

STATE OF M.P. AND ORS.

v.

ANEES KHAN

(Civil Appeal No.7391 2014)

AUGUST 07, 2014

[T.S. THAKUR AND ADARSH KUMAR GOEL, JJ.]

Labour Laws:

Madhya Pradesh Industrial Relations Act, 1960 - s. 108 - Back wages - Claim for - Order of Labour court dated 7.2.1994 granting relief of reinstatement with back wages - The workman received the back wages, but did not report for duty - Nor did take any step for enforcement of reinstatement order - Later, claiming back wages from 8.2.1994 till 31.3.2001 - Courts below granted the back wages - On appeal, held: The workman is not entitled to back wages as he did not work for the period 8.2.1994 to 31.3.2001- The workman's not reporting for duty and not taking step for enforcement of reinstatement order, would be deemed that he abandoned his claim - However, in the peculiar facts of the case, State directed to grant him Rs. 1 lakh.

The respondent-workman raised an industrial dispute, wherein the Labour Court vide order dated 7.2.1994 directed his re-instatement with back wages. In compliance of the order of Labour Court, the respondent was paid back wages, but he did not initiate any proceedings for enforcement of reinstatement order. The respondent, on 17.3.2001 filed an application u/s. 108 of Madhya Pradesh Industrial Relations Act, 1960, claiming back wages of Rs. 1,41762/- for the period from 8.2.1994 to 31.3.2001. The Labour Court awarded a sum of Rs. 1,23,443/-. The order of Labour Court was upheld by High Court. Hence the present appeal.

A Disposing of the appeal, the Court

B HELD: 1. There is nothing to show that any proceeding was initiated by the respondent-workman for enforcement of order of reinstatement dated 07.02.1994 in his favour. His only claim in the application dated 17.03.2001 is for back wages up to 31.03.2001. In these circumstances, the workman abandoned his right to seek reinstatement and his conduct in not reporting for duty disentitles him even to back wages. [Para 8] [384-C, D]

C 2. However, taking an overall view of the matter in the peculiar facts and circumstance, while holding that the workman is not entitled to any further relief, the State is directed to pay a sum of Rs. 1 lac to the workman within three months from the date of receipt of a copy of this judgment. [Para 9] [384-F, G]

D CIVIL APPEAL JURISDICTION : Civil Appeal No. 7391 of 2014

E From the Judgment and Order dated 27.06.2011 in WP No. 10420/2010 of the High Court of M.P. at Indore.

C.D. Singh, Sakshi Kakkar for the Appellants.

F Puneet Jain, Christi Jain, Ankita Gupta, Pratibha Jain for the Respondent.

The Judgment of the Court was delivered by

ADARSH KUMAR GOEL, J. : 1. Leave granted.

G 2. This appeal, filed by the State of M.P., arises out of the proceedings on an application filed by the respondent-workman under Section 108 of the M.P. Industrial Relations Act, 1960 for grant of back wages amounting to Rs. 1,41,762/- for the period from 08.02.1994 to 31.03.2001.

H 3. The workman was engaged as assistant of driver of

Roller No. D.R.R. 1080 of PWD at Tarana on 16.08.1991 at a total pay of Rs.1215.00 per month. He was disengaged from work on 01.07.1992. Challenging the same, the workman filed Case No. 236/92 before the Labour Court, Ujjain, M.P. claiming reinstatement with back wages. By order dated 07.02.1994, the Labour Court passed an ex parte order directing the State to reinstate the workman at his original post with back wages from the date of termination till the date of the order. Though the State of M.P. sought setting aside of the ex parte order but did not succeed. The workman, instead of taking any proceedings for enforcing the order of reinstatement, only sought enforcement for back wages. This claim was contested with the plea that the workman had not reported for duty. However, the Labour Court allowed back wages vide order dated 17.08.2000. The workman was, accordingly, paid a sum of Rs.29,160/- towards back wages for the period from 01.07.1992 to 07.02.1994.

4. Thereafter, the workman initiated second round of proceedings by filing a fresh application No.62/2001 under Section 108 of the M.P. Industrial Relations Act, 1960 before the Labour Court on 17.3.2001 claiming back wages of Rs.1,41,762/- for the period from 8.2.1994 to 31.3.2001. Though the said claim was initially rejected on the ground that in absence of any order to that effect in favour of the workman, the claim for back wages for the period in question could not be upheld, in further proceedings after remand, the Labour Court awarded a sum of Rs.1,23,443/- to the workman towards back wages for the period from 08.02.1994 to 31.03.2001 which has been upheld up to the High Court.

5. While issuing notice on 16.07.2012, this Court stayed the operation of the impugned order.

6. We have heard Mr. C.D. Singh, learned counsel for the appellant and Mr. Puneet Jain, learned counsel for the respondent-workman.

7. Learned counsel for the State of M.P. submitted that the

A engagement of respondent-workman was in connection with the project, "SINHASTHA" 1992 at Ujjain on 16.08.1991 and after completion of the same, he was disengaged on 01.07.1992. Thereafter, the respondent never worked for the Department. In spite of order of Labour Court, the workman has neither
B joined service nor taken any step to enforce the order of reinstatement. He is, thus, deemed to have abandoned the said claim. He is also estopped from claiming back wages, having neither worked nor having offered to work.

C 8. From the counter affidavit filed by the workman, there is nothing to show that any proceeding was initiated by him for enforcement of order of reinstatement dated 07.02.1994 in his favour. His only claim in the application dated 17.03.2001 is for back wages up to 31.03.2001. In these circumstances, there
D appears to be substance in the plea that the workman abandoned his right to seek reinstatement and his conduct in not reporting for duty disentitles him even to back wages. The workman worked for less than one year without any regular appointment. Though the order of the Labour Court dated 07.02.1994 became final and in proceedings to enforce the
E said order, the workman was paid back wages from 01.07.1992 to 07.02.1994, since he did not report for duty nor took any proceedings for seeking enforcement of order of reinstatement, he could not be allowed any further relief. Thus, the appeal filed by the State deserves to succeed.

F 9. Taking an overall view of the matter in the peculiar facts and circumstance, while holding that the workman is not entitled to any further relief, we consider it appropriate to direct the State to pay a sum of Rs. 1 lac to the workman within three
G months from the date of receipt of a copy of this judgment.

10. The appeal is disposed of.

Kalpana K. Tripathy

Appeal disposed.

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