

Executive Engineer, Phed and ors. Vs. Manoj Kumar and anr.

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SooperKanoon Citation : sooperkanoon.com/762194

Court : Rajasthan

Decided On : Feb-01-2000

Reported in : [2000(86)FLR505]; (2001)IIILLJ787Raj

Judge : V.S. Kokje, J.

Acts : [Industrial Disputes Act, 1947](#) - Sections 25B and 25F

Appeal No. : C.W.P. No. 167/1998

Appellant : Executive Engineer, Phed and ors.

Respondent : Manoj Kumar and anr.

Disposition : Petition dismissed

Judgement :
ORDER

V.S. Kokje, J.

1. Heard Mr. Anil Bhandari for the petitioners and Mr. Sachin Arya for the respondents.

2. This petition challenges an award passed by the Labour Court. The petitioners, did not appear before the Labour Court, after once entering appearance, and as a result the proceedings were taken ex parte against the petitioners and award was

also passed ex parte.

3. The learned counsel for the petitioners submitted that on his own saying the respondent employee had not completed 240 days of working in a year and, therefore, benefit of Section 25-F of the [Industrial Disputes Act, 1947](#) could not have been given to him. The learned counsel submitted that in paragraph 10 of the award, the learned Presiding Officer of the Labour Court has found that the respondent employee was paid for 26 days each in the months of May 1992, June 1992, July 1992, August 1992 and September 1992. According to the learned counsel, on calculation of the actual working days put in by the respondent employee, he has not completed 240 days of actual working. The learned counsel submitted that for purposes of Sub-section (2) of Section 25-B of the Industrial Disputes Act, actual working days should mean the days on which the workman physically attended and worked.

4. The proposition cannot be accepted in the face of the decision of the Supreme Court in *Workmen of American Express International Banking Corporation v. Management of American Express International Banking Corporation* AIR 1986 SC 458 : 1985-II-LLJ- 539. In paragraph 5 of their judgment their Lordships have clearly observed that the expression 'actually worked under the employer' cannot mean those days only when the workman worked with hammer, sickle or pen but must necessarily comprehend all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders, etc.

5. Thus, taking the Sundays and statutory holidays into account the calculation made by the Court is correct. Moreover the petitioner has not taken this point in the petition itself and has not contested that the respondent has completed 240 days of working. No other point was raised before me.

6. The petition has no force, it is dismissed.