

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2779 OF 2006

(arising out of SLP(C)No.9277 of 2005)

HARYANA STATE AGRICULTURAL MARKETING BOARD
APPELLANT

... APPEL

VERSUS

PAWAN KUMAR
RESPONDENT

... RESP

O R D E R

Leave granted.

Heard the parties.

The challenge in this appeal is to the order dated 16.8.2004 of the High

Court of Punjab and Haryana at Chandigarh in Civil Writ Petition No.13957 of 2003

confirming the award passed by the Industrial Tribunal-cum-Labour Court, Panipat.

The Tribunal was of the view that the workman has put in excess of 240 days

preceding the retrenchment.

The contention has been raised by the learned counsel for the appellant

that the order of the Tribunal has been obtained on the basis that the workman has

joined his duty in August, 1992 to 31st August, 1993. He submits that, in fact, the

workman Pawan Kumar son of Rattan Singh has rendered duty sometime in

December, 1992 and retrenched in May, 1993. According to the learned counsel for

the appellant, in fact, the workman has put in about 147 days. He, further, contended that there are two other labourers whose names are also - Pawan Kumar son of Om Prakash and Pawan Kumar son of Dharampal, who have joined duty in August, 1992 to 31st August, 1993. According to the learned counsel for the appellant the award passed by the Tribunal was on this mistaken fact without properly verifying the name of the father of the respondent.

Per contra, the learned counsel for the respondent contended that at the time of joining duty the respondent did not conceal anything. In fact, the documents have now referred to produced subsequently by the appellant and on this ground alone the well reasoned order passed by the Tribunal and confirmed by the High Court cannot be upset.

After hearing learned counsel for both the sides and in view of the conflict of identity of the workmen we are of the view that this matter deserves to be examined once again by the Tribunal after affording an opportunity to the parties to lead the evidence and to establish the identity of Pawan Kumar son of Rattan Singh, when did he join the work and when he was retrenched.

In the view we have taken, the order passed by the Tribunal and High Court are now set aside and the matter be remanded back to the Tribunal for fresh decision after affording an opportunity to both the parties to lead the evidence.

The appeal is allowed. No costs.

.....J.

(H.K. SEMA)

.....J.

(P.K. BALASUBRAMANYAN)

NEW DELHI,

JULY 05, 2006.

ITEM NO.36

COURT NO.7

SECTION XV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).9277/2005

(From the judgement and order dated 16/08/2004 in CWP No. 13957/2003 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

H.S.A.M.BOARD

Petitioner(s)

VERSUS

PAWAN KUMAR

Respondent(s)

(With prayer for interim relief and office report)

Date: 05/07/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s)

Mr. Neeraj Kumar Jain, Adv.

Mr. Bharat Singh, Adv.

Mr. Sanjay Singh, Adv.

Mr. Vikrant Hooda, Adv.

Mr. Ugra Shankar Prasad, Adv.

For Respondent(s)

Mr. Jasmit Singh Bhatia, Adv.

Mr. Jagjit Singh Chhabra, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Heard the parties.

The order passed by the Tribunal and High Court are set aside and the matter be remanded back to the Tribunal for fresh decision after affording an opportunity to both the parties to lead the evidence.

The appeal is allowed in terms of the signed order. No costs.

(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)