

SB Civil writ Petition No.2357/2003
Chhagana Ram v. Judge, Labour Court, Jodhpur & Anr.

Date of Order :: 16th December, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. S.P.Sharma, for the petitioner.
Mr. D.C.Sharma, for the respondent No.2.

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The appropriate government i.e. Government of Rajasthan by a notification dated 26.12.2000 referred an industrial dispute to Labour Court, Jodhpur for its adjudication in terms as to whether termination of workman Shri Chhagana Ram son of Shri Uma Ram Sargara, resident of Jawahar Colony, Near Sardar School, Jodhpur w.e.f. May, 1997 by the Registrar, Jai Narain Vyas University, Jodhpur is just and valid, if not, then for what relief the workman is entitled.

A no dispute award was passed by the Labour Court by order dated 3.8.2001 as the workman failed to file any claim petition despite service of notice.

The workman then preferred an application for recalling the order dated 3.8.2001 mentioning therein that he failed to appear before the court and also failed to file statement of claim because of his illness. Learned Labour Court by order dated 16.11.2002 rejected the application, hence present writ petition is preferred giving challenge to the order dated 16.11.2002 and to the order dated 3.8.2001.

It is contended by counsel for the petitioner that the workman failed to file claim petition as he was ill and it was beyond his control to appear before the court on the day fixed. He has further stated that under the Industrial Disputes Act the main object required to be achieved is to maintain industrial peace and also to redress grievance of the workman as well as the employer and to achieve the object the court should make all efforts to settle the dispute between the parties.

Heard counsel for the parties.

The workman on knowing about no dispute award dated 3.8.2001 admittedly moved an application supported by an affidavit for recalling the order dated 3.8.2001. In the application the workman specifically stated that he was suffering from illness and for the reasons beyond his control he failed to appear before the court on the date fixed. The workman requested for an opportunity to allow him to file claim by recalling the order dated 3.8.2001. It is well settled that the industrial disputes are referred to Labour Court or Industrial Tribunal for maintenance of industrial peace and not merely for adjudication of disputes between two parties. The Labour Court should always required to make best efforts to decide the dispute so referred on merits. Once the workman

submitted an application stating therein that he failed to file claim petition for the reasons beyond his control then the court must consider it and should give an opportunity to workman to file claim petition and to adjudicate the same. I do not find any just and valid reason in the orders impugned to pass a no dispute award. The Labour Court should have adjudicated the dispute on merits.

Accordingly this petition for writ is allowed. The award dated 3.8.2001 is declared illegal and same is quashed. The order dated 16.11.2002 is also quashed. The petitioner is declared entitled to file claim petition. The Labour Court is directed to issue notice afresh to the parties dispute for adjudicating the dispute on merits.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.