

**SUPREME COURT OF INDIA**

Mahavir Singh

Vs.

U.P. State Electricity Board

(S Majmudar and M J Rao JJ.)

27.04.1998

**ORDER**

S.B. Majmudar and M.J. Rao, JJ.

1. Leave granted. We have heard learned Counsel for the parties finally.

2. In our view, the order passed by the High Court cannot be sustained. The services of the appellant-Chowkidar were terminated by respondent No. 1 Board. The date of termination is November 12, 1975. He raised an industrial dispute though belatedly in March, 1983. Ultimately reference was made by the appropriate Government on April 17, 1984. The Labour Court adjudicated the reference and took the view that the: termination was illegal. But considering the delay in raising the dispute, as a package 50% back wages were directed to be granted to the appellant with reinstatement. Respondent No. 1 carried the matter in appeal before the High Court under Article 226 of the Constitution of India. The High Court took the view that as the dispute was raised belatedly, the reference itself was incompetent though agreeing with the Labour Court that on merits the termination order could not be sustained and it was illegal. It is this order of the High Court which is in challenge before us.

3. Once the termination is held to be illegal, we fail to appreciate how the entire reference could have been rejected. The dispute lingered on for number of years. That would not mean that the dispute had ceased to exist. It is, of course, true that belatedly the dispute was raised but that has been taken care of by the Labour Court by not awarding full back wages but only 50% of the back wages all throughout from the date of termination till reinstatement, which order as passed by the Labour Court could not be said to be in any way uncalled for and illegal.

4. Consequently, the appeal is allowed. The order of the High Court in Writ Petition is set aside and the order of the Labour Court is restored. We are informed that the appellant is already reinstated in service pursuant to the order of the Labour Court and in view of the further order passed by us on December 18, 1997. Consequently, respondent No. 1 will have to work out the back wages payable to the appellant and pay up the said amount to the appellant within eight weeks from today. No costs.