
(2005) 02 RAJ CK 0018

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3801 of 1997

Umesh Kumar Soni

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 01-02-2005

Acts Referred:

Industrial Disputes Act, 1947 — Section 12(5)

Citation : (2005) 3 RLW 1936 : (2005) 2 WLC 240

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : Rajiv Bandhu, for the Appellant; Alok Garg, for the Respondent

Final Decision : Allowed

Judgement

Ashok Parihar, J.—Petitioner has challenged the order dated 21.11.1995, passed by respondent No. 1 u/s 12(5) of the Industrial Disputes Act, 1947 refusing to refer the dispute in regard to termination of services of petitioner only on the ground that there has been a charge of theft and the resignation tendered by the petitioner having been accepted by the management.

2. After hearing counsel for the parties, I have carefully gone through the material on record.

3. As has come on record, a resignation was submitted by the petitioner on 24.02.1995 and the same was accepted immediately. It has been submitted by the petitioner that on the very same day the petitioner protested against the action of the management in getting the resignation by force on threat of the security guards. However, written protest was also made to the management on 28.02.1995 with the prayer for taking the petitioner on duty and thereafter, complaint was submitted before the Conciliation Officer on 08.03.1995.

4. The management, on the other hand, has submitted that there has been a charge of theft of travelling cheque and for that reason, the petitioner submitted his resignation on 24.02.1995 and the same was accepted by the management

immediately. The decision taken by the respondent Labour Department on administrative side hardly call for the interference of this Court.

5. In view of the rival claims by both the parties, in my opinion, the respondent No. 1 could not have decided the matter finally on administrative side. It is only a competent court which can decide such issues of fact and law after taking evidence of both the parties. Apart from the plea of resignation been taken by force and under threat, even the management could have proved the charge of theft against the petitioner and only a competent court after due appreciation of evidence could have granted proper relief to the concerned workman. The adjudication could not have been denied by the respondent No. 1 in such a cursory manner on wholly untenable grounds. Even the administrative decision in such matters must appear to be judicious, *moreso*, when adjudication is denied to a workman. Though learned counsel for the respondent management has relied upon various judgments of Supreme Court, however, each case has to be considered on its own facts.

6. Accordingly, the writ petition is allowed. The impugned order dated 21.11.1995 passed by the respondent No. 1 is quashed and set aside. More than a year has lapsed. There is no point in again leaving the matter of the. discretion of respondent No. 1 when the adjudication has still to be made by a competent court. The respondent No. 1 is now directed to refer the dispute in regard to termination of services of the petitioner for adjudication to a competent court within thirty days from the date of receipt of certified copy of this order. Looking to the facts of the present case, if any such reference is made to a court, it is expected from the court concerned to expedite the matter.