

SUPREME COURT OF INDIA

Shahaji

Vs.

Executive Engineer, P.W.D.

(B.P. Singh and Altamesh Kumar JJ.)

11.03.2005

ORDER

1. Special Leave granted.

2. We have heard Counsel for the parties at length.

3. In this Appeal the question which arises for our consideration is whether the Labour Court, Aurangabad could have answered the reference in the negative merely on the ground that the reference made to it by the appropriate Government was delayed by several years. The Reference made to the Labour Court was in the following terms:-

"Shri Shahaji Narayan Shewale (Labour) should be reinstated with full back wages and continuity of service with effect from 1.6.1980."

4. The case of the Appellant was that his services were terminated with effect from June 1, 1980. The conciliation proceeding took place much later in the year 1996 where after a reference was made to the Labour Court, Aurangabad under Clause c of Sub-section (1) of Section 10 read with Section 12 of the *Industrial Disputes Act, 1947*. The Labour Court did not entertain the dispute on the ground that there was delay in making the reference, therefore, the reference was stale and not tenable under law.

5. The Appellant herein assailed the order of the Labour Court before the High Court of Judicature at Bombay Bench at Aurangabad, before a Single Judge, who dismissed the Writ Petition. The Letters Patent Appeal filed by the Appellant was rejected by the Division Bench by its Judgment and Order dated 25th August, 2003.

6. We have heard counsel for the parties and we have also been taken through the Judgment of this Court reported in *Ajaib Singh v. Sirhind Co-op. Nedungadi Bank Ltd. v. K.P. Madhavankutty*, and *Sapan Kumar Pandit v. U.P. Electricity Board*. Having gone through the Judgments we have no doubt that the Judgment of this Court in *Ajaib Singh's* case lays down the law correctly. In the instant case there was no ground of delay urged by the Management. Moreover, even if there was delay in making the reference to Labour Court, if it came to the conclusion that he termination was illegal, it could have suitably moulded the

relief to be granted to the workman in view of the delay. In such cases the award of back wages may either be not permitted, or curtailed. In Nedungadi Bank's Case what was challenged before the High Court was the Order making the reference. That was not a case where the Labour Court refused to entertain the dispute on the ground of delay. Having regard to the clear position in law we are left with no option but to allow the is Appeal and set aside the Judgment and Order of the High Court.

7. This Appeal is accordingly allowed and impugned Judgment and Order of the High Court is set aside. The Labour Court will now proceed with the reference and dispose it of in accordance with law as expeditiously as possible. It was submitted before us on behalf of the Respondent that he has not filed any written statement before the Labour Court and therefore he should be permitted to do so as also to lead evidence. We wish to pass no order on this aspect of the matter, but it is open to the parties to make appropriate prayer before the Labour Court which shall be disposed of by it in accordance with law.