

Scooters India and Others

Vs

Vijai E. V. Eldred

Civil Appeal No. 3486 of 1992 with SLP (C) No. 14812 of 1992

(J. S. Verma, B. K. Kirpal JJ)

03.10.1996

ORDER

1. The respondent was employed as a workman by the appellants. The respondent remained absent from duty with effect from 25-8-1982 without any leave or intimation so the absence from that date was unauthorised. In terms of clause 9.3.12 of the standing order, the appellants treated this absence for more than 10 days as termination of the contract of service as he was deemed to have left the service of the appellant on his own accord and his name was accordingly struck off. A letter to this effect dated 4-9-1982 was issued by the appellants addressed to the respondent. The respondent continued to remain absent and it was by a letter dated 19-11-1982, the respondent sent a reply to that letter saying that he had been ill. However, the respondent even after this remained absent and took no action to assail the order dated 4-9-1982 issued by the appellants. Several years later in 1989, the respondent filed a writ petition under Article 226 of the Constitution directly in the Allahabad High Court, Lucknow Bench for quashing the appellant's letter dated 4-9-1982. That writ petition has been allowed and the respondent has been granted relief of reinstatement with three years' back wages in addition to holding that clause 9.3.12 of the standing orders as invalid. Hence, this appeal by special leave.

2. The above facts alone are sufficient to indicate that there was no occasion for the High Court to entertain the writ petition directly for adjudication of an industrial dispute involving the termination of disputed questions of fact for which remedy under the industrial laws was available to the workman. That apart, the writ petition was filed more than 6 years after the date on which the cause of action is said to have arisen and there being no cogent explanation for the delay, the writ petition should have been dismissed on the ground of laches alone. It is also extraordinary for the High Court to have held clause 9.3.12 of the standing orders as invalid. Learned counsel for the respondent rightly made no attempt to support this part of the High Court's order. In view of the fact that we are setting aside the High Court's judgment, we need not deal with this aspect in detail.

3. Consequently, the appeal is allowed, the impugned judgment of the High Court is set aside resulting in the dismissal of the writ petition filed by the respondent in the High Court.

SLP (C) No. 14812 of 1992

4. In view of the above order, this special leave petition has become infructuous and is dismissed accordingly.