

State Vs. Lala and ors.

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Court : Rajasthan

Decided On : Dec-02-1999

Reported in : [2000(87)FLR345]; (2002)IVLLJ743Raj; 2000WLC(Raj)UC445

Judge : N.N. Mathur, J.

Acts : [Industrial Disputes Act, 1947](#) - Sections 10

Appeal No. : S.B.C.W.P. No. 6002/1993

Appellant : State

Respondent : Lala and ors.

Advocate for Def. : Mr. P.R. Mehta

Judgement :

N.N. Mathur, J.

1. This writ petition under Article 226 of the Constitution of India has been filed by the State of Rajasthan through the Executive Engineer, P.W.D., Banswara, seeking direction to quash the award dated September 8, 1993 passed by the Judge, Labour Court, Udaipur, whereby the learned Judge while holding the order of termination of second respondent Lala dated July 1, 1989 illegal, declared the workman semi permanent and permanent. A further direction has been given to fix him in the pay scale existing at the relevant time. The direction is also given to

make payment of the arrears with cost at the rate of 12% per annum.

2. The respondent workman Lala was appointed on the post of Mate on February 7, 1970 in the office of the Assistant Engineer, City, Sub-Division II. However, his services were terminated by an oral order dated July 1, 1989. A plea was raised that the termination was in violation of the provisions of Section 25-F of the Industrial Disputes Act. The respondent filed a reply and averred that the workman was engaged for the specific job of famine relief and he had not worked for 240 days in a calendar year and, as such, it was not a case of retrenchment. On appreciation of material on record, the Labour Court found that the workman worked for 240 days and it was a case of retrenchment. The termination being in violation of Section 25-F of the Industrial Disputes Act was declared illegal.

3. Learned counsel appearing for the State has raised twin contentions; firstly that the finding of the Labour Court with respect to non-compliance of the provisions of Section 25-F of the Industrial Disputes Act is not sustainable as the same is based on non-consideration of material on record; and secondly it is contended that the Labour Court has exceeded its jurisdiction in making the award declaring the respondent workman semipermanent and permanent and further directing to fix him in the pay scale available at the relevant time and also to pay arrears with cost at the rate of 12% per annum.

4. On the other hand, it is contended by Mr. P.R. Mehta, learned counsel for the respondent-workman that the finding of fact arrived at by the Labour Court does not call for interference by this Court.

5. So far as the order of termination is concerned, I do not find any illegality in the order. The respondent workman had worked for nineteen years till his services were terminated. Thus, it is erroneous to say that he had not worked for 240 days in a calendar year.

6. However, I find substance in the second contention. In order to appreciate the contention, it will be appropriate to read the reference made by the State Government to the Labour Court, which reads as follows:

'Vernacular Matter Omitted'

7. It is apparent from the reading of the reference that no industrial dispute was raised with respect to declaring the respondent workman semi-permanent and permanent as there was no industrial dispute on that count. There was no reference calling upon the Labour Court to answer with respect to giving status of semi-permanent or permanent to the respondent workman. Thus, the Labour Court has exceeded the jurisdiction in making declaration about the status of the respondent workman.

8. In view of the aforesaid, this writ petition is partly allowed. The award of the Labour Court, Udaipur, dated September 8, 1993 is quashed and set aside to the extent of declaration of respondent workman Lala semi permanent and permanent and consequential relief directing to fix him in the pay scale relevant at that time and further to pay the arrears at the rate of 12% per annum. So also the notification issued under Section 17(2) shall stand modified.

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