

Sudhakar Vs. Government College of Engineering and Others

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Court : Mumbai Nagpur

Decided On : Jun-20-2013

Judge : B.R. Gavai & P.N. Deshmukh

Appeal No. : Letters Patent Appeal No.104 of 2013 In Writ Petition No.4413 of 2005 (D)

Appellant : Sudhakar

Respondent : Government College of Engineering and Others

Judgement :

Oral Judgment: (B.R. Gavai, J.)

Rule. Rule made returnable forthwith. The Letters Patent Appeal is heard finally with the consent of the learned counsel of the parties.

2. The appeal challenges the judgment and order passed by the learned Single Judge of this Court dated 26.9.2012 thereby upsetting the findings as recorded by the learned Labour Court and the learned Industrial Court.

3. The appellant had approached the learned Labour Court by way of complaint alleging that he was in continuous service as Laboratory Assistant from 1.7.1999 till 30.4.2000 and his services were terminated by the respondents without following the mandatory provisions of Section 25F, 25G and 25H of the Industrial Disputes Act, 1947. The learned Labour Court, on the basis of the evidence that

was led before it, allowed the complaint by judgment and order dated 25.2.2004 holding that the complainant had proved that he was in continuous service for a period of 240 days. Though the learned Labour Court granted reinstatement and continuity of service, he declined the prayer for back wages.

4. Being aggrieved thereby, the revision was preferred by the respondents. The learned Industrial Court, after re-appreciating the evidence, has dismissed the revision.

5. Being aggrieved thereby, the respondents have approached this Court by way of Writ Petition No.4413 of 2005. The learned Single Judge of this Court has held that the respondent (the present appellant) had not worked for 240 days and hence the Courts below were not justified in granting the relief to the respondent.

6. The Labour Court is the first court which is required to record the evidence and appreciate the same. The scope of interference under Section 44 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 is also limited as has been held in the catena of the judgment. The scope of interference in a petition under Articles 226 and 227 of the Constitution of India would be further limited.

7. The learned Single Judge could not have interfered with the concurrent findings recorded by the learned Labour Court and the Industrial Court unless it was of the view that the findings as recorded were either perverse or impossible. The Apex Court in the case of Ramesh Kumar vs. State of Haryana, reported in AIR 2010 SC 683 has held that the findings of the Labour Court that an employee continuously worked for 240 days cannot be interfered with by the High Court for the first time.

8. In that view of the matter, we find that the findings, as recorded by the learned Single Judge, are not sustainable in law. The impugned order is, therefore, quashed and set aside. The orders passed by the learned Labour Court and the Industrial Court are restored. Rule is made absolute in the aforesaid terms with no order as to costs.