

(2010) 11 RAJ CK 0103

In the Rajasthan High Court

Case No : Civil Special Appeal Writ No. 220 of 2003

State of Rajasthan

APPELLANT

Vs

Sheoji and Another

RESPONDENT

Date of Decision : 02-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Industrial Disputes Act, 1947 — Section 17B, 25F

Citation : (2010) 11 RAJ CK 0103

Hon'ble Judges : S.S. Kothari, J; Dalip Singh, J

Bench : Division Bench

Judgement

1. This appeal has been preferred by the State against the judgment of the learned Single Judge dated 29/08/2002 dismissing S.B. Civil Writ Petition No. 5092/2001 filed by the State against the award passed by the learned Labour Court, Kota dated 28/05/1997.

2. Facts in brief are that the Respondent- workman challenged his retrenchment from service w.e.f. 01/09/1983 without compliance of Section 25F of the Industrial Disputes Act despite having completed 240 days of work in one calendar year.

3. The learned Single Judge after examining the record and hearing the parties affirmed the finding given by the learned Labour Court with regard to breach of the provisions of Section 25F of the Industrial Disputes Act despite the Respondent-workman having completed 240 days of work in one calendar year. Since the learned Labour Court had itself taken note of the fact that the dispute had been raised after a gap of considerable period on 17/01/1992, the learned Labour Court had reduced the quantum of back wages to be paid to 50%.

4. During the course of hearing before this Court the learned Counsel appearing for the Respondent-workman submitted that although the workman is interested for being reinstated in the job, but the Respondent-workman agrees to forgo the award with regard to 50% of the back wages allowed by the Labour Court.

5. We have heard the learned Counsel for the parties and examined the record.

6. Since the findings with regard to retrenchment without compliance of the provisions of Section 25F and the Respondent-workman having completed 240 days of work in one calendar year, are finding of fact, this Court would not like to interfere in the aforesaid findings of fact in the exercise of the writ jurisdiction under Article 226 of the Constitution of India.

7. Accordingly, while dismissing the appeal and taking note of the fact that the Respondent-workman has forgone the claim with regard to 50% of the back wages which had been assailed by the State looking to the fact that there was a delay in filing of the claim petition of nearly 10 years, without going into merits of the aforesaid submission, the appeal is, accordingly, dismissed. However, the Respondent-workman having given up the benefit of the award with regard to award of 50% of the back wages, it is held that the award shall stand modified to the aforesaid extent.

8. The appeal stands disposed of as above. It is, however, made clear that the amount, which has been paid to the Respondent-workman under the orders of this Court dated 29/10/2003 for compliance of Section 17B of the Industrial Disputes Act, shall not be recoverable from the Respondent-workman and he shall be entitled to reinstatement, if not already reinstated, within two months.