
(2011) 12 SHI CK 0064
In the High Court Of Himachal Pradesh
Case No : CWP No. 898 of 2008

The Executive Engineer, Himachal Pradesh State Electricity
Board, Electrical Division Manali, District Kullu, H.P.

APPELLANT

Vs

Sh. Girdhari Lal

RESPONDENT

Date of Decision : 20-12-2011

Acts Referred:

Citation : (2011) 12 SHI CK 0064

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Justice Sanjay Karol, J.

In this petition the Executive Engineer, Himachal Pradesh State Electricity Board has assailed the award dated 7.4.2008 (Annexure P-5) in Reference No. 86/2004 (RBT 59/04). Reference to be adjudicated by the Tribunal reads as under:-

Whether the termination of services of Shri Girdhari Lal s/o Sh. Jagdish Chand, Ex. Daily wages (Electrical) Division, Manali, District Kullu, H.P. w.e.f. 21.6.2000 without complying the provisions of the Industrial Disputes Act, 1947 and whereas junior to him are retained as alleged by the workman is proper and justified? If not, what relief of service benefits the above aggrieved workman is entitled to?

2. The Tribunal after considering the evidence led by the parties, in my considered view, has rightly come to the conclusion that the workman was able to prove the earlier decision with respect to similarly situated workman, rendered by the Tribunal in Reference No. 86/2004, decided on 22.5.2006 also titled as Girdhari Lal v. Executive Engineer, HPSEB Division, Manali, Distt. Kullu, H.P. (Annexure P-3) as also the fact that persons junior to him were allowed to continue to work whereas he being senior, was disengaged in spite of the fact that work was otherwise available and that principle of "last come first go" was

done away with and not followed by the employer. In fact Tribunal has referred to and relied upon the testimony of the witnesses of the employer to arrive at such conclusions.

3. As such no ground for interference is made out. In my considered view, Tribunal rightly came to the conclusion that the petitioner herein had wrongly dispensed with the services of the workman (respondent No. 1) and has thus rightly directed reengagement of the workman in the same capacity in which he was rendering work prior to his disengagement. Significantly Tribunal has only directed that break in service shall not affect seniority of the workman who shall not be entitled to any back wages. I see no illegality, perversity or irregularity in such findings returned by the Tribunal. Nothing to this effect has also been pointed out.

4. It is also noticed that, pursuant to the award workman now stands re-engaged on daily wage basis as Beldar which is evident from order dated 3.7.2008 placed on record by Mr. R. K. Sharma, learned counsel for respondent No.1. The aforesaid petition is thus dismissed.

Petition stands disposed of, so also the pending application(s), if any.