Range Forest Officer vs S.T. Hadimani on 15 February, 2002

Equivalent citations: AIR 2002 SUPREME COURT 1147, 2002 AIR SCW 909, 2002 LAB. I. C. 987, 2002 AIR - KANT. H. C. R. 911, 2002 (3) SRJ 311, 2002 (1) UPLBEC 920, (2002) 2 JT 238 (SC), 2002 (2) SLT 154, 2002 (2) JT 238, 2002 LAB LR 339, 2002 (2) SERVLJ 316 SC, 2002 (2) SCALE 242, 2002 (3) SCC 25, (2002) 1 UPLBEC 920, (2002) 2 SUPREME 58, (2002) 109 FJR 397, (2002) 93 FACLR 179, (2002) 1 LABLJ 1053, (2002) 2 LAB LN 391, (2002) 2 MAD LJ 137, (2002) 3 MAHLR 403, (2002) 2 PAT LJR 21, (2002) 2 RAJ LW 319, (2002) 3 SCT 382, (2002) 2 SERVLR 401, (2002) 2 SCALE 242, (2002) 1 JLJR 123, (2002) 2 ALL WC 1268, (2002) 1 CURLR 922, 2002 SCC (L&S) 367

Bench: B.N. Kirpal, Arijit Pasayat

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           CASE NO.:
Appeal (civil)  1283 of 2002

PETITIONER:
RANGE FOREST OFFICER

RESPONDENT:
S.T. HADIMANI

DATE OF JUDGMENT: 15/02/2002

BENCH:
B.N. KIRPAL & ARIJIT PASAYAT

JUDGMENT:
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JUDGMENT 2002 (1) SCR 1080 The following Order of the Court was delivered :

Leave granted.

In the instant case, dispute was referred to the Labour Court that the respondent and worked for 240 days and his service had been terminated without paying him any retrenchment compensation. The appellant herein did not accept this and contended that the respondent had not worked for 240 days. The Tribunal vide its award dated 10th August, 1998, came to the conclusion that the service had been terminated without giving retrenchment compensation. In arriving at the conclusion that the respondent had worked for 240 days, the Tribunal stated that the burden was on the Management to show that there was justification in termination of the service and that the affidavit of the workman was sufficient to prove that he had worked for 240 days in a year.

For the view we are taking, it is not necessary to go into the question as to whether the appellant is an "industry" or not, though reliance is placed on the decision of this Court in State of Gujarat v. Pratam Singh Narsinh Parmar, JT (2001) 3 SC 326. In our opinion the Tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside. However, Mr. Hegde appearing for the Department states that the State is really interested in getting the law settled and the respondent will be given an employment on compassionate grounds on the same terms as he was allegedly engaged prior to his termination, within two months from today.

The appeals are disposed of in the aforesaid terms.