
(1996) 09 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3680 of 1995

The State of Rajasthan

APPELLANT

Vs

Smt. Lassi K. and Another

RESPONDENT

Date of Decision : 13-09-1996

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (1996) 3 RLW 545 : (1997) 1 WLC 422 : (1996) 2 WLN 684

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Judgement

A.K. Parihar, J.—The petitioner has challenged the award dated 23.7.1994, passed by Judge, Labour Court, Kota, by which termination of services of respondent No. 1 was declared to be illegal and unjustified and the respondent-workman was held entitled for reinstatement with full back wages and continuity of service.

2. The facts, as come on record, are that respondent No. 1 was engaged as typist on daily wages basis on 28.9.1984 in the office of Executive Engineer, Public Health and Engineering Department, Division-I, Kota. The contention of the respondent No. 1 was that she was removed from service w.e.f. 16.10.1985 without notice and without complying with provisions of Industrial Disputes Act, 1947, whereas she has completed more than 240 days of service in the employment of the department as referred to above. After making representations to the Authorities concerned the respondent No. 1 filed an industrial dispute before the Conciliation Officer on 1.11.1985 itself. Before Conciliation Officer, Kota, the plea of the department was that the services of the respondent-workman were only terminated because of availability of a regularly selected typist in the office. Non-compliance of Section 25F was admitted by the department before the Conciliation Officer. Thereafter, the dispute was referred by State Government to the Labour Court for adjudication. In reply to the statement, filed by respondent-workman, the department took a new plea that

the respondent-workman stopped coming on duty on her own. However, it was admitted that respondent-workman had worked for 306 days for the period from 28.9.1984 to 15.10.1985. The respondent-workman submitted her affidavit and was cross-examined by representative of the petitioner. No evidence was led by the department to controvert the evidence led by the concerned workman. Only an affidavit of one Mr. V.K. Virmani, Assistant Engineer, PHED, Division-I, Kota, was submitted, however, that is of no consequence because the witness was not produced for cross examination. Moreover, even otherwise, in affidavit also Mr. Virmani has only stated that the services of the respondent workman were not terminated and she herself has stopped to come on work. No other record was produced by the Department.

3. The Labour Court, after considering the material on record, held that admittedly the concerned workman had worked for more than 240 days and there was non-compliance of Section 25F of the Industrial Disputes Act, 1947. In absence of any evidence on behalf of the department, the Labour Court had no option but to pass the award in favour of the concerned workman.

4. Mr. Manish Bhandari, appearing on behalf of the petitioner, submits that the appointment of the respondent-workman itself was irregular and, as such she was not entitled for any relief. However, the contention of the counsel for the petitioner cannot be accepted at this stage because no such plea was* taken either before the Conciliation Officer or before the Labour Court. No reason whatsoever has been submitted by the petitioner as to why the evidence could not be produced before the Labour Court. Even no attempt was made by the department before the Labour Court to produce any evidence, even after the same was closed by the Labour Court way back on 13.4.1993.

5. After having carefully gone through the award passed by the Labour Court as well as the record of the Labour Court, which has been summoned by this Court, I find no error or illegality in the award dated 23rd of July, 1994, passed by Labour Court and the writ petition is accordingly dismissed as having no merit.

6. Before parting with the case, I deem it necessary to observe that because of sheer negligence on the part of the officials concerned, the cases are not properly defended by the department before various courts and only because of such inaction of the officials concerned, the department and the State Government has to bear huge financial burden as well. Present is the fit case where the concerned officials should be held responsible for not conducting the case properly before the Labour Court. I would have directed the Head of the Department concerned to recover the back wages from the salary of the official concerned responsible for such negligence, however, it will be too harsh for their families and, as such, I direct the Chief Engineer, Public Health and Engineering Department, Jaipur to make a necessary enquiry in the matter and the officials held responsible for negligence in the present matter, should be awarded a strict warning and the same should be entered in their service book after giving them proper opportunity of explanation. The Deputy Registrar (Judicial) is directed to

send a copy of this order to the Chief Secretary, State of Rajasthan as well as the Chief Engineer, Public Health and Engineering Department, Jaipur for further necessary action.