

**Assistant Engineer Vs. Babulal and ors.**

**Assistant Engineer Vs. Babulal and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/771071](http://sooperkanoon.com/771071)

**Court :** Rajasthan

**Decided On :** Jan-18-2001

**Reported in :** [2001(89)FLR807]; (2001)ILLJ1234Raj; 2001WLC(Raj)UC87

**Judge :** Ar. Lakshmanan, C.J. and; Ashok Parihar, J.

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

**Appeal No. :** D.B. C.S.A. No. 565/2000

**Appellant :** Assistant Engineer

**Respondent :** Babulal and ors.

**Advocate for Def. :** Deepak Goyal, Adv.

**Advocate for Pet/Ap. :** S.K. Singh, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

ORDER

1. Heard the learned counsel appearing on either side.

2. As per the case of the respondent-workmen they were appointed and were declared permanent on the dates given in the table:

Name

Date of

appointment

Date of Semi permanent

1.

Babulal

Nov. 1976

1.1.79

2.

Jagannath

Sept. 1976

1.1.79

3.

Ramkanwari

July. 1976

1.1.79

4.

Chand

June. 1978

June, 1980

5.

Kanhayalal

June, 1978

June, 1980

They were retrenched from service w.e.f. May 31, 1983 without any notice. According to them they had completed 240 days in one calendar year and that there has been non-compliance of Section 25N of the [Industrial Disputes Act, 1947](#) (hereinafter referred to as 'the ID Act') and there was also non-compliance of the other mandatory provisions of the ID Act. In such circumstances the respondent-workmen raised an industrial dispute and the State Government vide its order dated July 23, 1989 made a reference to the Labour Court, Kota. The appellant herein submitted a reply to the claim petition on October 25, 1990. According to the appellant, the order dated May 28, 1993 was issued in pursuance to the order dated April 16, 1983 issued by the State Government through which certain divisions of the Irrigation Department were abolished which included the Command Area Development Irrigation Circle-I, Kota in which the respondents were working. As the respondent-workmen were surplus employees, they were retrenched from service on May 31, 1983. As per the case of the appellant, the respondents were also offered notice pay and compensation as per the provisions of the law and an advertisement was also published in the news papers informing all concerned to come to the office and to receive the amount of compensation. Therefore, it is submitted by the learned counsel for the appellant that it is wrong to say that the retrenchment of the respondent-workmen is in violation of the provisions of the ID Act.

3. The Labour Court vide award dated February 17, 1999 held that the retrenchment of the respondent-workmen is not just and proper and that the workmen are entitled for reinstatement in service and also entitled to back wages w.e.f. June 11, 1986 to the extent of 30%.

4. A writ petition was filed on October 30, 1999 by the appellant challenging the award of the Labour Court. On March 13, 2000 when the writ petition was listed in Court the then counsel for the appellant did not appear before the learned single Judge and the learned single Judge took up the matter and decided the same on merits. Aggrieved by the said order of the learned single Judge, the present special appeal has been filed on the grounds alleged in the memo of appeal.

5. Mr. S.K. Singh, learned counsel for the appellant states that the then counsel Smt. Kamla Jain could not appear when the case was called for as her mother had expired on March 3, 2000 and as per instructions to her clerk Shri Shiv Lal Verma made a mention for adjournment on behalf of Smt. Kamla Jain as she had gone to Delhi on account of death of her mother. However, the learned single Judge instead of adjourning the matter decided the same on merits. It is also seen from the appeal grounds that though an application for recalling the order of the learned single Judge dated March 13, 2000 was filed, the same had been dismissed as not pressed.

6. We have perused the pleadings and the award passed by the Labour Court, the order impugned in this appeal, and also the grounds raised in the appeal.

7. In this case, the respondent-workmen were appointed and were declared permanent on the dates mentioned in the table given above. Their services were terminated on May 31, 1983, thereupon the Government made a reference to the Labour Court on July 23, 1989 and the Labour Court passed the award on February 17, 1999 holding that the retrenchment of the respondent-workmen was not proper and, therefore, the Labour Court ordered reinstatement in service with 30% back wages only from June 11, 1986 i.e. the date of raising industrial dispute. In the light of the above facts, in our opinion, the award of the Labour Court cannot be assailed on any ground. The Labour Court has clearly found that the termination order was illegal. Though the termination order was made on May 31, 1983, the Labour Court awarded 30% back wages only from June 11, 1986. In our opinion, the direction issued by the Labour Court ordering 30% of the back wages is just, reasonable and proper in the facts and circumstances of the case.

8. Since the learned single Judge has disposed off the matter ex parte we heard the learned counsel appearing for the parties at length and passed the present order after considering the rival claims of both the parties. In our opinion, the award passed by the Labour Court and confirmed by the learned single Judge does not call for any interference. The appeal fails and is, hereby dismissed.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**