

**(1997) 02 AHC CK 0021**

**In the Allahabad High Court**

**Case No :** C.M.W.P. No. 4762 of 1997 & Civil Miscellaneous Writ Petition No. 4762 of 1997

State of U.P.

APPELLANT

Vs

Labour Court and Another

RESPONDENT

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**Date of Decision :** 06-02-1997

**Acts Referred:**

**Citation :** (1997) 1 UPLBEC 358

**Hon'ble Judges :** M. Katju, J

**Bench :** Single Bench

**Advocate :** V.N. Agarwal, for the Appellant;

**Final Decision :** Dismissed

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## **Judgement**

M. Katju, J.—This writ petition has been filed against the impugned award dated 28.2.95 and the recovery certificate dated 13.8.96.

2. Heard learned standing counsel for the Petitioner. It appears that the Respondent No. 2 was an employee of the Petitioner and his service was terminated on 1.7.90. He raised an industrial dispute which was referred to Labour Court, Varanasi, which has passed the impugned award dated 28.2.95.

3. The version of the Respondent No. 2 was that he was an employee from 1.6.84 to 1.7.90 continuously but thereafter his service was terminated without giving retrenchment compensation and notice pay.

4. It appears that on behalf of the Petitioner one Sri R. K. Srivastava appeared on some dates before the Labour Court, but subsequently he stopped appearing, hence the ex parte award was passed against the Petitioner.

5. A restoration application was filed but that has been rejected by the order dated 11.4.96. A perusal of the order dated 11.4.96 shows that there was gross negligence on behalf of the Petitioner. It appears that the state authorities do not take interest in the litigation against the state since nobody is personally

responsible. In the order dated 11.4.96 it has been mentioned that no written statement was filed by the Petitioner before the Labour Court, Varanasi. The restoration application was filed on 14.12.95, i.e., after considerable delay. The Labour Court has held that the Petitioner did not take the case seriously as it was under the impression that it was not necessary for the State to comply with the Orders of the Labour Court. This impression was clearly misconceived.

6. Sri R. K. Srivastava who had appeared for the Petitioner on several occasions prior to 28.2.95 himself filed the restoration application dated 14.12.95. Thus, it is evident that he had appeared on some occasions on behalf of the Petitioner, but when he saw that the Petitioner was not taking interest seriously he stopped appearing.

7. Thus, there is no good ground to interfere in this case. Before parting . The Petitioner is dismissed with this case, it is, in my opinion, necessary to mention that several cases have come up before this court where it is found that ex parte orders or awards have been given against the State or the Statutory Corporations, simply because no interest has been taken by the Officers of the State Government or Statutory Corporations to contest the litigation seriously. It is obvious that since the officers concerned do not have any personal liability in the matter they do not take any interest in such matter and display total callousness and negligence, with the result that ex parte awards or orders are given against the State or Statutory Corporations. The ultimate burden goes on the tax payers because the officer does not have any liability personality. It is high time that this matter be brought to the notice of the State Government so that personal liability be fixed on the officers or officers who is responsible for this State of affairs and serious steps are taken to protect the interest of the State properly.

8. In the circumstances, I direct that disciplinary action shall be taken against the officers who were responsible in this case for allowing the award to go ex parte against the State. The disciplinary action must be initiated within three month from today by issuing charge sheet to the officers concerned and the proceedings must be completed within four months thereafter, and compliance report sent to this Court.

9. Let a copy of this judgment be sent by the Registrar of this court to the Chief Secretary, U.P. Government, Lucknow, and the Chief Secretary is directed to circulate copy of this judgment to Heads of all the Departments of the State Government and Statutory Corporations, so that serious steps are taken to prevent orders being passed ex parte against the State Government or Statutory Corporations in future due to the negligence of the officers concerned.