

Sayed Faizul Mustfa Vs. Judge, Labour Court and anr.

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Court : Rajasthan

Decided On : Jan-04-2000

Reported in : (2001)IIILLJ77Raj; 2000(2)WLC578; 2000(2)WLN21

Judge : J.C. Verma, J.

Acts : [Industrial Disputes Act, 1947](#) - Sections 10; Rajasthan Relief Undertaking (Special Provisions) Act, 1961

Appeal No. : S.B. C.W.P. No. 6168/1997

Appellant : Sayed Faizul Mustfa

Respondent : Judge, Labour Court and anr.

Disposition : Petition allowed

Judgement :

J.C. Verma, J.

1. An industrial dispute reference was made to the Labour Court, Jaipur, by the State of Rajasthan to adjudicate upon the legality or justification of the termination of service of the petitioner by the respondent-management. A preliminary objection was taken to the effect that because of the applicability of the provisions of the Rajasthan Relief Undertaking (Special Provisions) Act, 1961, and because of the institution of respondent 1 was being a relief undertaking, the proceedings under

the Industrial Disputes Act were not applicable. Copy of such objection is attached as Annexure 2. The Labour Court had rejected such preliminary objections vide its order, dated March 22, 1991, copy of which is attached as Annexure 3. The evidence was led by the parties. The Labour Court vide the impugned award, dated May 13, 1997, non-suited the petitioner on the same grounds/objections which preliminary objection stood already rejected vide Annexure 3 as far back in 1991.

2. Being aggrieved against the award Annexure 4, the petitioner has filed the present writ petition stating therein that once the order Annexure 3 had been passed in favour of the petitioner and against respondent 2 and it was held by the Labour Court in Annexure 3 that the industrial dispute was maintainable for the reasons mentioned therein and, therefore, it was improper for the Labour Court to pass an order violating its own earlier order in Annexure 3 and thus, the Labour Court ought to have decided the reference on merits and should not have dismissed their reference on the preliminary grounds which already stood rejected as far back as in 1991.

3. Reply has been filed by the contesting respondent 2. It is stated that the Rajasthan Government had decided the company as relief undertaking under the Act of 1961 and had declared that the provisions of the Industrial Disputes Act shall not be applicable to respondent 2 and, therefore, no reference should have been made by the Government for adjudication to the Labour Court. It is further submitted that the order Annexure 3, dated March 22, 1991, passed by the Labour Court on the same preliminary objection was not in accordance with law and, therefore was not binding on the Labour Court itself and if the reference is allowed to continue it will contravene the provisions of the Rajasthan Relief Undertaking (Special Provisions) Act, 1961.

4. After hearing learned Counsel for the parties, I find merit in the submission made by the petitioner. The Labour Court vide Annexure 3 had rejected the preliminary objection raised by respondent 2 and once such preliminary objection had been rejected and the proceedings were allowed to continue before the Labour Court, the finding of Annexure 3 are binding on both the parties until and

unless challenged by the aggrieved party. It is not disputed that Annexure 3 was never challenged. Howsoever illegal the order may be, it remains in force till it is challenged and is set aside or modified. The respondent 2 had not chosen to challenge the order Annexure 3. In any case, the Labour Court was bound by its own order Annexure 3 and should not have non-suited the petitioner on the same preliminary objection which had already been held to be not sustainable, as such the order Annexure 4 passed by the Labour Court is illegal on the face of it and deserves to be quashed.

5. For the discussions and reasons mentioned above, the arguments raised by respondent 2 are not acceptable. The writ petition is allowed. Annexure 4 is quashed. Labour Court is directed to pass a proper order on the evidence produced by the parties on the merits of the case. The writ petition is allowed with a cost of Rs. 1,000.