
(2009) 09 RAJ CK 0085
In the Rajasthan High Court

State of Rajasthan

APPELLANT

Vs

Judge, Labour Court and Another

RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 17, 25F
Rajasthan Industrial Disputes Rules, 1958 — Rule 22A

Citation : (2010) 1 WLN 64

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—The appropriate Government by a notification dt. 13.10.1993 referred an industrial dispute to Labour Court, Udaipur for its adjudication in the terms "Whether termination of workman Ratna S/o Noorji, Cattle Guard by Regional Forest Officer, Banswara without adhering the provisions of Section 25-F on 18.05.1992 is valid and proper? If not, then for what relief, the workman is entitled?"

2. As per the statement of claim, the workman was employed by the employer on 01.03.1988 and he remained in service up to 17.05.1992. On 18.05.1992, he was discontinued from service by an oral order.

3. During the course of adjudication, as none was present to pursue the matter on behalf of the employer, ex parte proceedings were ordered to be initiated against the employer on 04.06.1994. The labour Court after recording statements of the workman passed an award on 22.10.1994, declaring the retrenchment of the workman bad, accordingly a direction was given to reinstate him in service with 50% of back wages. An application subsequently was filed by the employer as per the provisions of Rule 22A of the Rajasthan Industrial Disputes Rules, 1958 for re-calling the ex parte award. The application aforesaid came to be rejected by order dt. 04.01.1997 by the labour Court on the count that despite service of notice no body appeared on behalf of the employer on

05.03.1994 and thereafter on 04.06.1994 also. Learned labour Court also found that no reason was mentioned in the application for remaining absent before the Court on the dates referred above. Being aggrieved by the order dt. 04.01.1997 and the award dt. 22.10.1994, this application for writ is preferred.

4. The contention of the learned Counsel for the petitioner is that, as a matter of fact, the day on which the award was passed, Officer in-charge of the case was busy with election duties and, therefore, he failed to appear before the Court. It is asserted that the Officer in-charge in no way could have defaulted in election duties and as such a sufficient reason was available for not attending the Court, hence the Court should have condoned the default by re-calling the ex parte award.

5. In reply to the writ petition, it is pointed out by the workman that the award impugned has already been implemented by the employer. As per learned Counsel for the respondent workman, there was no adequate reason available to re-call the award dt. 22.10.1994. The employer or its representative, as a matter of fact, was not present before the Court on various dates prior to 22.10.1994 including 05.03.1994 and 04.06.1994. It is also said that the award impugned was notified by the appropriate government as per the provisions of Section 17 of the Industrial Disputes Act, 1947 in the month of December 1994 and as such the Labour Court in no way could have exercised powers under Rule 22A of the Rajasthan Industrial Dispute Rules, 1958.

6. Having considered the rival contentions, I do not find any merit in this writ application. The employer or its representative may have had valid reason for not attending the Court on 22.10.1994, however, in the present case ex parte proceedings were initiated on 04.06.1994 and no application was preferred by the employer for re-calling that order. The order dt. 04.06.1994, as such, acquired finality. No adequate reason is also given even in this petition for writ for remaining absent on 05.03.1994 and on 04.06.1994. The facts averred in the award dt. 22.10.1994 and the order dt. 04.01.1997 speaks in volume about the casual manner of dealing with the case by the (sic) of the employer. The absence on various dates before the Court is apparent in the order dt. 04.01.1997. The labour Court in these UK u instances was having no option but to proceed against the employer ex parte. No wrong, therefore, appears in rejecting the application preferred as per Rule 22A of the Rules.

7. It is also relevant to note that the employer at its own has already implemented the award and reinstated the workman. In these circumstances, I do not find any reason to interfere with the award and the order impugned. The petition for writ, therefore, is dismissed.