

Smt. Sabeer Kanwar Vs. State

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Court : Rajasthan

Decided On : Sep-08-1992

Reported in : 1992WLN(UC)562

Judge : A.K. Mathur and; Rajendra Saxena, JJ.

Appeal No. : D.B. Civil Special Appeal No. 95 of 1992

Appellant : Smt. Sabeer Kanwar

Respondent : State

Advocate for Pet/Ap. : Mr. Mridul

Judgement :

A.K. Mathur, J.

1. This appeal is directed against the order of the learned Single Judge dt. 13.2.1992 whereby the learned Single Judge has dismissed the writ petition being infructuous as the payment in question was made to the petitioner during the pendency of the writ petition on 13.7.1989.

2. The appellant's husband Shri Sumer Singh was as employee of the Municipal Board Mukandgarh District Jhunjhunu. His services were terminated and thereafter he raised an industrial dispute before the Tribunal and the Tribunal gave the award of 21.6.1983 and granted him the relief of reinstatement with back

wages. Aggrieved against this order, the writ petition was filed by the Municipal Board, Mukandgarh and the same was dismissed on 24.5.1985. Thereafter Sumer Singh was taken on duty on 24.9.1983 but no payment was made to him for back wages. In the mean while he died on 5.9.1985 in motor accident. The petitioner-appellant then moved an application under the Labour Court under Section 33(2)(c) of the Industrial Dispute Act, 1947. The Labour Court also by its order dated 2.5.1987 awarded him the amount of Rs. 29353.80. This amount was also not paid, therefore, the petitioner filed a writ petition before this Court and during the pendency of this writ petition the amount was released to the petitioner-appellant on 3.7.1989. The learned Single Judge dismissed the writ petition being infructuous as the amount in question was released to her. Aggrieved against this order of the learned Single Judge dated 13.2.1992, the present appeal has been filed by the petitioner-appellant.

3. The grievance of the petitioner is that the award was given by the labour court way back on 21.6.1983 but the payment was released to the petitioner-appellant on 3.7.80 after filing an application under Section 33(c)(2) of Industrial Disputes Act.

4. Mr. Mridul, learned Counsel for the petitioner-appellant submits that the amount in question was wrongly withheld by the authorities. Notwithstanding the fact that the award has already been given by the labour court in 1983 and an application under Section 33(c)(2) was disposed of in 1987. Still the actual payment was released to the petitioner-appellant on 3.7.1989, therefore, the petitioner-appellant is entitled to interest @ 15% and compensation as well as cost of the writ petition. In support thereof, learned Counsel has invited our attention to : (1984)ILLJ237SC .

5. Mr. Jangid learned Counsel for the Municipal Board has submitted that the amount has been paid to the petitioner-appellant and the same could not be paid on account of administrative exigencies.

6. Be that as it may, the fact remains that the award was given in favour of the husband of the petitioner-appellant and he died during this time but the amount was released on 3.7.89, Therefore, the amount in question was wrongfully

withheld by the authorities without any justification. The submission of Mr. Mridul appears to be justified that once an award is given by a competent court and writ petition having been dismissed against this award, there was no necessity to drive the petitioner to move an application under Section 33(c)(2) of Industrial Dispute Act likewise there was no reason then why the petitioner was forced to file this writ petition before this Court as that the competent court had already decide the issue in favour of the petitioner-appellant. The very fact that the petitioner-appellant has been driven from pillar to the post for getting her grievance redressed because of the high Kandedness of the respondent, she is entitled to be a compensated and - an interest on the amount in question.

7. Therefore, looking to the facts and circumstances of the present case we direct that the petitioner-appellant will be entitled to the interest @ 12% from 22.6.1983 to 2.7.1989 on the due amount and the petitioner will be entitled to compensation for this delayed payment to the extent of Rs. 3,000/- and a cost of litigation i.e. Rs. 1,000/-.

8. With these observations, the appeal is disposed-off.