

Om Singh Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 31, 2014

Acts Referred: Industrial Disputes Act, 1947 " Section 10, 25F, 25FF

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Jai Bhagwan Sharma, Advocate for the Appellant; Roopak Bansal, Addl. A.G, Advocate for the Respondent

Final Decision: Dismissed

Judgement

K. Kannan, J.

The writ petition is against rejection of reference by the Government through the order issued on 25.07.1991. The

petitioner workman had complained that he had been wrongly terminated from service and the defence was that the petitioner had been paid a

compensation of Rs. 2177.33 at the time when the unit was closed and the compensation payable was u/s 25FF of the Industrial Disputes Act and

the definition could not be taken as retrenchment u/s 25F.

2. As a point of law, I may observe that it will be incompetent for a State to reject a reference u/s 10 for any ground other than the situation that

the particular dispute brought by the workman was not an industrial dispute. The reference which the Government makes u/s 10 is merely an

administrative order and not a judicial adjudication. This point has been dealt with by the Supreme Court in several decisions and to our purpose it

will be worthwhile to refer Ram Avtar Sharma and Others Vs. State of Haryana and Another, and the The Secretary Indian Tea Association Vs.

Ajit Kumar Barat and Others, . The Supreme Court has laid down in both the decisions that the Government that passed order u/s 10 as merely

exercising administrative jurisdiction and it will be concerned only with an issue of whether an industrial dispute exists or not. It cannot, however,

canvass correctness of order of termination itself as justified, for that would amount to usurping a judicial function. In this case, I find that the

reference has been declined on a reasoning that the retrenchment had been done in accordance with Rules and compensation had also been paid.

The payment of compensation or whether the retrenchment was justified could not have been matter for the Government to decide to decline a

reference. I, therefore, quash the order as inappropriate.

3. However, I thought for a while whether any useful purpose will be served in making a reference to a Labour Court and allow for an adjudication

to be made at this length of time. The termination had been effected some time on 09.02.1988 when the sales counter had been closed at Bhattu

Kalan. Closure of a unit that results in termination does not fall within the purview of Section 25F as laid down by the Supreme Court in Managing

Director, Haryana Seeds Development Corpn., Ltd. Vs. Presiding Officer and Another, etc., I do not think that any purpose will be served for

allowing for a full-fledged trial at this length of time. The petitioner will have no relief, for this case is one that does not require any relief to be

granted in the writ jurisdiction. It would only mean allowing for a wasteful exercise that could secure no benefit to the workman in the ultimate

bargain.

4. The writ petition is dismissed.