


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 9097/2017

1. Narayan Bairwa S/o Sh. Kishan Lal Bairwa, R/o Gram Sawaiganj, Post Kustala Khatupura Tehsil And District Sawaimadhopur Raj..
2. Babu Lal Bairwa S/o Sh. Ramnarayan Bairwa, R/o Brahmpuri Railway Colony, Ranthambhor Road, Sawaimadhopur Raj..
3. Heera Lal S/o Sh. Mangi Lal Mali, R/o Gram Madhosinghpura, Post Khatupura Tehsil And District Sawaimadhopur Raj.
4. Jagdish Prasad Bairwa S/o Sh. Mangi Lal Bairwa, R/o Gram Madhosinghpura, Post Khatupura Tehsil And District Sawaimadhopur Raj.
5. Hanuman Prasad Bairwa S/o Sh. Soram Bairwa, R/o Gram Madhosinghpura, Post Khatupura Tehsil And District Sawaimadhopur Raj.
6. Rewadiya S/o Sh. Chittar, R/o Chakchenpura Tehsil And District Sawaimadhopur Raj.. Deceased
- 6.1 Koshalya W/o Late Sh. Rewadiya, R/o Chakchenpura Tehsil And District Sawaimadhopur Raj.
7. Ramji Lal Bairwa S/o Sh. Kajod Mal Bairwa, R/o Gram Sawaiganj, Post Kustala Khatupura Tehsil And District Sawaimadhopur Raj..
8. Chiranji Lal Bairwa S/o Sh. Kishan Lal Bairwa, R/o Gram Sawaiganj, Post Kustala Khatupura Tehsil And District Sawaimadhopur Raj..
9. Jagdish Prasad Bairwa S/o Sh. Mangi Lal Bairwa, R/o Gram Chakchenpura Post Post Sahunagar Tehsil And District Sawaimadhopur Raj.
10. Babu Lal Meena S/o Sh. Badri Lal Meena, R/o Gram Janakpur Ki Dhani Post Sherpur-Khilchipur R/o Gram Janakpur Ki Dhani Post Sherpur-Khilchipur Tehsil And District Sawaimadhopur Raj.
11. Smt. Vimla Devi W/o Sh. Narendra Kumar Bairwa, R/o Chakmenpura Post Sahunagar Tehsil And District Sawaimadhopur Raj.

-----Petitioners

Versus

District Manager, Food Corporation Of India, Bhandaran,
Sawaimadhopur.

-----Respondent

For Petitioner(s)	:	Mr. Suresh Kashyap
For Respondent(s)	:	Mr. Rajesh Kumar Sharma Mr. Sarthak Choubey

HON'BLE MR. JUSTICE MUNNURI LAXMAN**Order****08/04/2026**

1. With the consent of learned counsel for the parties, the matter is heard on final disposal at the admission stage itself.
2. The present writ petition has been filed by the petitioners challenging the dismissal of the reference by the Labour Court on the ground that the reference was defective on account of not mentioning the date of oral termination.
3. The facts in the present case disclose that initially the petitioners claimed to have been orally terminated from the employment of the sole respondent and in this regard conciliation proceedings were taken before the Conciliation Officer and the said proceedings ended in failure. The failure report was submitted to the Government and the Government after examining the failure report and after considering the existence of the industrial dispute, made a reference under Section 10 of the Industrial Disputes Act, 1947 before the Labour Court. The Labour Court accepted the reference; it has also issued notices and sufficient evidence was also taken. After trial was completed, arguments were heard and the impugned award was passed holding that the reference was bad as it did not mention the date of oral termination.
4. Learned counsel for the petitioners submitted that once the Labour Court accepted the reference, it could not have abdicated its function to answer the reference after accepting the reference. The reference could not be rejected only on the ground of technical defect as that stage was gone and the Labour Court

should have answered the reference. It is his further contention that though the reference does not mention the exact date of oral termination, the date of termination referred to in the evidence has been taken into consideration to answer whether, on the particular date, the termination order was there or not. On such ground reference could not have been rejected. In this regard, he has relied upon the judgment dated 10.08.2015 passed by the Hon'ble Division Bench of this Court in ***Kailash Chandra Sharma Vs. Project Officer Jaipur Zila Dugdh Utpadak Sahakari Sangh & Ors. (D.B. Special Appeal (W) No. 1569/2014)***. Therefore, learned counsel for the petitioners prays to set aside the award.

5. Learned counsel for the petitioner also brought to the notice of this Court Section 10 (4) of the Industrial Disputes Act, 1947 which is with regard to the power of the Labour Court to adjudicate the matter incidental to the points which are framed in the reference for adjudication. According to him, if there is no mention of the date of oral termination in the reference order, adjudication of such issue falls under the incidental matter which the Labour Court has power to decide. On that point, the Labour Court could not have abdicated its function.

6. Learned counsel for the sole respondent submitted that the Labour Court has rightly dismissed the claim holding that the reference is incomplete and there is no indication in the reference as to the date of oral termination. Therefore, the Labour Court has rightly rejected the claim.

7. I have gone through the reference order. There is no dispute that the Government, before making the reference, has found out

the existence of the industrial dispute and the issue was also framed for answering the reference. Basing on the issue framed, the reference was made to the Labour Court. The Labour Court accepted the reference and took almost 20 years to adjudicate the reference by undertaking all exercises including the leading of evidence and hearing of the proceedings. After such a long period was taken, the Labour Court dismissed the reference holding that the reference was defective. The defectiveness ought to have been considered by the Labour Court before the reference was accepted for adjudication. In the present case, the Labour Court accepted the reference for adjudication. Once such reference is accepted, the Labour Court is duty bound to answer the reference. Any shortcoming in the reference has to be read along with the evidence led by the parties. The Labour Court ought to have decided the claim on the basis of evidence on record and ought to have adjudicated the matter on merits instead of dismissing the reference holding that it is defective.

8. Section 10(4) of the Industrial Disputes Act 1947 reads as follows:

"10. Reference of disputes to Boards, Courts or Tribunals.—

(1) to (3)

(4) Where in an order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Labour Court or the Tribunal or the National Tribunal, as the case may be, shall confine its adjudication to those points and matters incidental thereto.

....."

From a reading of the above provision, it is clear that the Labour Court shall confine its adjudication to the points made in the reference for adjudication. The absence of the date of oral termination is a matter incidental to the adjudication of the main points. In the present case, the Labour Court ought not to have dismissed the reference, instead it should have adjudicated the reference on the date of oral termination as an incidental issue.

9. This Court finds that the writ petition arises from the dismissal of the reference. Once the reference is accepted, the Labour Court is bound to answer the reference on merits and the impugned award is liable to be set aside.

10. In the result, the writ petition is allowed and the impugned award is set aside. The matter is remanded back to the Labour Court and the Labour Court is directed to hear the parties basing on the evidence already on record and to adjudicate the matter within a period of two months from the date of receipt of this order.

11. All pending applications, if any, stand disposed of.

(MUNNURI LAXMAN),J