

(2008) 12 AHC CK 0342
In the Allahabad High Court

U.P.State Sugar Coproation Ltd.Unit Khadda	APPELLANT
Vs	
Presiding Officer, Labour Court U.P., Gorakhpur and another	RESPONDENT

Date of Decision : 15-12-2008

Acts Referred:

Citation : (2008) 12 AHC CK 0342

Hon'ble Judges : S.U.Khan, J

Final Decision : Allowed

Judgement

S.U. Khan, J.

Heard learned counsel for the parties.

This writ petition is directed against award dated 22.11.2001 given by Presiding Officer, Labour Court, Gorakhpur in Adjudication Case No.191 of 1991. The matter which was referred to the Labour Court was as to whether action of the petitioner employer terminating the services of its workman respondent No.2, Ravindra Kumar Gupta, who was a turner w.e.f. 06.04.1990 was valid or not and to what relief, if any, respondent No.2 was entitled.

The case of the respondent No.2 was that he was appointed on 17.07.1989 and his services were terminated without compliance of provisions of Section 6N of U.P. Industrial Disputes Act inasmuch as before termination of service no retrenchment compensation was paid. After declaring termination to be illegal for want of compliance of Provisions of Section 6N of U.P.I.D. Act, the labour court directed reinstatement with full back wages.

The case of the petitioner employer was that nature of its work being mainly seasonal, extra staff for short time was occasionally engaged by it and that initially respondent No.2 was engaged for about a month on purely temporary basis. Engagement letter was also filed. Petitioner also contended that since 06.04.1990, respondent No.2 stopped coming on his own. Respondent No.2 in his oral statement before the Labour Court clearly admitted that since 1999 he was working in a temporary capacity in another sugar mill, i.e. Gadaura Sugar

Mills. However, he further stated that since 1990 till 1999 he did not work anywhere.

Even if it is assumed that petitioner had worked for slightly more than 240 days and he was entitled to retrenchment compensation under Section 6N of U.P.I.D. Act and the said compensation was not paid to him, still it was not necessary to direct reinstatement and proper relief would have been to direct consolidated damages/ compensation vide AIR 2006 SC 2113 "Nagar Mahapalika v. State of U. P.", AIR 2006 SC 2427 "Haryana State Electronics Devpt Corpn v. Mamni" and 2008 (4) SCC 261 "Ghaziabad Zila Sahakari Bank Ltd. Vs. Additional Labour Court, Commissioner". Even after admission of the petitioner that since 1999 he was working in another sugar mill, Labour Court granted full backwages.

Accordingly, writ petition is allowed. Impugned award is set aside and substituted by a direction to the petitioner to pay Rs.10,000/ as consolidated damages/ compensation to respondent No.2 within three months failing which 1% per month interest shall be payable upon the said amount.