

Kanshi Ram Verma

Vs

Municipal Committee, Mansa

Civil Appeals Nos. 251 and 252 of 1981

(R.S. Pathak, O. Chinnappa Reddy JJ)

07.01.1981

JUDGMENT

PATHAK, J. –

1. This appeal by special leave 8 is directed against the judgment of a Division Bench of the High Court of Punjab & Haryana dismissing a letters patent appeal against the judgment of a learned single Judge allowing a writ petition filed by the Municipal committee, Mansa and quashing an award made in favour of the appellant Kanshi ram Verma by the Labour Court, Patiala.
2. The appellant was appointed by the Municipal committee, Mansa to the post of Sectional Officer on a temporary basis. The appellant entered upon his duties on September 4, 1974. He was required to furnish a certificate from a recognized university that he had passed a diploma examination in engineering and also an affidavit that he was not a dismissed employee. The Municipal committee alleges that he did not file the requisite certificate and affidavit and consequently his services were terminated. The appellant disputes the validity of the termination of his services. Accordingly, an industrial dispute was referred to the Labour Court, Patiala, and on August 4, 1977 the Labour Court made an award that the termination was illegal and it directed the reinstatement of the appellant and payment of Rs. 200 as compensation. The Municipal committee challenged the award in writ petition before the High Court. About the same time the appellant also filed a writ petition contending that he was entitled to full back wages. Both the writ petitions were disposed of by a learned single Judge by a judgment dated November 16, 1979. He allowed the writ petition filed by the Municipal Committee and quashed the award. The writ petition by the appellant was dismissed. His letters patent appeal was dismissed by a division Bench on May 20, 1980.
3. The Labour Court found that the appellant had produced a certificate regarding his qualifications before the Executive Officer, and the copy of it filed by him had been compared with the original document by a Clerk and had been signed by the Executive Officer in token of his having received the certificate. On the point whether he was a dismissed employee, he was permitted to file an unattested declaration by the Executive Officer that he had on his own initiative given up his earlier employment in the Military Department and the Jakhhal Municipal committee. In regard to the matriculation certificate, he states that it had been lost. The Labour Court accepted the allegations of the appellant in regard to the fulfilment of the requirements for employment, and it noted that neither the Executive Officer nor any other responsible officer of the municipal committee had appeared before it to rebut the allegations made by the appellant. Holding that the appellant had complied with the necessary formalities the Labour Court found that the termination of his services was not justified, accordingly, it made an award in the terms mentioned earlier.

4. In the High Court, the learned single Judge held that the appellant had not furnished a certificate of a recognised university that he had passed a diploma examination and an affidavit that he was not a dismissed employee, and said that, therefore, the termination of his services was proper and valid. In the result, he set aside the award of the Labour Court. A letters patent appeal by the appellant was dismissed summarily by a Division Bench of the High Court.

5. It appears from the judgment of the learned single Judge that he entered into the evidence on the record and differed on question of fact from the Labour court. He omitted to consider that the Municipal Committee had been initially satisfied that the appellant had materially complied with the requirements for employment and had actually employed him. The order of the learned single Judge cannot be sustained and the award must be restored, the rights of the parties on the date of the award being those declared, the award. For the same reason, the order of the division Bench summarily dismissing the appeal must be set aside.

6. The appeal is allowed, the order dated November 16, 1979 of the learned single Judge and the order dated May 20, 1980 of the division bench of the High Court, Patiala is restored. There is no order as to costs except that the respondent, the municipal committee, Mansa will pay the court fee on this appeal which would have been paid by the appellant.

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