
(2002) 09 AHC CK 0158
In the Allahabad High Court
Case No : C.M.W.P. No. 23552 of 1998

Sukhdeo

APPELLANT

Vs

Industrial Tribunal and Another

RESPONDENT

Date of Decision : 12-09-2002

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6N

Citation : (2003) 2 AWC 1220 : (2003) 96 FLR 547

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Suman Sirohi, for the Appellant;

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—This writ petition was heard by me on 12th September, 2002 and after hearing learned counsel for the parties, I have dismissed the petition for the reasons to be recorded later on. Now here are the reasons for dismissing the aforesaid writ petition.

2. By means of the present writ petition under Article 226 of the Constitution of India the petitioner, who was a workman and worked with the employer-Adhikshak Farm, Aalu Evam Masala Utpadan Kendra, district Deoria, sought the reference, which has been referred to by the State Government vide its order dated 13.2.1980, before the labour court for adjudication in the following form :

^^D;k lsok;kstdksa }kjk vius Jfed lq[knso iq= nqD[kh dks fnukad 1-10-1977 ls lsok lekIr fd;k tkuk mfpr rFkk@vFkok oS/kkfud gS \\ ;fn ugha] rks lEcU/kr Jfed D;k ykHk@vuqrks"k ?fjyhQ? ikus dk vf/kdkjh gS rFkk fdl vU; fooj.k ds lkFk **

3. The labour court on receipt of the aforesaid reference, issued notices to the parties to complete the pleadings and after completion of the pleadings had afforded opportunity to the parties to adduce the evidence. The case set up by the workman before the labour court was that before termination of his services illegally w.e.f. 1.10.1977, the workman has worked with Pant Nagar University,

Nalnitil w.e.f. 1969 to 1975, for which he was issued a certificate also that he has worked at U. P. Agricultural University from 1969 to 1971. So far as the working with the present employer is concerned, the case set up by the workman was that he has been transferred from the Agricultural University, Kanpur Nagar, to the aforesaid Farm at Deoria, where he has admittedly worked for 174 days as given in detail and quoted by the labour court in its award from February, 1977 to October, 1977. The contention of learned counsel appearing on behalf of the petitioner-workman was that since he was transferred from the Pant Nagar University to the present employer, which is an organisation of State of U. P. taking into consideration the services rendered at Agricultural University, Pant Nagar, he has definitely worked for more than 240 days. The document from the Pant Nagar University was also summoned by the labour court and after considering the material evidence on record, it has recorded a finding in the following words "The workman Sukhdeo had been working as a daily wage worker in the establishment of the present employer at Deoria. The days of working by the workman in last few months not even 12 months preceding the date of termination is only 174. The workman has not worked for 240 days for last 12 months preceding the date of termination. Thus, there was no question of giving notice or payment of compensation arises in the present case and the averments to the contrary made by the workman cannot be believed." Learned counsel for the petitioner tries to assail these findings that the aforesaid findings are not supported by the material, which in my opinion, is not correct. Even the records were summoned from the Pant Nagar University and the labour court has categorically recording a finding that the employment of the workman concerned with the employer is certainly different and distinct from the employment in the present State Government establishment and, therefore, irrespective of the fact that there is no material on record that the workman concerned has worked, as alleged, from 1969 to 1975, He has also not worked even for 240 days in the preceding calendar year in the year 1977 before the termination of his services w.e.f. 1.10.1977. Learned counsel appearing on behalf of the petitioner has relied upon two decisions, in Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation, . I have gone through the aforesaid decisions and in my opinion ; these decisions do not help the learned counsel for the petitioner. In the teeth of the findings recorded by the labour court that the workman concerned has not completed even 240 days in the preceding calendar year with the present employer before the termination of his services w.e.f. 1.10.1977, in my opinion, the workman cannot succeed and I do not find any error in the award of the labour court, much less any error of law, which may warrant any interference by this Court in exercise of its power under Article 226 of the Constitution of India.

4. In view of what has been stated above, this writ petition is devoid of any merit and is accordingly dismissed. The interim order, if any, stands vacated. However, there will be no order as to costs.