

(1997) 07 KAR CK 0096
In the Karnataka High Court
Case No : Writ Appeal No. 678 of 1996

State of Karnataka and Another

APPELLANT

Vs

B.Y. Patil and Another

RESPONDENT

Date of Decision : 09-07-1997

Acts Referred:

Industrial Disputes Act, 1947 — Section 2 (j)

Citation : (1999) 4 KarLJ 441

Hon'ble Judges : R.P. Sethi, C.J.;S.R. Bannurmath, J

Bench : Division Bench

Advocate : Sri A.V. Sreenivasa Reddy, for the Appellant; Sri V.S. Naik, for the Respondent

Judgement

R.P. Sethi, C.J.—The main grievance of the appellants is that as the Forest Department of the appellant-State was not an industry within the meaning of Section 2(j) of the Industrial Disputes Act, the Labour Court as also the learned Single Judge were not justified in passing the award or affirming it. It is not disputed that despite service the appellants did not appear before the Labour Court and in their absence reference was decided on the basis of the evidence led by the respondent-workman only. The question as to whether the Forest Department is an industry or not is basically a question of fact which could be adjudicated on the basis of the evidence led. The Forest Department of the appellant-State, in all cases, cannot be termed to be performing the sovereign functions of the State as has been held by the Supreme Court in Chief Conservator of Forests and another, Vs. Jagannath Maruti Kondhare, etc. etc., . The burden of proof to establish that the Forest Department was not an industry within the meaning of Section 2(j) of the Industrial Disputes Act lay upon the appellant which was never discharged. The Labour Court as also the learned Single Judge were therefore justified in holding that the respondent-workman being in the employment of the appellant was entitled to be reinstated as his services had been terminated in violation of the mandatory provisions of the Industrial Disputes Act.

2. The learned Single Judge has already modified the award of the Labour Court by restricting the payment of backwages to 75% as against 100% awarded by the Labour Court. We do not find any illegality or error of jurisdiction in the order of the learned Single Judge requiring our interference.

3. There is no merit in this appeal, which is accordingly dismissed but without any order as to costs.