

Sushil Kumar Mathur Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Jul-19-2000

Reported in : (2001)IIILLJ286Raj; 2000(4)WLC669; 2000(3)WLN246

Judge : B.J. Shethna, J.

Acts : [Constitution of India](#) - Articles 226 and 227; [Industrial Disputes Act, 1947](#) - Sections 25F

Appeal No. : C.W.P. No. 730/1999

Appellant : Sushil Kumar Mathur

Respondent : State of Rajasthan and ors.

Disposition : Petition dismissed

Judgement :

ORDER

B.J. Shethana, J.

1. The petitioner's services as Munshi i.e. clerk were terminated by way of retrenchment on October 1, 1990. He raised dispute before the competent authority and the reference was made to the Labour Court, Jodhpur for its adjudication. After hearing the learned counsel for the parties and after considering the evidence on the record, the Labour Court came to the conclusion

that the termination of the petitioner was against law, therefore, by its award dated October 6, 1998 (Annexure 3), the said order of termination was set aside. However, as the petitioner was in fixed pay and appointed as daily wager and the post of Munshi i.e. clerk was also abolished, therefore, in its discretion, the Labour Court awarded compensation of Rs. 16,000/- to the respondent workman instead of passing the order of reinstatement with backwages. This part of the award giving compensation instead of reinstatement with backwages has been challenged by the petitioner workman.

2. From the record, it is clear that the petitioner was not appointed on regular post and in permanent capacity. His appointment was on daily wages at a rate of Rs. 18/- per day for a fixed period. On abolition of post, his services were terminated and he was paid the cheque for Rs. 3,302/- with the termination order. On abolition of post, there was no question of reinstatement, therefore, it cannot be said that the Labour Court committed any error in passing the order of compensation because the same was in its discretion. In case of Mount Mettur Pharmaceuticals Ltd. v. Second Addl. Labour Court, reported in 1985-II-LLJ-505 the High Court of Madras has observed that 'where the retrenchment infringed Section 25F but was otherwise bona fide and reinstatement was likely to be destructive to the employer, the Labour Court can award suitable compensation in lieu of reinstatement and backwages.'

3. Thus, on peculiar facts of this case, it cannot be said that the Labour Court committed any error in passing the impugned award partly in favour of the petitioner awarding compensation but denying reinstatement with backwages.

4. It may be stated that this is a petition labelled under Article 226 of the Constitution but strictly speaking, it is a petition under Article 227 of the Constitution. The scope of which is very narrow and limited as held by the Hon'ble Supreme Court in the case of Mohd. Yunus v. Mohd. Mustaqim, reported in AIR 1984 SC 38 : 1983 (4) SCC 566 : that this Court cannot correct every error committed by the Subordinate Court in its supervisory jurisdiction under Article 227 of the Constitution.

5. Going through the impugned award passed by the Labour Court, it appears that, the Labour Court had the discretion and when it had exercised the discretion awarding only compensation, then on the facts of the case, it cannot be said that the Labour Court has committed any error much less error on facts or law or jurisdictional error which calls for interference of this Court in its supervisory jurisdiction under Article 227 of the Constitution.

6. In view of the above discussion, I do not find any substance or merits in this petition and accordingly, it is dismissed.

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