
(2012) 07 SHI CK 0139
In the High Court Of Himachal Pradesh
Case No : CWP No. 2077 of 2009-D

The Executive Engineer, H.P., IPH Shahpur, District Kangra,
H.P.

APPELLANT

Vs

Sanjeev Kumar

RESPONDENT

Date of Decision : 23-07-2012

Acts Referred:

Citation : (2012) 07 SHI CK 0139

Hon'ble Judges : V.K. Ahuja, J

Bench : Single Bench

Advocate : J.S. Guleria, Assistant, A.G, for the Appellant; Rahul Mahajan, for the Respondent

Judgement

Justice V.K. Ahuja, J.—Present writ petition has been filed by the Executive Engineer, H.P. challenging the award, dated 20.1.2009, passed by the learned Presiding Judge, Labour Court-cum-Industrial Tribunal, Dharamshala, H.P. Briefly stated, the facts of the case are that a reference was made to the Labour Court by the State Government as to whether the services of respondent Sanjeev Kumar were terminated without complying with the provisions of the Industrial Disputes Act. The learned Labour Court entered into reference and vide its impugned award allowed the petition and held that the respondent was entitled to reinstatement and also for continuity of service. The respondent was also held entitled for 50% back-wages from the date of his retrenchment in 2001.

2. The petitioner has challenged the order vide which 50% back-wages were given to the respondent from the date of his retrenchment. In view of the fact that the respondent had not worked for the period for which back-wages were awarded to him, I am of the opinion that the respondent is not entitled to the said relief. The respondent is only entitled to the relief that his services were wrongly terminated and also to continuity of service, but in so far as the award granting 50% back-wage to the respondent is concerned, the same is not sustainable in the eye of law.

3. In view of the facts of the case, the petition filed by the petitioner is partly allowed to the extent that the respondent shall not be entitled for back-wages, but shall be entitled to other reliefs as granted by the learned Labour Court. The respondent shall be reinstated by the petitioner within a period of two months from the date of receipt a copy of this judgment. The petition stands disposed of accordingly, so also the pending application(s), if any.

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