

SUPREME COURT OF INDIA

Harnam Singh

Vs.

Punjab State Electricity Board

(S. R. Babu and Y.K. Sabharwal JJ.)

12.09.2000

ORDER

S. RAJENDRA BABU, J.

1. This appeal arises out of an order made by the High Court quashing the reference made to the Labour Court/Industrial Tribunal in exercise of the powers under Section 10 of the Industrial Disputes Act. The question referred to the Labour Court/Industrial Tribunal is as follows:

Whether the termination of services of Shri Harnam Singh and 20 other workers (list enclosed) by the Superintending Engineer, Punjab State Electricity Board, Shanan Power House, Jogindernagar, District Mandi, (H.P.) without any notice, chargesheet, enquiry and compliance Section 25-F of the Industrial Disputes Act, 1947 is legal and justified, if not to what relief of past service benefits and amount of compensation, the aggrieved workmen are entitled to ?

2. This reference was challenged before the High Court on the ground that the Government had not taken note of the contentions raised by the respondents that the appellants before us were not working under them and their claim was related in spite of a specified reference thereto in the report of the Conciliation Officer. Secondly, that the reference proceeds on the assumption that the appellants were workmen under the respondents and their services were terminated without any notice, chargesheet, enquiry and compliance of Section 25-F of the Industrial Disputes Act.

3. We are surprised to note in this matter that the High Court should have proceeded to examine the original records of the Conciliation Officer and that of the Government to arrive at a decision to find that when the petitioners have disputed the claim that they were working under them, the Government ought to have made a reference to that question. Apart from that, the Government has completely ignored the fact that the contesting respondents had invoked the provisions of the Industrial Disputes Act more than 12 years after the alleged termination of service, when they have not given any explanation whatever, for the inordinate delay. When there is unexplained delay, the Government ought to have taken that as a relevant factor. When the Government has failed to do so, it is certainly open to exercise our jurisdiction under Article 226 of the Constitution of India.

4. The High Court though notices that the proceeding arises under Section 10 of the Industrial Disputes Act and making of a reference thereto is administrative in character still has examined this matter as if sitting in appeal on the reference made. In fact the scope of the investigation in such a matter is very limited and in this case the two issues could not have been decided except by

adjudication before the concerned Competent Authority.

5. The learned Counsel for the appellants makes it clear that the two contentions raised before the High Court were included within the scope of reference made to the Labour Court/Industrial Tribunal. In the circumstances we think that these two questions should be adjudicated by the concerned Labour Court/Industrial Tribunal in the course of adjudication of the reference.

6. However, Mr. H.M. Singh, learned Counsel for the respondents submitted that the order of the High Court is justified in the circumstances of the case particularly when there were inconsistencies in the claim made by the appellants and the material placed before the Conciliation Officer. If it is so, the issues could be adjudicated only by the Competent Authority like the Labour Court or the Industrial Tribunal. We, therefore, express no opinion on this aspect of the matter.

7. In the result we set aside the order made by the High Court and direct the concerned Labour Court/Industrial Tribunal to adjudicate the reference as ordered by the Government and while doing so, it shall examine the two questions referred to by us earlier in the course of this order. The appeal is allowed accordingly. In the nature and circumstances of the case, there will be (sic) order as to costs. Parties shall appear before the concerned Tribunal on November 14, 2000.