
(2013) 02 AHC CK 0229

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 735 of 2005

Suresh Prasad and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 01-02-2013

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2013) 4 ADJ 541 : (2013) 137 FLR 594

Hon'ble Judges : Sunita Agarwal, J;Laxmi Kanta Mohapatra, J

Bench : Division Bench

Advocate : Bhoopendra Nath Singh, for the Appellant; Govind Saran, S.C. and S.K. Srivastava, for the Respondent

Final Decision : Allowed

Judgement

1. Heard Sri Bhoopendra Nath Singh, learned counsel for the petitioners and Sri S.K. Srivastava, learned counsel for the respondents. This writ petition has been filed challenging order dated 5.8.2004 passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad in Original Application No. 1046 of 1999.

2. The petitioners had filed Original Application before the Tribunal for quashing the order of termination with effect from 16.9.1986 and also for a direction to treat them as class IV employees and reinstate them with continuity in service with full back wages.

3. The case of the petitioners before the Tribunal was that they were appointed on the post of Coal Mazdoor/Khalasi in the category of Class IV employee in G.M.C. Shed Juhi under Loco Foreman, Northern Railway, Kanpur through contractors. They were doing work of unloading and loading of coal, removal of ashes and picking of cinders and cleaning of Railway Lines. Though they started working from different dates, they were not allowed to work further after 16-9.1986 and the contract for such work was given to Railway Parcels and Goods Porter Co-operative Society Limited, Aligarh. When the union demanded

regularisation against Class-IV post and also for equal pay for equal work, such demand was not considered. It was also case of the petitioners that they had not been served with any order of termination but were not permitted to work after 16.9.1986. Therefore, termination is alleged to be in violation of Section 25-F of the Industrial Disputes Act, 1947.

4. A preliminary objection was raised by the respondents before the Tribunal with regard to maintainability of the Original Application and it was also contended that the petitioners had no right to claim for regularisation. The tribunal surprisingly in the impugned order directed the Assistant Labour Commissioner to look into grievance of the petitioners and decide the dispute.

5. Under the Administrative Tribunal Act, the powers of the Tribunal have been defined. When a dispute is brought before the Tribunal, the same is required to be adjudicated by the Tribunal. Therefore, the Tribunal should have adjudicated the dispute raised in the Original Application on the basis of submissions made by the parties and documents attached to the Original Application/counter-affidavit etc. It could have not shifted the responsibility by directing the Assistant Labour Commissioner to decide such issue. We are, therefore, of the view that the order impugned before us is liable to be set aside. We, accordingly, allow the writ petition setting aside the impugned order and remit the matter back to the Tribunal to decide the Original Application on its own merit on the basis of available record. Since the Original Application is of the year 1999, the Tribunal shall make efforts for early disposal of the Original Application preferably, within three months from the date of filing of a certified copy of this order before it.