

(2002) 01 AHC CK 0187
In the Allahabad High Court
Case No : C.M.W.P. No. 15669 of 1998

State of U.P.

APPELLANT

Vs

Industrial Tribunal (4) U.P., Agra and Another

RESPONDENT

Date of Decision : 30-01-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 6N

Citation : (2002) 2 AWC 1074 : (2002) 93 FLR 209 : (2002) 2 UPLBEC 1417

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Ashok Mehta, C.S.C, for the Appellant; Arvind Kumar, C.S. Sharma and A.K. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—The present writ petition has been filed by the employer-State of U. P. against the award dated 16.8.1997 passed by the Industrial Tribunal in adjudication Case No. 129 of 1994. Annexure-1 to the writ petition.

2. The State Government vide its order dated 10.10.1994 has referred the following dispute for adjudication before the Industrial Tribunal, which runs as under :

"Whether the termination of the services of Shri Ranwir Singh son of Shri Nirmal Singh by the employer w.e.f. 31.3.1990 was legal and/or proper? If not to what relief and with what other reliefs is the concerned workman entitled?"

3. The objection taken by the employer was that irrigation department of State of U. P. is not an industry. With regard to other aspect that the workman concerned has worked for more than 240 days in the preceding calendar months and that the provisions of Section 6N of the Industrial Disputes Act. 1947, have not been complied with before terminating the services of the workman concerned, this writ petition has come before this Court with a dispute that irrigation department is not an industry. The learned single Judge of this Court

has dealt with the case in State of U. P. Vs. Presiding Officer, Industrial Tribunal (V), Meerut and another, . and held that the decision in Deshrajs case holding the irrigation department to be an industry is the correct one. In this view of the matter and that the Somasetty's case, with regard to that the State is not an industry, which has been specifically overruled by three Judges' Bench of Supreme Court in the case of General Manager Telecom v. A. Srinivas and Ors. 1998 (1) AWC 658 ; 1998 (78) FLR 143 , but that part of Somasetty's case, holding that the State is not an industry, has also been considered.

4. In this view of the matter, in the aforesaid decision, this Court has held that the irrigation department is an industry with which I am in full agreement after holding that the irrigation department is an industry, rejecting the objection raised on behalf of the employer and rest of the two arguments that the workman concerned has not completed 240 days and that before terminating the services of the workman concerned, the provisions of Section 6N have not been complied with are covered by findings of fact, which cannot be assailed and possibly could not be assailed by the petitioner. It is admitted fact that the provision of Section 6N of the Industrial Disputes Act has not been complied with before terminating the services of the workman concerned.

5. In this view of the matter, this writ petition deserves to be dismissed and is hereby dismissed and the award of the labour court is upheld. The interim order, if any, stands vacated. However, parties shall bear their own costs.