

**(2003) 05 AHC CK 0264**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 12826 of 1998

U.P. State Electricity Board

APPELLANT

Vs

Udai Narayan Lal Srivastava and Others

RESPONDENT

**Date of Decision :** 01-05-2003

**Acts Referred:**

Constitution of India, 1950 — Article 226

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6H(1)

**Citation :** (2003) 3 UPLBEC 2517

**Hon'ble Judges :** Anjani Kumar, J

**Bench :** Single Bench

**Advocate :** Arvind Kumar, for the Appellant; B.K. Srivastava and S.C., for the Respondent

**Final Decision :** Dismissed

## Judgement

Anjani Kumar, J.—Heard Sri Arvind Kumar, learned Counsel appearing on behalf of the petitioner and Sri B.K. Srivastava, who has put in appearance on behalf of respondents 1 as well as learned Standing Counsel for the respondents 2 to 4.

2. The petitioner, by means of present writ petition under Article 226 of the Constitution of India, has challenged the orders impugned in the present writ petition dated 27th June, 1997 and 6th March, 1998 passed by Deputy Labour Commissioner, Mirzapur Region, Pipri, Sonbhadra in R.D. Case No. 1 of 1997, copies whereof have been annexed as Annexures-7" and "11" to the writ petition.

3. The facts leading to the filing of the present writ petition are that between the parties, an industrial dispute was referred to the Labour Court concerned and the Labour Court vide its award dated 19th September, 1989, passed in Adjudication Case No. 153 of 1988 have held that the concerned workman Udai Narayan Lal Srivastava, Clerk whose services were illegally and arbitrarily terminated w.e.f, 1st October, 1986, is entitled for re-instatement with continuity of service and full back wages. This award admittedly has not been challenged by the petitioner-employer. It is submitted that after about seven years, the concerned workman

has filed an application u/s 6-H(1) of the U.P. Industrial Disputes Act, 1947, claiming wages from October, 1986 to April, 1990, which has been decided by the impugned order dated 27th June, 1997. Learned Counsel for the petitioner-employer stated that no objection was filed in rebuttal to the application filed by the workman because no notice was issued to the employer. This has found to be incorrect by the authority, who has passed the order dated 27th June, 1997. The authority has recorded a finding that a notice was issued directing the employer to show cause as to why the amount due under the award should not be paid to the workman and if there is any objection, the employer should put in appearance and raise an objection. Several dates were fixed, but employer has not put in appearance on any of the dates. As a consequence thereof, a recovery certificate has been issued to the Collector concerned for the recovery of the amount mentioned under the award as arrears of land revenue. Consequent to the aforesaid order, the employer filed restoration application dated 19th January, 1998, which has been decided by the authority concerned by the impugned order dated 6th March, 1998, wherein the authority has held that since it is not disputed that the award arises out of Adjudication Case No. 153 of 1988 has not been challenged, the quantum of money due having not been disputed, it is not a fit case in which the order dated 27th June, 1997, whereby the recovery certificate has been issued, should be recalled, therefore, application dated 19th January, 1998 has been rejected. It is these two orders, which have been challenged by means of present writ petition.

4. Learned Counsel for the petitioner-employer argued that since there was an agreement between the employer and the employee and the employee has given in writing before the Conciliation Officer that no amount is due from the employer to the employee, therefore, the recovery certificate has illegally been issued. Apart from the fact that they have reported that no notice has been issued by the authority before issuing the recovery certificate and consequently the rejection of the objection and restoration application, as already held that the authority has recorded a finding that notice has been issued to the employer and I see no reason to disbelieve and not to accept the aforesaid finding recorded by the authority. Nothing has been brought to the notice of the Court that this finding either suffers from the manifest error of law, or is bad in the eye of law. In this view of the matter, the impugned orders do not warrant any interference by this Court under Article 226 of the Constitution of India.

5. In view of what has been stated above, this writ petition is devoid of any merits and is accordingly dismissed. The interim order/orders, if any, stands vacated. However, the parties shall bear their own costs.