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**Baldev Singh Vs. Union of India and Others**

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**SooperKanoon Citation** : sooperkanoon.com/751541

**Court** : Rajasthan

**Decided On :** May-26-2000

**Reported in** : [2000(87)FLR787]; 2000(3)WLC290; 2000(3)WLN434

**Judge** : Dr. B.S. Chauhan, J.

**Acts** : Industrial Disputes Act, 1947 - Sections 25-F

**Appeal No.** : S.B. Civil Writ Petition No. 3522 of 1995

**Appellant** : Baldev Singh

**Respondent** : Union of India and Others

**Advocate for Def.** : N.M. Lodha and; D.D. Thanvi, Advs.

**Advocate for Pet/Ap.** : B.N. Kalla, Adv.

**Judgement** :
ORDER

**Chauhan, J.**

(1). Shri N.M. Lodha appears for Union of India upon directions of the Court. Shri D.D. Thanvi appeared for the respondent Bank.

(2). Instant writ petition has been filed by the petitioner being aggrieved by the order dated 11.3.1995 (Annex. 6) by which the Central Government has refused to

make reference to the Labour Court under the provisions of the Industrial Disputes Act, 1947.

(3). The facts and circumstances giving rise to this case are that petitioner had approached the appropriate Government to make reference of his dispute under the provisions of the Act of 1947, alleging that he had worked with employer contesting respondents No. 3 and 4, from 04.8.1988 to 7.2.1990 and his services had been terminated orally in flagrant violation of the provisions of Sec. 25F of the Act. The appropriate Government refused to make the reference after examining the case and taking prima facie view that he has not worked for 240 days and, therefore, the reference was not permissible. More so, it referred to an earlier order passed in August, 1990 refusing for reference in the case of the petitioner.

(4). The petitioner may be justified to the extent that appropriate Government can not consider the matter on merit (Vide Bombay Union of Journalists and others vs. State of Bombay and others (1); Workmen of Syndicate Bank, Madras vs. Govt. of India and Others (2) and Telco Convoy Drivers Mazdoor Sangh and another vs. State of Bihar and others (3) and, the appropriate Government should be slow in refusing to make reference of the dispute to the Labour Courts (Vide M.P. Irrigation Karmchari Sangh vs. State of Madhya Pradesh and others (4) and V. Veerarajan vs. Govt. of Tamil Nadu and others (5). More so, there can be no question of applicability of res judicata in such administrative orders and even if reference has been refused earlier, there is no bar to make a reference again (Vide Binny Ltd. vs. Their Workmen and others (6), wherein the appropriate Govt. has refused to make reference twice but Hon'ble Supreme Court directed to reconsider the matter for making reference)

(5). However, at the same time, it can not be held that the appropriate Govt. is bound to make reference in a mechanical manner, without considering the matter even prima Facie (Vide Secretary, Indian Tea Association vs. Ajit Kumar Barat & Others (7). Recently Hon'ble Supreme Court in The Nedungadi Bank Ltd. vs. K.P. Mad-havankutty and others (8), has categorically held that the reference is to be made when the dispute is alive and not after an unreasonable delay, because, at a belated stage, it can not be held that there was any existing or apprehended

dispute. The appropriate Govt. has no power to make a reference at a belated stage.

(6). Learned counsel for the petitioner has submitted that the petitioner is approaching the authorities from the very beginning and it can not be held that there has been any delay on his part. The submission made by Shri Kalla is fully substantiated by the record. However, the Court cannot overlook the fact that the petitioner has suppressed the material fact from the Court and has made contradictory claims; firstly immediately after removal of the workman his case was taken up by his Union Secretary Shri Krishna Kumar Lakhotia, who had filed an affidavit on 18.4.1991, clearly stipulating that the workman had worked from 15.5.1989 to 07.2.1990 with respondents No. 3 and 4. Similar affidavit was filed by the President of the Union on the same date, clearly stipulating that the workman had worked with respondent Bank from 15.5.1989 to 07.2.1990. Petitioner submitted in his application (Annex. 6) that he had worked from 04.8.1988 to 07.2.1990. It is strange that he has filed the application on 18.12.1989 and there is no explanation of this discrepancy and anamoly in the affidavits filed by office-bearers of the Union and the petitioner himself.

(7). Shri B.N. Kalla could not furnish an explanation that how petitioner could made an application on 18.12.1989 that he had worked upon 07.2.1990. More so, petitioner has suppressed material facts that the appropriate Govt. had refused to make reference in 1990 and, this conduct disentitles him for any interference.

(8). A party approaching the writ court must come not only with clean hands but also with clean mind and clear objectives. (Vide G. Narainswamy Reddy vs. State of. Karnataka (9); Ramjas Foundation and Others vs. Union of India and Others (10); K.R. Srinivas vs. R.M. Premchand & Others (11) and Narashimaha Murthy vs. Susheelabai (12).

(9). Thus, in view of the fact that the petitioner has suppressed material facts and judgment of Hon'ble Supreme Court in the Nedungadi Bank's case (supra), provides for the contrary, the Court is not inclined to interfere in the matter at such belated stage. The petition is accordingly dismissed.

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