
(1995) 03 P&H CK 0031
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 241 of 1987

Vinod Kumar

APPELLANT

Vs

Market Committee and Others

RESPONDENT

Date of Decision : 21-03-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (1995) 110 PLR 410

Hon'ble Judges : N.K. Sodhi, J

Bench : Single Bench

Advocate : Sarjit Singh and Vikas Singh, for the Appellant; H.S. Gill and S.S. Gill, for the Respondent

Final Decision : Allowed

Judgement

N.K. Sodhi, J.—Petitioner-workman was initially appointed a pump driver for a period of 89 days on 17.1.1983 and subsequently this period was extended from time to time but since he did not possess the requisite qualifications for the post, his appointment was not extended beyond January 16, 1984. This termination gave rise to an industrial dispute and the same was referred for adjudication to the Labour Court-respondent. On a consideration of the evidence led by the parties, the Labour Court came to the conclusion that the workman had worked from 17.1.1983 till 15.1.1984 and each time he was appointed for a period of 89 days. It was further found that he did not possess the requisite qualifications for the post of tubewell operator which were specified in the circular letter (Exhibit M1 on the record of the Labour Court) in terms of which a tubewell operator has to possess I.T.I. qualification. The qualifications were further clarified by letter Exhibit M2 wherein it was stated that the course of electrician done from Thapar Polytechnic, Patiala could not be treated as equivalent to the course of I.T.I. The petitioner having obtained the qualification of an electrician from Thapar Polytechnic, Patiala was thus held not eligible for the post and in this view of the matter, the action of the management in the extending his employment beyond

January 15, 1984 was held to be justified and in order. The reference was, therefore, decided against the workman and in favour of the management. It is this award that has now been impugned in this petition filed by the workman under Article 226 of the Constitution.

2. I have heard counsel for the parties at length. The Petitioner has done his course from Thaper Polytechnic, Patiala which course, according to the instructions issued by the Punjab State Agricultural Marketing Board, is not equivalent to the course of I.T.I. The petitioner was, therefore, not eligible to hold the post of a pump operator and the action of the management in not extending his employment beyond January 15, 1984 was justified. However, the workman had put in more than 240 days of service and, therefore, it was incumbent upon the management to have complied with the mandatory provisions of Section 25-F of the Industrial Dispute Act, 1947. In other words, the workman was entitled to one month notice or wages in lieu thereof and for retrenchment compensation in terms of the aforesaid provisions. This not having been done, the order of termination cannot be said to be in order.

3. The question that now arises is as to what relief the workman is entitled to. The management was justified in terminating his service because he was not qualified to hold the post but while terminating his service it failed to comply with the provisions of Section 25-F of the Industrial Dispute Act. I am of the opinion that in such a case the workman is not entitled to reinstatement but should be given some compensation in lieu thereof, particularly when more than 11 years have passed since his services were terminated. Keeping in view the length of his service and the circumstances of the present case, a sum of Rs. 10,000/-, would be an adequate amount of compensation which the employer pay to him for having wrongfully terminated his services.

4. In the result, the writ petition is allowed and the award of the Labour Court modified to the extent that termination of services of the petitioner is held to be justified but not in order and the management is directed to pay to the workman a sum of Rs. 10,000/- in lieu of reinstatement. There is no order as to costs.