

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2024-1988 (O&M)

Date of Decision:-09.02.2018.

Faridabad Complex Administration

.....Appellant

Versus

Devi Ram (since deceased) through his LRs

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Arvind Seth, Advocate for the appellant.

None for the respondent.

P.B. BAJANTHRI, J. (Oral)

In the instant appeal, appellant has questioned the validity of Appellate Court order dated 18.01.1988.

Respondent was appointed with the appellant on 27.8.1982 on *ad hoc* basis. There was a proposal for terminating his service. To that extent, notice was issued on 31.12.1984. Feeling aggrieved by the notice of termination, respondent filed a suit. Suit was dismissed on 31.05.1986. Consequently, respondent preferred appeal before the Appellate Court. Appellate Court allowed the appeal of the respondent on 18.01.1988. Hence, the present appeal.

On 7.10.1988 while admitting the mater, stay was granted insofar as Appellate Court order dated 18.01.1988. During pendency of the present appeal, respondent died. Consequently, his legal heirs have been

brought on record.

Learned counsel for the appellant submitted that even though respondent's appeal was allowed, the provisions of the Industrial Disputes Act, 1947 has not been taken into consideration for the purpose of setting aside the notice of termination dated 31.12.1984. If the Appellate Court is of the view that respondent was a workman, in that event Appellate Court should have rejected his appeal on the score that suit as well as appeal were not maintainable having regard to the status of the appellant as a workman. Therefore, there is an error in the order of the Appellate Court dated 18.01.1988.

None appears for the respondent.

Heard learned counsel for the appellant.

Short question for consideration in the present appeal is whether after issuance of notice of termination on 31.12.1984, whether order of termination has been passed or not? Appellant's counsel is not in a position to apprise this Court by pointing out that there is an order of termination. In other words, in the absence of termination and merely issuance of notice of termination suit was filed. Appellant is not an industry, therefore, provisions of Industrial Disputes Act is not attracted. Even Appellate Court erred in considering. Since there is a lapse on the part of the appellant in not passing order of termination and the fact that deceased respondent's services were dispensed, he is entitled to compensation. In view of the later development that respondent has died, legal heirs of the deceased employee are entitled to compensation in view of the length of the litigation that matter is pending consideration from 1988.

the Appellate Court order dated 18.01.1988 has not arisen. Moreover respondent-workman is no more. Therefore, legal heirs are entitled to compensation of ₹ 3,00,000/-. The same shall be paid by the appellants within a period of 3 months from today, failing which respondent-legal heirs are entitled to interest @ 6% per annum from today.

Appeal stands disposed of.

(P.B. BAJANTHRI)
JUDGE

February 09, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.