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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 19.7.94.

OA 484/93

MANGAL RAM MORIA

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

HON'BLE MR. G.P. SHARMA, MEMBER (A).

For the Applicant

... SHRI AHIL SIMLOTE.

For the Respondents

... SHRI U.D. SHARMA.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties. The learned counsel for the applicant pointed out that his client was employed as Waterman and thereafter again as Worker on casual basis upto 1986. His services were retrenched and he filed an application praying for setting aside the termination order dated 22.6.86. This Bench directed that the applicant be reinstated as casual labour. Further directions were given that the question of payment of back wages will be determined in accordance with the provisions contained in Section 25F of the Industrial Disputes Act. In compliance of this order the applicant was reinstated. The respondents have come with a case that in terms of Development Commissioner, Small Scale Industries, New Delhi order dated 12.4.93 and the consequential orders issued by the Director of Industries, Government of Rajasthan, the assets of Extension Centre at Kota were handed over to the Director of Industries, Government of Rajasthan, on 1.6.93. It was submitted that it is a case of transferring a unit and out of five units, three units were transferred to the State Government.

2. It is <sup>an</sup> unfortunate part that in the order dated 12.4.93 (Annexure R-5) nothing has been mentioned about the services of the employees who were working for a pretty long time. It is still more unfortunate part that the learned counsel for the

applicant is neither having the copy of the earlier order of the Tribunal nor in a position to show us the copy.

3. Ordinarily, such order should be a part of the petition/ application so that the court can understand properly the judgement of the Tribunal. We will not like to express anything except that because of omission the clients may suffer and the Advocates should be careful in future that at least they should have the copy with them if they are not presenting the same to the court.

4. Section 25 FF of the Industrial Disputes Act provides that every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of Section 25-F, as if the workman had been retrenched. The expression, 'as if the workman had been retrenched' does not fix the limit for the payment of compensation. Hon'ble Supreme Court in the case of Payment of Wages Inspector v. B.E.S. & I. Co. Ltd. and another, reported at AIR 1969 SC 590, have interrupted the Section 25-FF. In the said judgement, the Hon'ble Supreme Court have held that Sections 25-FF and 25-FFF do not contain any conditions precedent, as in the case of retrenchment under Section 25F, and transfer and closure can validly take place without notice or payment of a month's wages in lieu thereof.


5. Thus, it is not necessary that strictly the provisions of Section 25-F should be followed and the delayed payment can be made under Section 25-FF.


6. The learned counsel for the applicant has pointed out that there is a proviso that the service of the workman should not be transferred by such transfer. The respondents have come with a case that in pursuance of the order dated 12.4.93 the unit was handed over on 1.6.93 and applicant's terms of service were extended upto 1.6.93 and the notice Annexure A-3 was issued on 31.5.93 or thereafter. The learned counsel for the applicant

submitted that it was received on 4.6.93. May it be so. The notice is not necessary, the payment of compensation can be made at a delayed stage. The unit has been transferred and it is not necessary that all units should be transferred when there are separate units. It is true that the part of Undertaking may be transferred but in the present case only three centres have been transferred but the others are still working under the control of respondents. In such circumstances, the case of Madho Ram & Sons v. The Workmen, reported at AIR 1964 SC 645, does not apply.

Here the unit has been transferred and on the date of handing over or prior to that the notice was ready for delivery to the applicant and might have been despatched at a later stage. In the instant case, the unit has been transferred, as referred <sup>to</sup> above, so the case cited by the learned counsel for the applicant does not apply in the facts and circumstances of the present case. If the applicant is having any dispute about the quantum of compensation, he can move the <sup>concerned</sup> authorities and the authorities are directed to consider the <sup>mini short</sup> ~~less~~ payment of compensation within a period of three months.

7. The OA stands disposed of accordingly, with no order as to costs.

  
( O.P. SHARMA )  
MEMBER (A)

  
( D.L. MEHTA )  
VICE CHAIRMAN