

(2002) 02 SC CK 0015

In the Supreme Court Of India

Case No : Civil Appeal 1283 of 2002 and Civil Appeal 1284 of 2002

The Range Forest Officer

APPELLANT

Vs

S.T. Hadimani
State of Karnataka and Another Vs S.T.
Hadimani

RESPONDENT

Date of Decision : 15-02-2002

Acts Referred:

Citation : AIR 2002 SC 1147 : (2002) AIRSCW 909 : (2002) 2 AWC 1268 Supp :
(2002) 93 FLR 179 : (2002) 2 JT 238 : (2002) LabIC 987 : (2002) 1 LLJ 1053 :
(2002) 2 MLJ 137 : (2002) 2 RLW 319 : (2002) 2 SCALE 242 : (2002) 3 SCC
25 : (2002) 1 SCR 1080 : (2002) 3 SCT 382

Hon'ble Judges : B. N. Kirpal, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : Sanjay R. Hegde, for the Appellant; Mohan V. Katarki and Ashok
Kumar Sharma, for the Respondent

Final Decision : Disposed Of

Judgement

1. Leave granted.

2. In the instant case, dispute was referred to the Labour Court that the respondent had worked for 240 days and his service had been terminated without paying him any retrenchment compensation. The appellant herein did not accept this and contended that the respondent had not worked for 240 days. The Tribunal vide its award dated 10th August, 1998, came to the conclusion that the service had been terminated without giving retrenchment compensation. In arriving at the conclusion that the respondent had worked for 240 days, the Tribunal stated that the burden was on the Management to show that there was justification in termination of the service and that the affidavit of the workman was sufficient to prove that he had worked for 240 days in a year.

3. For the view we are taking, it is not necessary to go into the question as to whether the appellant is an "industry" or not, though reliance is placed on the decision of this Court in State of Gujarat and Others Vs. Pratamsingh Narsingh

Parmar, . In our opinion the Tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside. However, Mr. Hegde appearing for the Department states that the State is really interested in getting the law settled and the respondent will be given an employment on compassionate grounds on the same terms as he was allegedly engaged prior to his termination, within two months from today.

4. The appeals are disposed of in the aforesaid terms.