
(2002) 08 AHC CK 0176
In the Allahabad High Court
Case No : C.M.W.P. No. 45218 of 1999

State of U.P.

APPELLANT

Vs

Presiding Officer, Labour Court and Another

RESPONDENT

Date of Decision : 12-08-2002

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6N

Citation : (2002) 4 AWC 3281 : (2002) 95 FLR 720 : (2002) 3 UPLBEC 2404

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : S.C, for the Appellant; S.U. Khan, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J. 1. With the consent of learned counsel for the parties, who agreed that instead of deciding the stay vacate application, the matter itself may be heard and decided on merits, therefore, the matter is being heard today.

2. By means of present writ petition under Article 226 of the Constitution of India, petitioner-employer have challenged the award of the Labour Court, Dehradun dated 29.9.1997, Annexure-9 to the writ petition, passed in Adjudication Case No. 108 of 1997. The following dispute was referred to by the State Government in exercise of its power u/s 4K of U. P. Industrial Disputes Act, 1947, for adjudication before the labour court :

^^D;k lsok;kstdksa }kjk Jfed Jh Qqjdku vgen iq? Jh fulkj vgen dks lsok;sa fnuk? d 31-1-1991 ls lekIr fd;k tkuk mfpr rFkk@vFkok oS/kkfud gS\\ ;fn ugha rks lacaf/kr Jfed D;k fgrykHk@vuqrks"k ?fjyhQ? ikus dk vf/kdkjh gS rFkk vU; fdl fooj.k o frfFk lfgr **

3. After issuance of notice to the learned counsel for both the parties, they exchanged their pleadings and also adduced evidences. The case set up by the employer was that Furkan Ahmad, the concerned workman was appointed as Tube well operator on 15.1.1985, for a period of three years. Thereafter again by

the order dated 17.3.1988, he was appointed for further three years, but his services were terminated in the year 1991, because the tube well on which he was appointed, has failed and also the workman concerned was not residence of that particular village. Learned counsel for the petitioner, therefore, argued that this being the fixed term appointment, contrary to the conditions of the appointment itself, the workman is not entitled for any relief from the labour court and the labour court taking a contrary view has erred in law. The sheet anchor argument advanced on behalf of the petitioner-employer was that letter of appointment itself speaks that the person concerned should be of the same village where the tube well is situated and it is contrary to the direction issued by the authority sometime in August, 1993. The labour court has dealt with it and has recorded that this direction is of the year 1993, whereas the workman has been appointed in the year 1985 and the said direction is applicable only for officers and not for the workmen. It has further recorded that by the letter dated 17.3.1988, the workman was again appointed for three years, but there was no mention in the appointment letter that the workman should be of the same village where the tube well is situated. From the evidence on record, it is admitted that the workman has worked continuously from 15.1.1985 till 31.1.1991. It is also admitted that the provision of Section 6N of U. P. Industrial Disputes Act, 1947, has not been complied with before terminating the services of the workman. The labour court has also recorded a finding that if his services have not been terminated, he could have been regularised. In this view of the matter, the labour court have considered all the aspects of the matter and recorded a finding that the termination of the workman's services being contrary to the Section 6N of the Act, the workman concerned is entitled for the re-instatement and also back wages but in view of the fact that new set of rules have come into force the award of the labour court says that the workman shall be entitled to get lump sum amount of rupees five thousand in lieu of back wages and rupees one thousand as cost of the litigation with a further direction that the department shall regularise the workman concerned in accordance with the provision of Regularisation Rules, 1996. In view of the findings recorded by the labour court, this Court in exercise of its power under Article 226 of the Constitution of India declines to interfere with the award of the labour court. The writ petition therefore, is devoid of any merits and is accordingly dismissed. The interim order, if any, stands vacated. However, there will be no order as to costs.