

(2001) 11 RAJ CK 0025
In the Rajasthan High Court
Case No : .S.C.A. No. DR (J) 2689 of 2001

State of Rajasthan and Others	Vs	APPELLANT
Jagsir Singh and Another		RESPONDENT

Date of Decision : 08-11-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2002) 93 FLR 780 : (2002) 2 LLJ 701 : (2002) WLC 271

Hon'ble Judges : Rajesh Balia, J; Harbans Lal, J

Bench : Division Bench

Advocate : B.C. Meha, for the Appellant; Arjun Purohit, for the Respondent

Final Decision : Dismissed

Judgement

Rajesh Balia, J.—Mr. Arjun Purohit, appears for the respondents. Service is complete.

Heard learned counsel for the parties on application u/s 5 of the Limitation Act.

2. The appeal is reported to be barred by one day. The cause shown by learned counsel for the appellants is that the sanction received by the counsel for filing appeal, through courier service was delayed by one day, therefore, the appeal has been filed one day after expiry of period of limitation. This fact is not disputed by the learned counsel for the respondents.

3. In these circumstances, we are satisfied that the appellants were prevented by sufficient cause from filing the appeal within limitation. The delay in filing appeal is, therefore, condoned. The appeal may now be registered as has been regularly filed.

4. At the request of learned counsel for the parties, heard on merit of the case also.

5. The appeal arises out of the award made by the Labour Court on industrial dispute submitted to it for adjudication about the alleged termination of services

of respondent No. 1 Jagsir Singh.

6. According to the respondent-workman, he was in employment of the appellants from August 1, 1989 until February 28, 1993. During this period, he has continuously worked with the appellants at its establishment under Assistant Engineer, Ghaghar Flood Control Division, Suratgarh. His services were terminated on February 28, 1993 by an oral order without issuing notice or making payment in lieu of notice before retrenchment nor any retrenchment compensation was paid to him before his services were terminated. Therefore, the termination of his services were in violation of Section 25F of the Industrial Disputes Act, 1947 (for short "the Act of 1947"). Apart from this, violation of Section 25G was also raised.

7. The appellants-employers denied the claim of the workman inter alia on the ground that he was in service until December 31, 1992 for which he has been paid salary on January 2, 1993. He had submitted an application on that very date that he is going to Punjab after leaving service and therefore it is not a case of terminating service by the employer but it is a case of voluntarily leaving service. The employer has also denied the claim of the workman for being in service for continuous period for one year or more at the time of alleged retrenchment. The so-called letter of resignation was also produced, as well as the pay slip for the month of December, 1992 for which payment was made on January 2, 1993.

8. Learned Labour Judge found after appreciating the evidence led before it held that the respondent has proved his claim that he has been in continuous service since August, 1989 under the employer in question and held him to be in service as on February 20, 1993 for more than a year. On the plea of voluntarily leaving service, after considering the document of so-called resignation and the pay-slip as well as the statements of the claimant as well as that of Dhudhesal Singh, who were cross-examined by the respective parties on their affidavits, he found that the plea taken by the claimant appears to be more plausible and rejected the case of the employer about voluntarily abandoning the job.

9. The claimant has not disowned the letter Ex-1 filed by the employer to have been written by him but he definitely pleaded that this letter was got written by him at the time when he was offered job to use in future when so required. In this regard, the learned Labour Court noticed that letter of resignation contained no date which was put by the incumbent. The important factor which weighed with the Labour Court for not treating the said document was that so-called resignation letter was admittedly not filed by the workman before the concerned authority, but, it is alleged to have been produced by one Dhudhesal Singh. Dhudhesal Singh was working in different establishment and workman was not directly working with or under him. Dhudhesal Singh in his cross-examination admitted that this letter was handed over to him outside the working hours at some distant place and he immediately went to the office in closing hours and handed over the AEN outside the office. It bears a note of the AEN to be placed

on record. The date on the Ex-1 has been placed under the signatures of Dhudhesal Singh as well as AEN. It also bears third signature of JEN. All the three signatures bear same date. It further creates doubt that if the letter was delivered to JEN after the close of the office hours outside the office, then how did it reach AEN on that very date and a note of placing on record was placed on that very day. In ordinary circumstances if the workman has voluntarily left job after notifying, by a written letter, which if reaches any officer after he has left office, it would have been placed on file on the next date only.

10. Moreover, the learned Labour Court has raised doubt about the aforesaid three signatures which have been placed on date when it was purported to be presented. From the fact that on that very day the workman himself has come to office to receive his salary in the office, receipt of which has been placed on record as Annexure-2, it does not stand to reason, if the workman has gone to the office for collecting his wages for the month of December 1992, on the very day, when he was leaving for Punjab for good after receiving salary, why he delivered that letter of resignation after the close of office hours at distant place to a person under whom, he is not working, to be delivered to office, instead of himself delivering the same in office.

11. In these circumstances, if the learned Labour Judge has not thought it fit to rely on the story of voluntary abandonment pleaded by the appellants, and found the case pleaded by the respondent workman more plausible, it cannot be said that it suffers from any error apparent on the face of record which needs to be corrected by this Court in its extraordinary jurisdiction by issuing a writ of certiorari.

12. In these circumstances, the learned single Judge, in our opinion, has rightly not interfered with the award made by the Labour Court.

13. The appeal has no force and it is hereby dismissed.