

(2011) 02 RAJ CK 0077
In the Rajasthan High Court
Case No : Civil Writ Petition No. 123 of 2001

State of Rajasthan and Another

APPELLANT

Vs

Lalu Ram and Another

RESPONDENT

Date of Decision : 09-02-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 33, 33A

Citation : (2011) 02 RAJ CK 0077

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—The appropriate Government by Notification dated 26.12.1988 referred an Industrial Disputes for its adjudication to Labour Court, Udaipur in the terms that "Whether the non-conferment of semi-permanent status and non-payment of the relevant pay to the workman Lalu Ram S/o Deeta Ji Patel, cattle guard (represented by Secretary, Indian Forest Department Employees Union, Udaipur) by Deputy Conservator of Forest, Udaipur is just and valid ? If not, then for what relief, the workman is entitled ?"

2. Subsequent thereto, the workman was retrenched from service and that issue too was adjudicated by the Labour Court as per provisions of Section 33 of the Industrial Disputes Act, 1947 (for short "the Act of 1947" hereinafter). Learned Labour Court answered the reference vide award dated 12.10.2000 by declaring retrenchment of the workman bad and also declaring him entitled for conferment of semi-permanent status, however, while considering the relief pertaining to illegal retrenchment of the workman, a lump-sum compensation in tune of Rs. 1,70,000/- was given instead of reinstatement in service. Being aggrieved by the same, this petition for writ is preferred.

3. It is worthwhile to note here that the workman too preferred a petition for writ before this Court challenging the award to the extent of denial of reinstatement

in service, and that petition for writ (SBCWP No. 1733/2001) came to be rejected on 7.5.2001.

4. While pressing the instant petition for writ, the contention of learned Counsel for the Petitioner-employer is that the Respondent-workman as a matter of fact, abandoned the service and therefore, the Labour Court erroneously considered case of the Petitioners under Chapter V. of the Act of 1947. The another argument of learned Counsel for the Petitioners is that the date of termination of the workman as determined by the Labour Court is 31.3.1987 and on that day no dispute was pending, therefore, the powers u/s 33 of the Act of 1947 could have not been invoked.

5. I have considered the argument advanced.

6. So far as question relating to abandonment from service is concerned, suffice it to mention that the Labour Court after examining the entire material available on record gave a definite finding of fact regarding termination of the workman from service, and such finding of fact does not require any disturbance while exercising powers under Articles 226 and 227 of the Constitution of India, until that is perverse. No such grave irregularity is apparent on the face of record.

7. The issue as to whether the Labour Court could have invoke the powers u/s 33 of the Act of 1947 on 31.3.1987 in view of the fact that the reference itself was made on 26.12.1988, it shall be relevant to mention that the workman at the first instance while moving an application u/s 33A of the Act of 1947 urged that he was terminated from service on 1.11.1989. The workman in the application stated that he was not taken in service after 1.10.1989. The Labour Court by relying upon the averments of the application took cognizance of the fact and examined the issue relating to termination from service also. True it is, the Labour Court ultimately arrived at the conclusion that the workman was discontinued from service on 31.3.1987, but that finding itself does not make the award impugned bad. The date of retrenchment of the workman though is 31.3.1987, but it is stated that the dispute before the Conciliation Officer raised much prior to that. Thus, the day on which Petitioner was retrenched, a dispute was existing before the conciliation officer.

8. Be that as it may, even if it is assumed that on 31.3.1987 no dispute was pending then too I do not find any reason to interfere with the award while exercising power under Articles 226 and 227 of the Constitution of India as that shall amount nothing but restoration of illegality.

9. A Full Bench of this Court in Jagan Singh v. State Transport Appellate Tribunal, Rajasthan and Anr. reported in AIR 1980 (Raj.) 1 held that if substantial justice has been done even by an order passed by a quasi judicial authority lacking jurisdiction and acceptance of the writ petition against that, if result into restoration of an illegality, then this Court shall not interfere with such an order in exercise its extra-ordinary jurisdiction. In the case in hand, the order of retrenchment is apparently bad and the Labour Court quashed that after

meticulous examination of the merits. No interference with the award impugned, thus, is warranted.

10. For the reasons given above, the petition for writ is dismissed.

11. It is relevant to mention here that today a Demand Draft for a sum of Rs. 1,55,644/- is given to learned Counsel for the Respondent-workman to handover the workman Lalu Ram S/o Shri Deeta Ji Patel. The rest of the amount in tune of Rs. 14,356/- has already been paid to the workman earlier. As such, the original amount awarded has been satisfied. However, the interest as awarded by the Tribunal @ 12% is yet to be given to the Respondent-workman. The Petitioner-employer, therefore, is directed to make payment of interest to the Respondentworkman within a period of three months from today.