

Allahabad High Court

State Of U.P. vs Labour Court, Agra And Anr. on 8 January, 2002

Equivalent citations: 2002 (2) AWC 1216, 2002 (94) FLR 1049, (2002) 2 UPLBEC 1111

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Bench: A Kumar

JUDGMENT Anjani Kumar, J.

1. By means of present writ petition under Article 226 of the Constitution of India, the petitioner-employer has challenged the award of the Labour court, Agra, dated 22.4.1994 and the order dated 9.1.1996 passed In adjudication case No. 44 of 1992, Annexures-2 and 4 to the writ petition.

2. The facts leading to the filing of present writ petition are that State Government vide its order dated 31.12.1991 has referred the following, dispute under Section 4K of the U. P. Industrial Disputes Act, 1947. for adjudication before the respondent-labour court, which reads as follows :

"Whether the termination of the services of Sri Mathura Prasad, son of Mewa Ram, Cattle Guard w.e.f. 25.7.1989 by the employer was valid and legal? If not, then to what relief the, concerned workman was entitled for etc.?"

3. It is submitted that the employer and the workman concerned have exchanged their written statements and adduced their evidence and argued the matter before the labour court. The workman has stated in his written statement filed before the labour court that he was appointed as Cattle Guard in the establishment of the petitioner-employer in October, 1982. He further stated that the he has completed six years and seven months, his work was satisfactory and he was being paid Rs. 15 only, whereas other workmen who were appointed and were working for the same work as was being performed by the workman concerned, were getting more than the concerned workman. It has been further stated that when the dispute came to the knowledge of the then Forest Guard, he pressurised to withdraw the same, but when workman refused to do so, on 25.7.1989 he was informed that his services were terminated by oral order by Range Forest Officer, Jalesar, Etah with immediate effect. He was given oral termination order saying that for such workman, there is no need to give termination order in writing and also no notice was issued to him before one month from the date of termination of his service and he has also not given one month's salary in lieu thereof. He further stated that before terminating his services, neither the provisions of Sections 6N, 6P and 6Q have been complied with, nor any retrenchment compensation has been given to him and also no notice or information has been issued to the State Government, in this regard. The junior employees, who were appointed after the workman, have been retained and they are still working, whereas the services of the workman concerned were terminated and it was therefore prayed that the termination of the services of the workman may be declared void and illegal and a direction be Issued to the employer to treat the workman in continuous service as regular employee.

4. After the pleadings and evidences have been over by both the parties, the labour court has recorded findings that inspite of notices being served upon the employer, none appeared on behalf of the employer and also on the next date, i.e., on 4.4.1994 neither anybody had appeared before the

labour court, nor any stay application has been filed on their behalf, therefore, the arguments have been heard and award was given ex parte. Thereafter, an application dated 15.11.1994 has been filed on behalf of the employer before the labour court to set aside the, ex parte award dated 22.7.1994. The labour court after hearing the arguments on the basis of the materials available on record, recorded a finding that the application on behalf of the employer has been filed after 30 days of the publication of the said award, which is beyond the jurisdiction of the labour court and has rejected the said application vide its order dated 9.1.1996.

5. As stated above, the labour court has recorded findings with regard to all the aforesaid points, which have neither been challenged by the employer, nor they could demonstrate that the same are perverse. The labour court has said that since the workman concerned had completed six years and seven months, the employer have not complied with the provisions of Section 6N of the U. P. Industrial Disputes Act, 1947, before terminating the services of the workman, which is violative of the Act. It has further recorded that since nothing has been challenged on behalf of the employer, there is no reason to disbelieve the evidence produced by the workman concerned. On the basis of the aforesaid findings recorded by the labour court, the labour court has awarded that the workman concerned is entitled for re-instatement on the post of Cattle Guard with continuity of service with full back wages.

6. In this view of the matter, the award of the labour court does not warrant interference by this Court in exercise of powers under Article 226 of the Constitution of India. The writ petition being devoid of any merits deserves to be dismissed and is hereby dismissed. However, on the facts and circumstances of the case, there will be no order as to costs. The interim order, if any, stands vacated.