

Gurmail Singh vs Principal, Govt. College Of Education ... on 10 December, 1999

Equivalent citations: [2000(84)FLR920], JT1999(10)SC367, (2000)ILLJ1080SC, (2000)1UPLBEC798, AIRONLINE 1999 SC 19, 2000 (9) SCC 496, 2001 SCC (L&S) 105, (2000) 2 LAB LN 405, (2000) 1 LAB LJ 1080, (2001) 5 SERV LR 198, (2000) 84 FAC LR 920, (2000) 1 UPLBEC 798, (1999) 10 JT 367, (1999) 10 JT 367 (SC), 2005 (12) SCC 207

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Bench: S.B. Majmudar, V.N. Khare

ORDER

S.B. Majmudar, J.

1. Leave granted.
2. By consent of learned Counsel for the parties, this appeal was heard finally.
3. Having heard learned Counsel for the parties we find that the Labour Court having held in case of the appellant whose services were terminated on 30.9.1981, that Section 25F of the Industrial Act was violated, was in error in dismissing the reference on the ground of delay as the termination was of 1981 and the dispute was raised in 1989. Similarly, the High Court in the impugned judgment committed the same error in confirming the said decision. The reason is obvious. As laid down by this Court in the case of Ajaib Singh v. Sirhind Co-operative Marketing-cum-Processing Service Society Ltd. and Anr. , if the order of dismissal is challenged belatedly, the dispute would still continue for adjudication, the only question would be to deprive back wages for the period of delay in raising such a dispute if on merits it is to succeed. Following, the said decision, therefore, the appeal is allowed. The judgment and order of the High Court as well as the Labour Court are set aside. The termination of the appellant on 30.9.1981 is held to be bad and set aside. The appellant is ordered to be reinstated in service as Junior Lecturer Assistant with continuity of service. But so far as the back wages are concerned, he will not be entitled to any back wages from 30.9.1981 till 27.2.1989 as he had not raised any dispute during that time. Thereafter from 1.3.1989 till the date of reinstatement of the present appellant, on the facts and circumstances of the case, the respondents are directed to pay 50 per cent of the back wages towards full and final satisfaction of appellant's claim, regarding back wages. This amount shall be calculated and paid to the appellant by the

respondents within eight weeks from today. He shall be reinstated with continuity in service also within that time. The appeal is allowed to the aforesaid extent with no order as to costs.