

Pradeep Kumar Patel Vs. Jabalpur Development Authority

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Court : Madhya Pradesh

Decided On : Jul-17-2012

Appellant : Pradeep Kumar Patel

Respondent : Jabalpur Development Authority

Advocate for Def. : Shri. Piyush Bhatnagar

Advocate for Pet/Ap. : Shri. Sanjay Verma

Judgement :

W.P.No.10856/2007(S) (Pradeep Kumar Patel versus J.D.A.) 17.07.2012 Shri Sanjay Verma, learned counsel for the petitioner.

Shri Piyush Bhatnagar, learned counsel for the respondent.

Heard.

By this petition under Article 226 of the Constitution of India, the petitioner has challenged the validity of the impugned order dated 30.04.2007 passed by the Industrial court in Appeal No.110/2004 MPIR whereby the order dated 19.03.2004 passed by the learned Labour court in case No.101/MPIR Act has been reversed and set aside and the application filed under section 31(3) of the M.P.Industrial Relation Act, 1960 (for short the Act.) has been rejected.

No exhaustive statements of fact are required to be narrated for the purpose of disposal of this petition.

Suffice to say that an application under section 31(3) of the Act was filed by the petitioner/employee before the labour court praying to classify him on the post of Mali (Gardner).A written statement was filed on behalf of the respondent and thereafter necessary issues were framed by the labour court.

Vide order dated 19.03.2004 (Annexure P/5) the application of the petitioner under section 31(3) of the Act has been allowed by directing to classify the petitioner on the post of Mali (Gardner).The respondent assailed the order of the Labour Court by filing an appeal which has been allowed vide order dated 30.04.2007 (Annexure P/1) and the order of the learned labour court has been set aside and the application filed by the petitioner under section 31(3) of the Act has been rejected.

In this manner the present petition has been filed.

This petition can be disposed of on short grounds by setting aside the order of the Industrial court.

Indeed, the Industrial court allowed the appeal of employer because the petitioner did not file necessary application for summoning the relevant documents in order to prove his rights of classification.

Indeed, the petitioner is an employee and if he was not so advised by his counsel, his main application under section 31(3) of the Act should not have been rejected on merits and as a matter of fact the Industrial court ought to have remanded the matter to the labour court directing the employee to file necessary application for summoning the record in that respect.

The entire record in respect of the service of the petitioner is in possession of the employer/respondent as a matter of fact he ought to have filed those documents.

Thus, I am of the view that on this short ground the impugned order deserves to be and is hereby set aside and the petition is allowed and the matter is remanded

to the learned labour court to re-decide the application for classification filed by the petitioner on the post of Mali (Gardner) in accordance with law.

The petitioner is hereby directed to file a necessary application before the labour court praying for summoning the documents which are in power and possession of the respondent and in case such application is filed by the petitioner the labour court shall allow the application and direct the respondent to produce those documents.

With the aforesaid directions, the petition is allowed.

There shall be no order as to costs.

(A.K.Shrivastava) Judge msp

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