

**Hercules Mechanical Works and ors. Vs. Wire Ropes Engineering Workers Union**

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**Court :** Supreme Court of India

**Decided On :** Jul-07-2009

**Reported in :** JT2009(9)SC281; 2009(9)SCALE337

**Judge :** Tarun Chatterjee and; H.L. Dattu, JJ.

**Acts :** Industrial Disputes Act - Sections 25H

**Appeal No. :** Civil Appeal No. 4142 of 2009 (Arising out of SLP (C) No. 16799 of 2006)

**Appellant :** Hercules Mechanical Works and ors.

**Respondent :** Wire Ropes Engineering Workers Union

**Judgement :**

**Tarun Chatterjee, J.**

1. Leave granted.

2. On 19th of October, 2006, this Court issued notice in the following manner:

Counsel for the petitioners submits that the original termination of service took place on 27.10.1995 which was challenged by way of a complaint, but the

complaint was later withdrawn. In the instant case, at best, the respondent can plead violation of Section 25H of the Industrial Disputes Act. The case of the petitioners is that the concerned workman had been invited to work but he refused to work and thereafter a letter was issued informing him that if he did not join his duties, someone else may be employed in his place. Counsel for the petitioners submits that despite this the Labour Court has proceeded on the basis that there was an unfair labour practice and therefore granted relief to the workman. Counsel for the petitioners submits that the petitioners have no objection to giving employment to the workman but in any event he should not be granted back wages. Issue notice. In the meantime, there shall be stay of payment of back wages.

From a reading of the aforesaid order of this Court, it would be evident that inspite of directions made by the Management to the respondent-workman to join his duties, but he had refused to join, whereas the case of the workmen was that he was not allowed to join his duties. For the purpose of settling the disputes between the parties in this appeal, we have adjourned the matter for settlement several times. However, it appears from the order of this Court dated 20th of April, 2007 that a direction was made at the instance of the Management to deposit a sum of Rs. 25,000/- in the Registry of this Court and a further direction was made in that order that since the deposit was made, fresh notice be issued to the respondent to intimate that a sum of Rs. 25,000/- was already deposited to meet the legal expenses and that he should enter appearance to contest the matter, if so advised. Subsequent to this order, Mr. Abhay Chandrakant Mahimkar with Ms. Asha G.Nair, learned Counsel appeared for the respondent-workmen. As noted herein earlier, this matter was adjourned from time to time for arriving at a proper settlement. Finally, the matter came up for hearing and the parties had agreed that the appellant-Management shall pay a total sum of Rs. 3 lacs in full satisfaction to the workmen by six equal instalments. Since this is agreed upon by the parties, we dispose of this appeal in the following manner.

3. On deposit of payment of Rs. 3 lacs to the workman, disputes between the parties shall finally dissolved and the workmen shall not press for reinstatement of his services or for payment of back wages. This amount shall be paid by six

monthly equal instalments, the first of such payment shall be made by 15th of July, 2009 to the concerned workman and thereafter shall go on paying every month within 15th of each succeeding month till the entire amount, as directed herein above, is paid to the workmen. On failure of deposit of any of the instalments, this appeal shall stand dismissed and the order of the courts below shall stand affirmed. We also make it clear that if the amount is paid in the manner indicated above, the respondent shall not press for reinstatement in service or shall not press for any other claim whatsoever.

4. The appeal is thus disposed of. There will be no order as to costs.

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