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C.A.No. 2784 OF 2002

ITEM No.102

Court No. 9

SECTION XV

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

Civil Appeal No. 2784 of 2002

HARYANA SEEDS DEVELOPMENT CORPN. LTD.

Appellant (s)

VERSUS

SATYAPAL & ANR. Respondent (s)

Date : 15/10/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

for Appellant (s)Mr. Rajesh Sharma,Adv.
Mr. Pramod Kumar Yadav,Adv.
Ms. Shalu Sharma,Adv.
Mr. Goodwill Indeevar,Adv.
Mr. Ashok Pathania,Adv.

for Respondent (s)Mr. Sandeep Moudgil,Adv.
Mr. Prem Malhotra,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard the learned counsel for the parties from 11.35 a.m. to 12.05 p.m.

The civil appeal is dismissed.

No costs.

[T.I. Rajput][Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2784 Of 2002

Haryana Seeds Development Corpn. Ltd. ...Appellant(s)

Versus

Satyapal & Anr. ...Respondent(s)

O R D E R

Consequent upon the termination of the service of the first respondent, he raised an industrial dispute. The Labour Court, on consideration of the material placed before it in the light of the pleadings of the parties, passed an Award holding that the termination of the service of the first respondent was bad and directed his re-instatement in service with twenty five per cent back wages. The appellant questioned the validity and correctness of the Award passed by the Labour Court before the High Court by filing a writ petition. The High Court, on consideration of the submissions made before it, did not accept the case urged on behalf of the appellant and dismissed the writ petition affirming the Award passed by the Labour Court. The learned counsel for the appellant contended that the first respondent was appointed as a salesman on ad-hoc basis initially for a period of eighty nine days; the sales

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counter where the first respondent was working was closed and on account thereof, no relief ought to have been granted to the first respondent on account of non-compliance of Section 25(F) of the Industrial Disputes Act, 1947 [for short, 'the Act']. He added that on account of the closure of the sales counter, Section 25(F) of the Act was not at all attracted; it was Section 25 (FFF) of the Act which alone was applicable. Per contra, the learned counsel for the first respondent argued in support of and in justification of the impugned order.

The High Court, in the impugned order, found that there has been non-compliance of Section 25(F) of the Act, which was also the finding recorded by the Labour Court. It was found that the first respondent did work for 240 days in the twelve months preceding the date of termination of his service and that retrenchment compensation and wages for one month were not paid to him before his service was terminated. Although, an attempt was made on behalf of the appellant to raise the argument on Section 2(oo)(bb) of the Act, but, during the course of the argument, that was given up. As already noticed above, the High Court, on facts, found that there was non-compliance of Section 25(F) of the Act having regard to the material placed on record. The High Court has observed that no material was placed on behalf of the appellant to contradict or rebut the stand of the first respondent as regards non-compliance of Section 25(F) of the Act. The records were produced for the first time before the High Court. Even after perusing the records, the High Court found that there was non-compliance of Section 25(F) of the Act. In this view of the matter, it affirmed the finding of the Labour Court.

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The learned counsel for the appellant cited Management of Hindustal Steel Limited vs. The Workmen & Ors. (1973 (3) S.C.C. 564 and Managing Director, Haryana Seeds Development Corporation Limited vs. Presiding Officer & Anr. (1997 (10) S.C.C. 727) in support of his contention and submitted that on account of the closure of the sales counter, no relief should have been granted to the first respondent. As can be seen, the afore-cited decisions are rendered on the facts of those cases. Be that as it may, this was not the point that was urged before the Labour Court or the High Court, although the learned counsel submitted that such a plea was raised in the writ petition. Since such point was not urged before the High Court, we are not inclined to permit the learned counsel to urge it for the first time in this Court. Accordingly, we do not find any good ground to interfere with the impugned order. Declining to do so, we dismiss the civil appeal. No costs.

.....J.
[SHIVARAJ V. PATIL]

.....J.

[D.M. DHARMADHIKARI]

New Delhi,
October 15, 2003.