

Municipal Committee Tauru

Vs

Harpal Singh and Another

Civil Appeal No. 2413 of 1998

(S. P. Bharucha, V. N. Khare JJ)

24.04.1998

ORDER

1. Special leave granted.

2. The first respondent filed a claim statement before the Industrial Tribunal-cum-Labour Court, Gurgaon, which was in the form of the demand notice that he had issued to the appellant. It stated thus :

"That the applicant was appointed as Octroi Moharrir w.e.f. 1-7 1980 in the pay scale of Rs. 400-600 and had been performing his duties as Moharrir honestly and diligently but the respondents from 1-6-1985 had unlawfully detained him from duty on the plea either to work as Octroi Peon otherwise the respondents would not allow him on duty. The applicant refused to perform duty as Octroi Peon, as the application was for being appointed as Moharrir. A complaint has been lodged with the Labour Inspector but to no result. The action of the respondents in not allowing the applicant on service tantamounts to an illegal dismissal, removal, discharge from service. It is therefore prayed that the applicant be reinstated on duty as Octroi Moharrir with continuity of service and a back wages."

Alongside his signature upon the aforesaid, the first respondent stated : "The demand notice may be treated as claim statement."

3. It is necessary immediately to analyse what the first respondent's claim was. It was : (1) that he had been appointed as an Octroi Moharrir; (2) that he had been performing the duties of a Moharrir; (3) that the appellant had wanted him to work as Octroi Peon; (4) that he had refused to perform the duties of an Octroi Peon because he had been appointed as a Moharrir; and (5) that he be reinstated as Octroi Moharrir.

4. Before the Labour Court the first respondent deposed :

"I was appointed as Octroi Peon in Municipal Committee, Tauru in 1980. I was removed from employment in 1985; no show-cause notice or compensation was given before removal ....

I used to work as Octroi Clerk and issue Octroi receipt ....

It is wrong that I have left the job on my own."

5. The first respondent's evidence is patently contrary to his claim statement in that he now claimed that he had been appointed as an Octroi Peon.
6. The Labour Court noted that in the claim statement the first respondent had stated that he was appointed an Octroi Moharrir but he was asked to work as an Octroi Peon, which he had refused to do. An issue was framed in this regard but no evidence was produced by the first respondent. In spite of this, the Labour Court, having found that the first respondent had been appointed as an Octroi Peon, held that it was mandatory for the appellant to issue a notice to the first respondent and hold an enquiry and find out the reason for his absence. It ordered that the first respondent was entitled to reinstatement with full back wages and continuity of service.
7. The appellants preferred a writ petition challenging the order of the Labour Court before the High Court of Punjab and Haryana. There is no discussion of the case of the first respondent before the Labour Court in the order of the High Court thereon, which is under appeal, but it was stated that the appellant did not hold any inquiry regarding the absence of the workman; no notice was issued to him and he had not been paid retrenchment compensation. Consequently, the findings recorded by the Labour Court deserved to be affirmed.
8. Learned counsel for the appellant pointed out that it was the first respondent's own case that the appellant had wanted him to work as an Octroi Peon but that the first respondent had declined to do so on the ground that he was appointed as an Octroi Moharrir. The findings of the Labour Court and the High Court did not take note of this and were, therefore, erroneous. Learned counsel for the first respondent submitted that in labour matters technicalities should not be allowed to prevail, that the claim statement should be looked at as a whole and that the Labour Court had done a substantial justice.
9. Even in labour matters a claimant goes before the court or tribunal with a case and it is upon the merits of that case that relief is to be granted or refused to him. To look to his case is not to look at technicalities. There is no substantial justice when the court or tribunal gives relief to a workman which is on a basis that is totally contrary to the basis upon which he approached it; which, indeed is the employer's case. Substantial justice must be done both to the employer and the employees.
10. Having regard to the claim of the first respondent which we have quoted, looked at as a whole, there is no doubt whatsoever in our mind that he deserved no relief whatsoever. The Labour Court and the High Court could not have turned a blind eye to the inconsistent stand taken by him in the claim statement and his evidence.
11. The appeal is allowed. The judgment and order of the High Court under appeal is set aside and the writ petition filed by the appellant is allowed. The first respondent shall pay to the appellant the costs of the appeal.