
(2016) 05 RAJ CK 0149

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 960 of 2015

The State of Rajasthan

APPELLANT

Vs

Bhagawati Lal

RESPONDENT

Date of Decision : 23-05-2016

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2016) 3 DNJ 1371

Hon'ble Judges : Mr. Govind Mathur and Mr. G.R. Moolchandani, JJ.

Bench : Division Bench

Advocate : Mr. Dinesh Kumar Ojha, assisting counsel to Mr. Prithvi Raj Singh, Additional Advocate General, for the Appellants; Mr. Sikandar Khan, Advocate, for the Respondent No. 1

Final Decision : Dismissed

Judgement

1. To question correctness of the order dated 05.05.2015 passed by learned Single Bench in S.B. Civil Writ Petition No. 919/2002, this intra court appeal is preferred.

2. The only argument advanced by learned counsel for the appellants is that learned Single Bench erred while dismissing the writ petition without examining merits of the case merely on the count that the respondent-workman was reinstated in service in compliance of the award dated 19.09.2001 passed by the Labour Court, Bhilwara and further he stood retired from service on attaining the age of superannuation.

We do not find any merit in the argument advanced.

3. Briefly stated, facts of the case are that the appropriate Government by a notification dated 09.08.1995 referred an industrial dispute for its adjudication to the Labour Court, Bhilwara in the terms that :

"Whether the termination of workman Bhagwati Lal S/o Shri Bhoora Lal Khatik

(represented by the General Secretary, Bhartiya Van Vibhag Karmachari Sangh, 11/97, Bhoopalganj, Bhilwara) and non-grant of semi-permanent status with effect from 16.12.1992 and 01.01.1989 respectively is just and valid? If not, then for what relief and amount the workman is entitled?"

4. Learned Labour Court after examining the entire evidence available on record arrived at the conclusion that the workman was retrenched from service without adhering the provisions of Section 25-F of the Industrial Disputes Act, 1947, therefore, his termination from service in the form of retrenchment is void ab initio. The Labour Court also held that as per the applicable standing orders, the workman was entitled for semi-permanent status on completion of two years of service as Cattle Guard in the office of the Deputy Conservator of Forest, Social Forestry, Department of Forest, Bhilwara.

5. The appellant being aggrieved by the award preferred a petition for writ in the year 2002, which came to be dismissed by the judgment impugned. During pendency of the writ petition, the workman was reinstated in service and he was allowed to complete his tenure of service being retired in the year 2008 on attaining the age of superannuation.

6. Learned Single Bench after examining all facts of the case, especially that the workman was already reinstated and retired from service, did not choose to interfere in the matter.

7. It is well-settled that the remedy under Article 226 of the Constitution of India is a discretionary one and the court while examining a petition for writ is required to keep in mind several other relevant aspects.

8. We are of the considered opinion that reinstatement in service and retirement of the respondent-workman in the year 2008 were important aspects before the writ court while adjudicating the issue. Learned Single Bench in the year 2015 found it appropriate not to interfere with the award impugned as that would have caused an injustice with the workman, who already stood retired long back.

9. In view of it, we do not find any just reason to interfere with the order impugned. The appeal is dismissed.