

State of U.P. and Others Vs. Arun Kumar Singh Alias Arun Pratap Singh

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Court : Allahabad

Decided On : Feb-02-1998

Reported in : 1998(3)AWC1933

Judge : S.C. Verma and;A.S. Gill, JJ.

Acts : [Constitution of India](#) - Articles 12 and 226; Uttar Pradesh Industrial Disputes Act - Sections 6N, 25F

Appeal No. : Special Appeal No. 81 (S/B) of 1993

Appellant : State of U.P. and Others

Respondent : Arun Kumar Singh Alias Arun Pratap Singh

Advocate for Def. : M. Afzal, ;S.L. Mishra and ;G.P. Tripathi, Advs.

Advocate for Pet/Ap. : C.S.C.

Judgement :

S.C. Verma, J.

1. The respondent Arun Kumar Singh alias Arun Pratap Singh. had approached this Court under Article 226 of the Constitution in Writ Petition No. 7810 of 1990 with the prayer to quash the order of termination dated 23.7.90 and for direction to the opposite parties to consider the case of the petitioner for regularisation. The

respondent was a Diploma Holder in Civil Engineering and was given appointment on daily wages with the establishment of District Rural Development Agency. The District Magistrate, being the Ex-Official Chairman of the District Rural Development Agency and Additional District Magistrate, Project being the Secretary intimated by the impugned order dated 23.7.90 that the services of the petitioner were not required as regular incumbents have been appointed. The writ petition was allowed and it was held that the establishment of District Rural Development Agency, Sultanpur is an industry within the definition of Industry as defined under the U. P. Industrial Disputes Act and the respondent was a workman as defined under the said Act. It was further held that as the respondent had worked for more than 240 days in a year preceding to the order of termination, the services cannot be dispensed with without compliance of the provisions of Section 6N of the U. P. Industrial Disputes Act. As there was no compliance of the provisions of Section 6N of the Act in terminating the services of respondent, the Writ Petition was allowed and the order of termination dated 23.7.1990 was quashed.

2. The Special Appeal No. 81 (S/B) of 1993 filed by the State of U. P. was also dismissed by the judgment and order dated 20.4.1994 holding that the respondent was a workman and had worked for more than 240 days in the preceding 12 calendar months and was clearly entitled to retrenchment benefits in terms of the provisions of the Industrial Disputes Act. The judgment of the learned single Judge, was upheld and the appeal was dismissed.

3. The State of U. P. then preferred the appeal to the Hon'ble Supreme Court being State of U. P. and others v. Arun Kumar Singh. Civil Appeal No.3398 of 1995. Hon'ble Supreme Court allowed the appeal by order dated 6.3.1995. Hon'ble the Supreme Court held that the District Development Rural Agency is not an industry within the meaning of Industry as defined under the Industrial Disputes Act and there was no requirement of compliance of Section 25F of the Industrial Disputes Act for termination of the services of the respondent-employee. It was further held that the High Court has also erred in directing regularisation of the employee in the service. Hon'ble Supreme Court further held that the District Rural Development Agency is only entrusted with the work of carrying on different

schemes entrusted to it including the Jawahar Rozgar Yojana and as such it is not an industry and the provisions of industrial Disputes Act would not apply to the present case. The impugned order of the Division Bench and of the learned single Judge was set aside and the matter was remitted to the High Court for decision in accordance with law and in the light of observations made in the order. The present Special Appeal has come up for hearing before us in the above circumstances.

4. The learned counsel for the respondent had filed an application to file supplementary affidavit to place on record a letter of the Commissioner. Rural Development. Uttar Pradesh dated 31.8.1990 by which it has been provided that the employees of the District Rural Development Agency who have been working from 1.7.1987 on ad hoc basis and had worked for more than three continuous years, their services are liable to be regularised. The respondent also moved an amendment application to amend the writ petition to claim the benefit of regularisation and also to challenge the order of termination on the ground that the Additional District Magistrate Project, Sultanpur is not the appointing authority and no approval for termination of his services was taken by the District Magistrate. Sultanpur.

5. The amendment claimed by the respondent cannot be allowed at this belated stage to set up a new case as also for the reason that the writ petition challenging the order of termination by an employee of the District Rural Development Agency is not maintainable. The District Rural Development Agency is neither a statutory Corporation nor a 'State' within the meaning of Article 12 of the Constitution and does not perform any statutory function.

6. Hon'ble the Supreme Court in the case of Delhi Development Horticulture Employees Union v. Delhi Administration, Delhi and others. 1992 (4) SCC 99 has held :

'Viewed in the context of the facts of the present case, it is apparent that the schemes under which the petitioners were given employment have been evolved to provide income for those who are below the poverty line and particularly during the periods when they are without any source of livelihood and, therefore, without

any income whatsoever. The schemes were further meant for the rural poor, for the object of the schemes was to start tackling the problem of poverty from that end. The object was not to provide the right to work as such even to the rural poor-muchless to the unemployed in general. As has been pointed out by the Union of India in their additional affidavit, in 1987-88. 33 per cent of the total rural population was fallow the poverty line. This meant about 35 million families. To eliminate poverty and to generate to full employment 2,500-3.000 million mandays of work in a year, was necessary. As against that, the Jawahar Rozgar Yojana could provide only 870 million men-days of employment on intermittent basis in neighbourhood projects. Within the available resources of Rs. 2,600 crores. in all 3.10 million people alone could be provided with permanent employment, if they were to be provided work for 273 days in a year on minimum wages. However, under the scheme meant for providing work only 80-90 days work could be provided to 9.30 million people.

The above figures show that if the resources used for the Jawahar Rozgar Yojana were in their entirety to be used for providing full employment throughout the year, they would have given employment only to a small percentage of the population in need of income, the remaining vast majority being left with no income whatsoever. No fault could, therefore, be found with the limited object of the scheme given the limited resources at the disposal of the State. Those employed under the scheme, therefore, could not ask for more than what the scheme intended to give them. To get an employment under such scheme and to claim on the basis of the said employment, a right to regularisation. is to frustrate the scheme itself. No court can be a party to such exercise. It is wrong to approach the problem of those employed under such schemes with a view to providing them with full employment and guaranteeing equal pay for equal work. These concepts, in the context of such schemes are both unwarranted and misplaced. They will do more harm than good by depriving the many of the little income that they may get to keep them from starvation. They would benefit a few at the cost of the many starving poor for whom the schemes are meant. That would also force the State to wind up the existing schemes and forbid them from introducing the new ones, for want of resources. This is not to say that the problems of the unemployed deserve no consideration or sympathy. This is only to emphasise that even among the

unemployed a distinction exists between those who live below and above the poverty line, those in need of partial and those in need of full employment, the educated and uneducated, the rural and urban unemployed, etc.

It has further been held :

'In view of the transfer of the responsibility to implement the programme to village panchayats from the D.R.D.A., the latter ceased to be the machinery for employing either the Supervisors or the unskilled labourers and for choosing the works to be implemented and for distributing the funds, since the funds were thereafter placed by the Central Government directly in the hands of the village panchayats. The D.R.D.A. thus ceased to be the implementing machinery w.e.f. July 31. 1989.

7. In view of the above law laid down by Hon'ble Supreme Court, the respondent Arun Kumar Singh alias Arun Pratap Singh is not entitled to any relief and the Special Appeal is allowed and order of the learned single Judge dated 16.4.1992 is set aside.

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