

Mohan Lal Vs. Assistant Engineer Rajasthan Agriculture Marketing Board and anr.

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Court : Rajasthan

Decided On : Nov-19-2005

Reported in : RLW2006(1)Raj779; 2006(2)WLC76

Judge : Shiv Kumar Sharma and; Harbans Lal, JJ.

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

Appeal No. : D.B. Special Appeal (Writ) No. 941 of 2001

Appellant : Mohan Lal

Respondent : Assistant Engineer Rajasthan Agriculture Marketing Board and anr.

Advocate for Def. : Suresh Goyal, Adv.

Advocate for Pet/Ap. : Deepak Goyal, Adv.

Disposition : Appeal allowed

Judgement :

Shiv Kumar Sharma, J.

1. The appellant workman has impugned the order dated August 23, 2001 of learned Single Judge whereby the award of learned Labour Court Kola dated

February 3, 1999 was set aside to the extent it ordered for reinstatement of workman and instead of reinstatement compensation in the sum of Rs. 5000/- was awarded to the workman.

2. Having heard the submissions and on scanning the material on record, we notice that learned Single Judge considered the delay of six years in raising the industrial dispute fatal and came to the conclusion that because of laches on the part of workman, he was only entitled to compensation.

3. It is contended by the learned Counsel for the workman that despite the fact that plea regarding delay was not raised by the respondent employer, learned Single Judge considered it. Had this plea been raised, the workman would have been in a position to show the circumstances preventing him in approaching the court at an earlier stage. It is further urged that the learned Single Judge did not take into consideration this aspect that the employer had already complied with the award of the Labour Court and reinstated the workman and paid 30% back wages. Per contra, learned Counsel for the employer supported the order of learned Single Judge and placed reliance on *Balbir Singh v. Punjab Roadways* (2001) 1 SCC 133.

4. It is well settled that technicalities of law should not obstruct the path of substantial justice. Their Lordships of Supreme Court in *Ajaib Singh v. The Sirhind Cooperative Marketing-cum-Processing Service Society Ltd.* : (1999)ILLJ 1260 SC indicated that in the absence of any plea on behalf of the management and any evidence, regarding delay, the workman could not be deprived of the benefits under Industrial Disputes Act merely on technicalities of law, therefore, the High Court under Articles 226/227 of the Constitution was not justified in substituting its opinion for the opinion of Labour Court.

5. Ratio indicated in *Ajaib Singh* (supra) was distinguished in *Balbir Singh v. Punjab Roadways* (supra) on the ground that in *Balbir Singh's* case the plea of delay was raised by the management before the Industrial Tribunal. In the instant case since the plea regarding delay was not raised before the Labour Court learned single Bench was not justified in substituting its opinion for the opinion of Labour Court, more so when the workman was already reinstated by the

employer.

6. For these reasons, we allow the appeal and set aside the order dated August 23, 2001 of learned Single Judge. The Award dated Februarys, 1999 of the Labour Court is restored. There shall be no order as to costs.

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