

Birji Vs. State

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Court : Rajasthan

Decided On : Nov-12-1997

Reported in : 1998(3)WLC326; 1997(2)WLN638

Judge : A.K. Parihar, J.

Appeal No. : S.B. Civil Writ Petition No. 6105 of 1997

Appellant : Birji

Respondent : State

Disposition : Petition allowed

Judgement :

A.K. Parihar, J.

1. Petitioner has challenged the order dated 05.07.1995 passed by Labour Department, Government of Rajasthan, refusing to refer the dispute of termination of service of the petitioner to a competent Court for adjudication. The only ground for non-reference is delay in raising the dispute.

2. The petitioner had worked with the respondents from 1979 till 1983. However, his services were terminated without compliance of mandatory provisions of the Industrial Disputes Act.

3. After having gone through the writ petition and the dispute raised before Conciliation Officer. I find that there are so many disputed questions of facts and law, which can only be decided by a competent Court after taking evidence of both sides. The same can not be decided by just administrative orders.
4. This Court as well as the Apex Court, at number of occasions, have made serious observations on the manner in which the department deals with such matters in refusing to refer the dispute to a competent Court for adjudication. So far as delay is concerned, that can also be taken note of by the competent Court and that is also relevant only for the purpose of relief, if any, to be given to the concerned workman. There is no limitation prescribed under the Act and a person has a right to explain the delay to the satisfaction of Court.
5. Since the matter of termination has yet to be decided by a competent Court after taking evidence of both sides, no purpose would be served by issuing notices of the writ petition to the respondents.
6. Accordingly, the writ petition is allowed. Respondent No. 2 is directed to refer the dispute of termination of services of the petitioner to a competent Court within thirty days from the date of receipt of certified copy of this order.