

(2009) 09 RAJ CK 0057
In the Rajasthan High Court

The Dy. Conservator of Forest	Vs	APPELLANT
Mangu Singh and Another		RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

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

Citation : (2010) 1 WLN 109

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—To question validity, correctness and propriety of the award dt. 27.10.1999 passed by Labour Court, Jodhpur in Labour Dispute No. 229/95, this petition for writ is preferred.

2. In brief, facts of the case are that the appropriate government by its notification dt. 24.11.1995, referred an industrial dispute for its adjudication in the terms "Whether the Dy. Conservator of Forest, Department of Forest, Nagaur was justified and valid in terminating services of workman Mangu Singh S/o Narayan Singh Shekhawat on 22.01.1993? If not, then for what relief, the workman is entitled?"

3. In statement of claim, the workman stated that he entered in the services of the employer on 16.09.1987 being appointed as Cattle Guard @ Rs. 22/- per day. In the provisional seniority list issued by the competent officers of the Department of Forest on 30.12.1990, his name was shown at S. No. 133. On 21.06.1992 at about 00:00 hrs certain catties entered into the forest and because of that he received certain injuries in his leg and pelvis region. He undergone treatment at Government Hospital, Sikar, S.M.S. Hospital, Jaipur and then Bombay Hospital, Bombay. On 22.01.1993, on reporting the duties, he was not permitted to join the same and by a telegraphic order, his services were terminated. As per the workman, his termination from service was in violation of

principles of natural justice and also in non-compliance of the mandatory condition precedents for a valid retrenchment.

4. In written, the employer came forward with a case that no incident took place on 21.06.1992 as alleged. As per the employer, the workman voluntarily remained absent from duties after the month of February 1992. Learned labour Court during the course of adjudication recorded statements of Neeru Singh, Mangu Singh, Karan Singh and Rewat Singh in support of the claim of the workman. Neeru Singh, Karan Singh and Rewat Singh did not come forward for cross-examination, therefore, the statements given by them were not treated admissible in evidence. Learned labour Court on basis of the evidence, those are the statements of workman Mangu Singh and the documents relevant to his treatment at Government Hospital, Sikar, SMS Hospital, Jaipur and Bombay Hospital, Bombay, reached at the conclusion that the workman met with an accident and received injuries on 21.06.1992 while discharging the duties as Cattle Guard. Learned labour Court also reached at the conclusion that the termination of the workman was made without adhering the principles of natural justice and as such the same was declared bad. In alternative, learned labour Court also held that termination of the workman was in violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947. On reaching at the conclusion that the termination of the workman was bad, learned labour Court allowed back wages in a tune of 50% with a direction for reinstatement in service.

5. While giving challenge to the award impugned, it is contended by learned Counsel for the petitioner employer that the labour Court failed to appreciate the evidence in correct prospective. As a matter of fact, the workman voluntarily left the services and as such the entire story of getting injuries by the catties was concocted.

6. On the other hand, Mrs. Nupur Bhati appearing on behalf of the respondent workman asserted that a finding of fact is given by the labour Court and that is not required to be interfered by this Court while exercising powers under Article 226 and 227 of the Constitution of India. She also urged that the certificates produced in evidence by the workman and relied by the labour Court amply proves that an accident took place, wherein the workman received serious injuries.

7. Having considered the rival arguments and on examination of the award impugned, it is apparent that the labour Court thoroughly and minutely examined the evidence available on record. Learned labour Court on basis of the medical certificates and other documents relating to treatment of the workman, found that the workman undergone treatment at various places for serious injuries. The learned labour Court also found that the workman was placed in the seniority list of the Cattle Guards and he was in employment since September 1987 and as such by pondering evidence available, gave a specific finding. The finding of fact given by the labour Court in no way can be termed and treated as

perverse. On the count that on basis of the same evidence, a different view could have also been taken, this Court cannot interfere with a finding of fact as that will amount to appreciation of evidence. Such appreciation is not required to be made, if the finding is not perverse.

8. It is also relevant to note that in pursuant to the award dt. 22.10.1999, the petitioner employer has already reinstated the workman. As such, I do not find any reason to interfere with the award impugned.

9. Accordingly, the petition for writ is dismissed.