
(2010) 02 RAJ CK 0139
In the Rajasthan High Court

State of Rajasthan

APPELLANT

Vs

Sunder Lal and Another

RESPONDENT

Date of Decision : 10-02-2010

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2010) 1 WLN 655

Hon'ble Judges : Jagdish Bhalla, C.J;Prakash Tatia, J

Bench : Division Bench

Judgement

Prakash Tatia, J.—Heard learned Counsel for the parties.

2. The respondent-employee Sunder Lai workman was initially appointed on the post of Survey Ameen on 27.8.1971. It is alleged that his service was illegally terminated on 5.6.1973 then the matter was referred to the sole arbitrator who passed the award on 7.9.1978 directing the appellant to reinstate the respondent-employee. According to the respondent-employee he gave his attendance before the appellant on 21.9.1979 and he was permitted to join duties vide letter dated 18.5.1981, however, he was allowed to join the duty on 19.12.1981. He alleged that again his service was terminated on 31.5.1986. Then, the respondent raised industrial dispute upon which dispute was referred to the Labour Court, Udaipur. The dispute referred was that whether the termination of service of the respondent was legal and if not then to what relief the respondent was entitled.

3. Before the learned labour court appellant-State submitted reply to the claim of the respondent stating therein that the respondent did not join the duty and remained wilfully absent from duty and he was directed vide letter dated 18.5.1981 to join the duty but he joined the duty after 7 months on 19.12.1981. The respondent again remained absent from 10.5.1982 to 31.5.1982 and joined the duty on 1.6.1982 then again he remained absent on 4.6.1982 to 13.8.1984 and during this period, many letters were issued to the respondent by the appellant. The respondent then gave his joining on 14.8.1984 whereupon he was directed to join in the office of Assistant Engineer, Sirohi, but he did not join duty

there. According to the appellant, the respondent was then given notice dated 29.5.1986 of one month and also paid reinstatement compensation.

4. After evidence of the parties, the learned labour court passed the award in favour of the workman on 22.3.2002 and directed appellant to reinstate the respondent and also give his seniority and back wages. The tribunal also ordered that the amount which has been received by the respondent u/s 25F shall be deposited by the respondent within a period of one month from the date of award.

5. The State preferred the writ petition No. 1343/2003 which was dismissed by the learned Single Judge vide order dated 17.11.2008. It will be worthwhile to mention here that in the writ petition of the appellant interim order was passed by the learned Single Judge on 4.11.2004 and it continued till 17.11.2008 till the writ petition of the State was dismissed by the learned Single Judge, therefore, the respondent remained out of job.

6. In view of the subsequent event of attaining of age of superannuation by the respondent after assailing the impugned orders learned Counsel for the State submitted that if this Court is not inclined to set aside the award on merits then also it is a fit case where looking to the total period of service rendered by the respondent, the lump sum compensation may be awarded.

7. Learned Counsel for the respondent opposed both the submissions and submitted that the learned Single Judge has considered the facts in detail and dismissed the writ petition of the appellant, therefore, this Court may not interfere in the award which has been upheld by the learned Single Judge.

8. In view of the facts which are not in dispute that respondent-employee worked with the appellant for a very short period of 2 years initially then though he joined the duties but remained absent for sufficient long period and now has attained the age of superannuation, therefore, in view of the judgments of the Hon"ble Supreme Court delivered in the case of Rattan Singh v. Union of India, (1997) 11 SCC 396 Madhya Pradesh Administration v. Tribhuban reported in 2007 AIR SCW 2357 and Haryana Urban Development Authority Vs. Om Pal, this appeal deserves to be allowed in part as this was not a fit case for order of reinstatement of the respondent even in the year 2002 when the award was passed because even by that time, the respondent did not work for sufficient good length of service and now he has attained the age of superannuation and the Single Bench of this Court stayed the award on 4.11.2003, therefore also, the respondent has not rendered any substantial period of service.

9. Consequently, this appeal is allowed in part. The impugned judgment of Single Bench dated 17.11.2008 is set aside. The award dated 22.3.2002 is modified and in lieu of reinstatement and back wages, the respondent may be paid Rs. 1 lac as compensation.