

Court No. - 8

Case :- WRIT - C No. - 1003625 of 2013

Petitioner :- M/S Hotel Gulmarg Amibabad Lucknow Thru Its Partner

Respondent :- Presiding Officer Industrial Tribunal Ii U.P. Lucknow
Andors

Counsel for Petitioner :- Jai Shrinet

Counsel for Respondent :- C.S.C.,Rajesh Kr. Verma

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the petitioner. No one appears for the respondents even in the revised call.

2. The dispute was raised before the labour court by the respondents alleging that he was working with the petitioner as a Clerk and was unauthorizedly removed on 13.02.2006 by an oral order and thus he was entitled to reinstatement. The defence was taken by the petitioner before the labour court that the services of the respondent were orally terminated and he had gone out of his own freewill. It was also stated that subsequently an agreement was entered into in between the petitioner and the workman whereby the petitioner had paid an amount of Rs. 1,39,500/- and on payment of the said amount, the respondent workman was to withdraw all his claims.

3. It is argued by learned counsel for petitioner that the said amount in terms of the agreement was duly paid, however, the respondent workman continued his claim and the labour court holding that the petitioner had not produced any evidence, as such, version of the workman was treated to be correct proceeded to hold that the termination of the workman with effect from 13.02.2006 was not justified. Further directions were issued for reinstatement of the respondent along with backwages of 50% with direction that the amount of Rs.1,39,500/-, which has been accepted shall be reduced from the total amount as awarded by the labour court.

4. Considering the award on record, the labour court itself has accepted that not only an agreement was signed, the amount was also accepted by the workman, thus, once having agreed to settle the dispute, it was not open to the workman to have continued to agitate his claim before the labour court. This aspect has not been considered by the labour court in its award. As such, the award impugned in the present writ petition being award dated 29.05.2012 is not sustainable and is quashed.

5. The writ petition is allowed.

Order Date :- 23.11.2023

Virendra