
(2013) 11 RAJ CK 0080

In the Rajasthan High Court

Case No : Civil Writ Petition No. 8183 of 2009

State of Rajasthan and Another

APPELLANT

Vs

Smt. Savita and Another

RESPONDENT

Date of Decision : 22-11-2013

Acts Referred:

Citation : (2013) 11 RAJ CK 0080

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : D.R. Kawadia, for the Appellant;

Final Decision : Disposed Off

Judgement

Govind Mathur, J.—The writ petition is placed before this Court today for its adjudication in the spirit of Lok Adalat. This petition for writ is directed to challenge the award dated 24.3.2008 passed by the Labour Court, Udaipur in Labour Case No. 22/2004.

2. Briefly stated, facts of the case are that the appropriate government under its notification dated 23.6.2004 referred an industrial dispute for its adjudication to the Labour Court, Udaipur in the terms that whether termination of the workman Smt. Savita Meena, resident of Kalawat (Vilakh), Tehsil Khairwada, District Udaipur w.e.f. 23.1.2002 by employer Bal Vikas Adhikari, Khairwada is just and valid? If not, then for what relief the workman is entitled?

3. As per the statement of claim filed on behalf of the workman, she entered in service being appointed as Aanganwadi Karyakarta on 22.7.1995. She served the employer efficiently and effectively, but on 23.1.2002 her services were terminated without assigning any reason. Alleging termination void ab-initio the workman claimed for reinstatement in service with all consequential benefits. A return was filed on behalf of the employer with assertion that no relationship of master and servant was existing in view of the fact that the alleged workman was getting honorarium and not the wages. It was also stated that the

termination of the workman was not simplicitor but stigmatic, as she was found guilty of a misconduct. Emphasis was given to the fact that termination of the workman was made after holding an inquiry by the Gram Sabha.

4. Learned Labour Court after examining the entire material available on record arrived at the conclusion that the inquiry said to be conducted was behind the back of the employee and as such i.e. no inquiry in eye of law. It was also held by the Labour Court that in the name of honorarium the employer was making payment of wages, as such a relationship of master and servant was existing. The Labour Court also arrived at the conclusion that termination of the workman was illegal being made in flagrant violation of principles of natural justice. Accordingly, a direction was given for reinstatement of the workman with 50% of back wages accrued. Being aggrieved by the same, this petition for writ is preferred.

5. At the threshold it is submitted by counsel for the employer that at the Aanganwadi where the workman was working, an another person has already been employed and there is no vacancy to accommodate/reinstate her. It is further submitted that termination of the respondent workman was made much back in the year 2002, therefore, it shall be appropriate to satisfy her claim by awarding reasonable compensation in lieu of reinstatement.

6. Having considered the statement made by counsel for the petitioner and also keeping in mind the policy of the State Government notified under circular dated 23.10.2013, I deem it appropriate to dispose of this petition for writ by modifying the award dated 24.3.2008 in the terms that termination of the workman is declared illegal, however, she shall be entitled for a lump sum compensation in a tune of Rs. 1,75,000/- in lieu of reinstatement. The lump sum compensation is required to be paid to the respondent workman by the petitioner employer on or before 01.04.2014. In the event of failure to make the payment of compensation within the period prescribed, the workman shall be entitled to have interest upon the compensation awarded @ 7.5% per annum. The writ petition stands disposed of accordingly.