of work the employee wanted to do. If that was the dispute, then the option open to the employer was to hold an inquiry and dispense with the services of the petitioner, if he was found disobeying the orders but the petitioner could not have been told not to come for work. In any event, this clearly shows that the petitioner had not abandoned the work, as alleged.

4. The question whether the petitioner had abandoned work or not is a pure question of fact, which has been decided on the basis of evidence led before the Labour Court. The award cannot be said to be perverse or based on no evidence. Therefore, the order of the learned Presiding Judge, H.P. Labour Court call for no interference in writ proceedings. The petition is, accordingly, dismissed. No order as to costs.