
(2010) 11 RAJ CK 0134
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6541 of 2010

Thakar Ram

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 24-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 25F

Citation : (2010) 11 RAJ CK 0134

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—To assail validity, correctness and propriety of the award dated 26.6.2008 passed by the Labour Court, Sriganganagar, this petition for writ is preferred.

2. Learned Labour Court while answering the reference made to it by appropriate government vide notification dated 25.5.2006 held that termination of the workman by the employer Assistant Engineer, Ghagghar Irrigation Sub Division, Hanumangarh was not bad in view of the fact that the workman failed to prove continuous service and also for the reason that the workman raised the dispute after a lapse of 10-11 years.

3. While assailing validity of the award aforesaid the contention of counsel for the Petitioner workman is that the Industrial Disputes Act, 1947 nowhere prescribes limitation for raising industrial dispute, therefore, the issue of delay taken into consideration by the Labour Court is absolutely unwarranted. It is also urged that the Labour Court failed to appreciate that on inclusion of leaves and holidays available the workman completes the continuous service as required to seek protection provided u/s 25F of the Act of 1947.

4. True it is, the Act of 1947 nowhere prescribes any limitation for raising an

industrial dispute, however, it does not mean that a dispute can be raised at any point of time. The adjudicating body on examination of facts of the case can certainly reach at a conclusion that the delay caused in raising the dispute is sufficient for not entering into merits of the case. A party cannot be permitted to extend respite to a stale matter, wherein the adjudication itself is difficult due to loss of evidence because of passage of time or where third party rights have been created or where the issue has been settled or forgotten long back. A threat of facing litigation cannot be permitted for an indefinite period.

5. In the instant case at first instance a dispute raised by the workman was not referred to the appropriate government and subsequent thereto the dispute was again raised and referred after a lapse of about 10-11 years for adjudication. The court found it difficult to examine the merits after lapse of such a period. I do not find any wrong with the conclusion of the Labour Court that the delay caused in the instant matter is fatal.

6. Though there was no need to enter into merits of the case after holding that the dispute suffers from delay, but the Labour Court to some extent examined the issue as to whether the workman was in continuous service of the employer or not, and after considering all relevant facts including the position regarding computation of paid holidays while determining, continuous service reached at a conclusion that the workman did not complete 240 days as required. The finding so given is based on appreciation of facts and that in no manner requires interference of this Court while exercising powers under Articles 226 and 227 of the Constitution of India.

7. Accordingly, this petition for writ is dismissed.