
(2000) 12 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8212 of 1999

State of Punjab

APPELLANT

Vs

Jagir Singh

RESPONDENT

Date of Decision : 07-12-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 12 P&H CK 0007

Hon'ble Judges : S.S. Sudhalkar, J; Mehtab S. Gill, J

Bench : Division Bench

Advocate : Mr. Anil Sharma, for the Appellant; Mr. B.R. Mahajan, for the Respondent

Judgement

S.S. Sudhalkar, J.—By this writ petition, the employer is challenging the award of Labour Court dated 2.5.1997, Annexure P1, vide which respondent No. 1 was reinstated with full back wages from the date of demand notice and continuity of service.

2. The counsel for the petitioner argued that though demand notice was issued, it was served on the Government and not on the petitioner and that the reference itself was bad and the Labour Court had no jurisdiction to take a decision in the case. He has cited The Sindhu Resettlement Corporation Ltd. Vs. The Industrial Tribunal of Gujarat and Others, , wherein it has been held that if no dispute is raised by the employee with the employer, the reference by the Government in respect of the demand made by the employee to the Government, was not competent. However, it is noticed from the award of the Labour Court that respondent No. 1 was inducted as a driver by the petitioner in 1965 and when his services were terminated on 3.8.1979, no enquiry was held. He was removed for absence from duty after issuing notices. When no enquiry was held, the driver of such a long standing could not have been removed. The order of termination of his services is illegal. If because of the technicalities, we allow this writ petition, we will revive an illegal order which cannot be done in

view of principles laid down by the Supreme Court in Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others, . This view is also adopted in Jagnn Nath v. State Transport Appellate Tribunal, Rajasthan and an-other AIR 1980 Raj 1. Therefore, even though the petitioner might have succeeded on the above- mentioned technical grounds, we do not find it proper to allow this writ petition, so far as order of reinstatement is concerned.

3. So far as back wages are concerned, the Labour Court has awarded full back wages from the date of demand notice. However, it can be seen that the demand notice was issued on 5.3.1981. Reference was made on 25.8.1993 and the impugned order is dated 2.5.1997. In view of this position, we restrict back wages to 60% from the date of demand notice. The writ petition deserves to be allowed to this extent.

In the light of above discussion, this writ petition is partly allowed. The back wages are restricted to 60% only from the date of demand notice. Rest of the prayer made in the writ petition is declined.

4. Petition partly allowed.