
(2002) 04 AHC CK 0018
In the Allahabad High Court
Case No : C.M.W.P. No. 36622 of 1998

U.P. State Electricity Board and Another	APPELLANT
Vs	
Presiding Officer, Labour Court-II, U.P., Agra and Others	RESPONDENT

Date of Decision : 12-04-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Industrial Disputes Act, 1947 — Section 6N

Citation : (2002) 2 AWC 1609 : (2002) 93 FLR 836 : (2002) 4 LLJ 198 : (2002) 2 UPLBEC 1590

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Ranjeet Saxena, for the Appellant; J.N. Mishra and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—By means of the present writ petition under Article 226 of the Constitution of India, petitioners-employer have challenged the award passed by the Presiding Officer, Labour Court. II. U, P. Kanpur Nagar dated 20.1.1998. Annexure-19 to the writ petition, passed in Adjudication Case No. 1 of 1995, arising out of the following reference made by the State Government vide its order dated 21.1.1994 for adjudication before the labour court :

"Whether the termination of services of two workmen from the dates mentioned in front of their names by the employer were illegal and Invalid? If yes, what relief the concerned workmen are entitled and from which date etc."

Sl. No.

Name of Employee

Father's Name

Date of Termination

1.

Ram Kishore

Sri Chokhe Lal

30.9.1991

2.

Ram Sajeewan Singb

Sri Parmatmadeen singh

31.1.1992

2. Notices were issued to the parties concerned and the parties have filed their written statements and adduced their evidence. Before the labour court after the exchange of the pleadings of the parties, the stand of the respondents-workmen was that Ram Kishore and Ram Sajeewan Singh were appointed with the employer on 1.5.1976 on daily wages and they have worked continuously from the date of appointment till 30.9.1991. On 30.9.1991 and 31.9.1991, respectively, their services were terminated by an oral order without complying with the provisions of Section 6N of the U. P. Industrial Disputes Act. 1947. which is illegal. The employer apart from arising some technical objections with regard to the reference, they have basically taken a ground that the workmen since have not given the proper name of the officer, who has terminated their services and that the workmen were not employed with the employer. It has also been stated by the employer that since the workmen were engaged on muster role at Baberu power house and thereafter other places and there was a restriction to appoint any one on muster role, therefore, no certificate in this regard has been issued to them, therefore, they are not entitled for the protection u/s 6N of the U. P. Industrial Disputes Act. 1947. As against this in the rejoinder-affidavit, the workmen concerned have stated that they have been working at Baberu power house of the petitioners-employer and thereafter other places of the same department. The workmen have also filed documentary evidence in the form of four documents whereas the employer have not filed any documentary evidence, though the labour court has directed to produce the same. Instead of producing the evidence by some officer, the petitioners filed an affidavit of clerk concerned working with the employer. The labour court after considering the written as well as oral evidence has arrived at the conclusion that the workmen concerned had worked with the employer for more than 240 days in preceding twelve calendar months and the place where they were working was not a project, but actually was a regular establishment of the petitioners-employer. On the basis of the aforesaid oral and documentary evidences, the labour court has recorded finding that the workmen concerned have worked for more than 240 days in the preceding calendar year and their services were terminated without complying with the provisions of Section 6N of the U. P. Industrial Disputes Act, 1947. The labour court has also recorded finding that the establishment where the workmen

concerned was working, was of a permanent nature. It is further held that It has been established by the written statements and evidence produced by the workmen that they were engaged as muster role employees at Baberu power house and thereafter several other places and certificates, in this regard, were also issued to them. It is further held that whenever exigencies arose, they worked at different power houses. The petitioners-employer have not produced the order restricting the appointment on muster role before the labour court so that workmen would not be able to establish their case, while it is established that they have worked for more than 240 days in the preceding 12 calendar months. With these findings, the labour court has answered the reference that termination of the services of the workman concerned were illegal and without compliance of the statutory provisions of Section 6N of the Act, therefore, labour court directed that the workman concerned is entitled for re-instatement with continuity of service. During the period when the workman was not allowed to work, the labour court awarded that from the date of termination till the date of reinstatement, which they were getting when they were in service, they are entitled to the wages and other consequential benefits.

3. The law on the point is settled that this Court in exercise of powers under Article 226 of the Constitution of India will not sit in appeal over the findings recorded by the labour court, unless the findings are demonstrated to be suffering from the perversity. No such ground was argued except what has already been stated, which are squarely covered by the findings of fact recorded by the labour court.

4. That for the reasons stated above, the writ petitions filed by employer-petitioners deserve to be dismissed.

5. In the result, the writ petition is dismissed. The interim order, if any, stands vacated. There will, however, be no order as to costs.