

Hari Mohan Rastogi

Vs

Labour Court and Another

Civil Appeal No. 743(NL) of 1981

(D. A. Desai, A. Varadarajan, O. Chinnappa Reddy JJ)

14.09.1983

ORDER

1. We heard Mr A. P. Mohanty, learned counsel for the appellant and Mr S. Markandeya, learned counsel for respondents.
2. In view of the decision of this Court in Mohan Lal v. Bharat Electronics Ltd ((1981) 3 SCR 518 : (1981) 3 SCC 225 : 1981 SCC (L & S) 478 : (1981) 58 FJR 467). the termination of service of the appellant by respondent U.P. State Electricity Board, Lucknow on and from December 31, 1967 will constitute retrenchment and prerequisite for a valid order of retrenchment being absent has to be treated as invalid and inoperative. The appellant will continue to be in service as Town Incharge continuously without interruption and any break from the date of ineffective termination of service.
3. Now that the appellant continues to be in service as Town Incharge, he will be entitled to arrears of salary and other benefits which can be computed in terms of money. One peculiar feature of this case is that the appellant was re-employed afresh as Substation Assistant on December 4, 1968 and was confirmed in that post. While rendering his service as Substation Assistant he was in receipt of monthly salary. Therefore, while working to the monetary benefit with regard to the arrears of back wages and other monetary benefits, credit will have to be given for what the appellant has received as and by way of salary and all other allowances.
4. Mr Markandeya for the employer stated that on the computation made by the respondent-Management, it will have to pay Rs 13,000 and odd to the appellant. This month will be paid by respondent-Management to the appellant within one month from today and the appellant will accept the same without prejudice to all his contentions.
5. As the appellant does not accept the computations made by the respondent-Management, it would be necessary to determine the monetary benefit to which appellant would be entitled. In this connection, we would like to follow a precedent in CMP 15708 of 1981 in CA 364 of 1981 wherein in similar circumstances, we directed the Labour Court to compute the benefits which the appellant was entitled to pursuant to the decision of this Court.
6. We, therefore, direct that the appellant shall be re-posted as Town Incharge forthwith and not later than a fortnight from today. We direct the Labour Court to compute the back wages payable by respondent to the appellant pursuant to this decision and this computation may be both the monetary benefits and non-monetary benefits to which the appellant is entitled after giving credit for the amount of Rs 13,000 which would be paid to the appellant within one month from today. The balance shall be paid within such reasonable time as maybe determined by the Labour Court. The

Labour Court do compute monetary and non-monetary benefits within a period of six months from today. The report will also be submitted to this Court. Respondent shall pay Rs 1000 as and by way of costs to the appellant.

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