

(1987) 01 RAJ CK 0031
In the Rajasthan High Court
Case No : Civil Writ petition No. 1589 of 1984

Vijai Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 08-01-1987

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 25, 25B, 25F, 25G

Citation : (1987) RLW 12 : (1987) 1 WLN 92

Hon'ble Judges : K.S. Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kishore Singh Lodha, J.—I have heard the learned Counsel for the parties and have gone through the record.

2. The only contention raised by the learned Counsel for the petitioner in this case is that the petitioner who was a Chowkidar in the employ of non-petitioners Nos. 1 and 2 had wrongly been retrenched without following the provisions of Section 25(f) of the Industrial Disputes Act. It is admitted by him that so far as the completion of 240 days in a Calendar Year goes he had worked under two different units, one under the Assistant Engineer, Parbatsar and the second under the Assistant Engineer, Deedwana and the period of employment under the two units if taken together would amount to more than 240 days in the calendar year. The case of the non-petitioners, on the other hand, is that the period of work of the petitioner under two different units cannot be clubbed together for the purpose of completion of statutory period of 240 days because u/s 25F the benefit of one year's service can be available only to a workman who has been employed under one employer for the statutory period i. e, 240 days as prescribed u/s 25B(2)(a)(ii).

3. At the out set, the learned Counsel for the petitioner tried to show that even the work under two different units can be clubbed together in order to give the

benefit to a worker u/s 25F if the work is carried on under one establishment referred to in Section 25G but later he candidly conceded that this cannot be so in view of the definition of employer contained in Section 2(g). Section 2(g) defines employer as under:

2(g)(i). in relation to an industry carried on by or under the authority of any department of the Central Government or a State Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department.

(ii)....

Under the Rajasthan Industrial Disputes Rules, 1958, Rule 2(g)(d) provides that with reference to Clause (g) of Section 2 of the Industrial Disputes Act, it is hereby prescribed that in relation to an industry carried on by or under the authority of a department of the State Government, the officer-incharge of the industrial establishment shall be the employer in respect of that establishment. Since the Assistant Engineers are incharge of the different units they will be deemed to be their employer within the meaning of Section 25F and they being different of service under more than one of them cannot be clubbed in order to give the worker benefit u/s 25F. That being so. the admitted position in this case is that the petitioner had worked for less than 240 days in the unit concerned from where he had been retrenched and, therefore, he is not entitled to the benefit of Section 25F.

4. The writ petition is, therefore, without any substance and is hereby dismissed. However, in the circumstances of the case I shall make no order as to costs.