

(Supreme Court Of India)

State of Uttaranchal

v.

Jagpal Singh Tyagi

(Arijit Pasayat and H.K.Sema,Jj.,)

Civil Appeal No. 6505 Of 2004 | 31-08-2005

Arijit Pasayat, J.

1. The appellant State calls in question legality of the judgment rendered by the learned Single Judge of the Uttaranchal High Court.

2. A brief reference to the factual background will be necessary:

The respondent (hereinafter referred to as “the employee”) was a work-charged employee in Irrigation Research Institute, Roorkee. The project was completed on 28.2.1982 and like other similarly work-charged employees his services came to an end. Order in this regard was passed on 25.2.1982. The respondent employee raised a dispute before the Conciliation Officer, Saharanpur in 1988 who after examining the claim dismissed it on 25.1.1990 and no reference was made under the Industrial Disputes Act, 1947 (in short “the Act”). A writ petition was filed by the respondent employee before the Allahabad High Court which was dismissed. However, the respondent employee was permitted to make a representation or to approach the Government for a fresh consideration. The State Government referred the dispute to the Labour Court which directed reinstatement with 50% back wages. Both the State Government and the employee filed writ petitions. The High Court dismissed the writ petition filed by the State Government but remitted the matter to the Labour Court to consider the desirability by restricting back wages to 50%, in the writ petition filed by the respondent employee. After the matter was remitted to the Labour Court, according to the appellant State, a settlement was arrived at and the respondent employee accepted Rs. 1,21,245/- in full and final settlement of the claim. The Labour Court felt that the settlement arrived at between the parties was not fair and was apparently on the basis of pressure and undue influence exercised by

the employer. Accordingly, 100% back wages were awarded. The State Government questioned the correctness of the decision by filing a writ petition which as noted above was dismissed by the High Court. According to the High Court, the settlement was not a free and fair one and it appeared to be contrary to law and in violation of the order passed by the High Court earlier.

3. Learned Counsel for the appellant State submitted that there was nothing on record to show that there was any pressure put on the respondent employee or that undue influence was exercised. The conclusion was arrived at without pleadings in this regard. For the first time in the counter-affidavit filed before the High Court, stand to that effect was taken. Without any material to support the contention, the High Court held that the settlement was not proper and in order to frustrate the order passed by the High Court, the same was arrived at. The effect of the affidavits and the undertaking was totally ignored. In response learned Counsel for the respondent employee submitted that it is apparent that the respondent employee in his anxiety to get some benefit had entered into a settlement and the High Court has rightly held that the affidavits and undertaking were obtained by pressurising him and by use of undue pressure.

4. We find that the approach of both the Labour Court and the High Court is clearly on wrong premises. If there was dispute on the question as to whether the settlement was bona fide or was obtained by fraud, misrepresentation or concealment of facts, the same can only be the subject-matter of another industrial dispute. To substantiate the averments that such settlement could not have been arrived at, nothing was brought on record by the respondent employee to show that there was any pressure exercised or that he was subjected to undue influence. There is also no material to show that the settlement was intended to frustrate the order passed by the High Court. At no point of time, the respondent employee raised any dispute as regards the fairness of the settlement. Having obtained the benefit, it was not open to him to turn down without justifiable reasons to contend that the settlement was not fair.

5. In *National Engg. Industries Ltd. v. State of Rajasthan*, X (1999) SLT 340=(2000) 1 SCC 371, it was observed as follows : (SCC p. 24, para 393)

“Settlement is arrived at by the free Will of the parties and is a pointer to there being goodwill between them. When there is a dispute that the settlement is not bona fide in nature or that it has been arrived at on account of fraud, misrepresentation or concealment of facts or even corruption and other inducements it could be the subject-matter of yet another industrial dispute which an appropriate Government may refer for adjudication after examining the allegations as there is an underlying assumption that the settlement reached with the help of the Conciliation Officer must be fair and reasonable.”