

Sriram



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Short Description

Sriram

Description

Sriram CAST STUDY solution

Read the following case carefully and answer the questions given at the end

. Sriram was employed as a badli technical mate in the Pune-Miraj Railway construction. He had worked for about two years continuously in that capacity. He was subsequently selected for employment on one of the construction sites at a different place in Andhra for a tenure of two years. He was properly relieved immediately but was not paid any sums - either as settlement or as terminal benefits. Also, the travelling expenses were not borne by the earlier construction organisation, though he was paid his wages till the date of relief. At the new place Sriram worked for two years and the period was further extended by another two years (total four years).

On completion of four years of service, Sriram came and offered his services again in the Pune-Miraj construction and since he was an excellent worker he was taken again as a badli worker, but this time on regular monthly scales of pay with appurtenant benefits, since orders had by then come from the concerned Ministry that whoever had put in a continuous service of more than six months should be given the pay and other benefits though they are badli workers. This was the position with other workers also who were either retrenched and taken back or were continued. There were about 500 such workmen.

A situation however arose that Sriram had to be deployed, at this time to a lower grade and post as a regular measure but he refused stating that it was not suitable to him. Sriram was retrenched for refusing to accept alternate employment in the lower grade. This termination came to him after two years of his present appointment as a technical mate.

Sriram approached the higher authorities but they said that since no post was available in the higher grade, even as a badli supervisor, either he has to take up his post in the lower grade as a regular measure or face retrenchment. Sriram pointed out that there are vacancies in similar grade of different category - as Draftsman - and that based on his qualification, he can be fitted in. Sriram also pointed out that the situation of retrenchment would not have at all come in, if he was considered when a regular vacancy in his grade category came up during his tenure appointment in another construction. The organisation pointed out that once he has left a particular site, he ceases to have any connection and that he was taken as a badli supervisor only on humanitarian grounds.. Sriram made a counter argument that his services cannot be treated as terminated, on his return from tenure post as he is presently carrying forward his services in the previous unit itself. Accepting employment afresh, was due to circumstances beyond his control and because management was adamant otherwise. He also argued that in as much as his

settlement was not made, nor was he given any compensation, he cannot be stated to have been retrenched at all. He also said, if he was treated as retrenched, he would have become the junior most and that as per Sec. 25 of I.D. Act he would not have been eligible for being considered again at all. The management argued that he could have claimed relief immediately and not after six years.

Sriram went to Labour Court and the administration had put forward the same arguments. With arguments and counter arguments, the matter was dragged at the conciliation stage for about seven/eight months. The conciliation officer submitted failure report with recommendation for reference to Tribunal/ Labour Court. The matter came up before the Labour Court.

Management took a stand in the Court that Sriram was retrenched before posting to the other construction site, and has been paid all dues. Management however, expressed its inability to produce any record and their contention was that statutorily, it is not required to maintain any record under Payment of Wages Act, for more than three years, after the payment of retrenchment compensation. Sriram had also no grounds for claiming past seniority.

Sriram argued that unless facts are proved by documents, cash vouchers and retrenchment order and other receipts, etc., before the Court as per the Government rules which makes it obligatory to produce documents, he cannot be considered as having been retrenched and he has a claim for the post which fell vacant during his tenure posting in another construction site.

Questions :

- (a) Assuming that the organisation has not paid Sriram his dues including the retrenchment compensation before posting to the tenure post, can the organisation refuse any employment to him on return, when the agreement does not speak anything to this effect ?
- (b) Does the employee lose his right of claim of past seniority simply because he was away for four years and then was taken afresh ?
- (c) What should be the relief available to the aggrieved workman if the Court is convinced that Sriram's dues have been settled before proceeding on the tenure post to another construction site ?
- (d) What should be done if it is found that Sriram's dues prior to joining the tenure post, was not settled nor was Sriram shown as retrenched on records ?

Details

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2. pdf/word in 24-48 hrs

3. Fully Solved with answers