

(2009) 11 UK CK 0011
In the Uttarakhand High Court

State of Uttarakhand and Another	Vs	APPELLANT
Jagat Singh Sirola and Another		RESPONDENT

Date of Decision : 09-11-2009

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 2

Citation : (2010) 124 FLR 465 : (2010) 2 LLJ 822

Hon'ble Judges : Tarun Agarwala, Acting C.J.

Bench : Single Bench

Final Decision : Allowed

Judgement

Tarun Agarwala, Ag. C.J.

1. List has been revised. The learned counsel for the opposite parties is not present. I have heard Shri Vinod Nautiyal, the learned Addl. Advocate-General for the petitioner.
2. The present writ petition has been filed against an award of the Labour Court directing reinstatement of the workman with continuity of services and with full back-wages. The State of Uttarakhand, through the Forest Department, being aggrieved by the said award, has filed the present writ petition.
3. The facts leading to the filing of the writ petition is, that the workman alleged himself to be a Chowkidar appointed in the Forest Department of the State Government. The workman alleged that his services were terminated on July 7, 1997 without giving any opportunity of hearing or without paying retrenchment compensation since he had worked more than ten years. The respondents denied the claim of the workman contending that he had never worked continuously, and above all, the Forest Department being a department of the Government, was not an industry as defined u/s 2(k) of the U.P. Industrial Disputes Act and, therefore, no reference could be raised under the U.P. Industrial Disputes Act nor could any matter be referred for adjudication before a Labour Court or Tribunal. Even though this issue was specifically raised, the Labour Court, without

considering this matter, directed reinstatement of the workman with continuity of service and with full back-wages on the strength of a finding that the workman had worked continuously for ten years without any break in service. The petitioner being aggrieved has now filed the present writ petition.

4. Having heard the learned Addl. Advocate-General for the petitioner, the Court finds that the employer which is the Forest Department, is a limb of the State Government performing sovereign functions and, is not an industry as defined u/s 2(k) of the U.P. Industrial Disputes Act. The Supreme Court in *State of Gujarat and Others Vs. Pratamsingh Narsinh Parmar*, has held that the Forest Department of the State Government is not an industry as defined under the Industrial Disputes Act. The said judgment is squarely applicable to the present case.

5. In the light of the aforesaid, the Forest Department not being an industry, the question of raising an industrial dispute under the U.P. Industrial Disputes Act does not arise. Consequently, all proceedings initiated pursuant to the reference including the award passed by the Labour Court is *ex facie* illegal and without any jurisdiction. In view of the aforesaid, the award of the Labour Court cannot be sustained and is quashed. The writ petition is allowed.