

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. (S). 9096 OF 2014
(Arising out of SLP(C) No.16547 of 2013)

SURENDER SINGH

Appellant(s)

VERSUS

EXECUTIVE ENGINEER & ANR.

Respondent(s)

O R D E R

Delay condoned.

Leave granted.

This appeal arises out of an order dated 30th March, 2009 passed by the High Court of Punjab and Haryana at Chandigarh whereby Civil Writ Petition No.13506 of 2008 filed by the respondent-Executive Engineer against an award dated 15th November, 2007 made by the Industrial Tribunal-cum-Labour Court, Rohtak, has been set aside and the appellant awarded a sum of Rs.55,000/- towards compensation in lieu of reinstatement.

The appellant it appears was employed as a mali-cum-chowkidar on daily wage basis in the Water Service Sub Division Beri of the Haryana Public Health Water Services Department, District Jhajjar. He was prosecuted for the commission of an offence of cutting and selling of certain trees but was eventually acquitted of the same by an order dated 5th October, 2006 passed by the court concerned. His services were in the meantime terminated without notice or

inquiry w.e.f. 3rd February, 1999. Aggrieved by the termination of his employment, the appellant appears to have approached the Industrial Tribunal-cum-Labour Court who declared the termination to be illegal and directed the appellant's reinstatement with 50 per cent back wages by an award dated 15th November, 2007. The back wages were made payable from the date of termination of the appellant. Aggrieved by the award made by the Labour Court, the respondent preferred Civil Writ Petition No.13506 of 2008 which petition has been allowed by the High Court in terms of its order dated 30th March, 2009. The High Court has, relying upon certain decisions of this Court, substituted the order of reinstatement passed by the Labour Court by an order directing payment of compensation in lieu of such reinstatement assessed as Rs.55,000/- only. The present appeal assails the correctness of the said order.

Appearing for the appellant, Mr. A. Venayagam Balan, learned counsel, strenuously argued that the High Court was not justified in interfering with the award made by the Labour Court. He urged that although in certain cases this Court has, keeping in view the nature of the employment and the period for which such employment remained suspended, directed reinstatement order by the Labour Court to be substituted by compensation determined by the Court yet the present was not one such case which ought to have been dealt with that fashion. In support of that submission he drew our attention to an order

passed by the Labour Court in Ranbir Singh vs. The Executive Engineer, PWD, Public Health Division, Jhajjar decided on 7th November, 2007 which too was a case where Ranbir Singh working as a chowkidar, was accused of illegal felling of trees and selling the same, was prosecuted for the said offence and eventually acquitted by the court concerned. The Labour Court had in that case also declared the termination of the services of Ranbir Singh to be illegal and directed his reinstatement with 50 per cent back wages, as in the case at hand. It was submitted by Mr. Balan that against the award made by the Labour Court in favour of Ranbir Singh, a writ petition was filed by the Executive Engineer concerned challenging the award of back wages which petition, as in the present case, was allowed by the High Court and in place of reinstatement an amount of Rs.60,000/- awarded towards compensation. Ranbir Singh had then assailed that order before this Court in Civil Appeal No.5 of 2011, mentioned above, which was heard and allowed by this Court. A reading of the order passed by this Court in Ranbir Singh's case shows that this Court had faulted the view taken by the High Court and, while setting aside the direction for payment of compensation in lieu of reinstatement, allowed the appeal and directed reinstatement of Ranbir Singh with back wages payable to him from January 2010 onwards till his reinstatement. It was submitted by Mr. Balan that there was no difference much less a material one between the cases of Ranbir Singh and the appellant herein to warrant a different

treatment for the appellant herein who too had similarly suffered of an order passed by the High Court that interfered with the direction for reinstatement and offered compensation in lieu thereof.

On behalf of the respondent it was urged by Mr. Manjit Singh, learned Additional Advocate General, that while in Ranbir Singh's case (supra) the writ petition had assailed only the award for back wages, in the case at hand the writ petition challenged not only the order awarding back wages but also the reinstatement itself. He submitted that the appellant had also been paid a sum of Rs.55,000/- awarded by the High Court in lieu of reinstatement and that if this Court were to direct reinstatement of the appellant on the analogy of Ranbir Singh's case (supra), the back wages payable to him should be confined to the amount already received by the appellant.

The material facts are not in dispute. The two cases, namely, the case at hand and that of Ranbir Singh (supra), are almost analogous except that the two employees were working in different places though discharging similar functions. Accusation that led to their prosecutions were also similar. The awards made by the Labour Court in the two cases similarly directed reinstatement and payment of 50 per cent back wages. The High Court was also consistent in setting aside those awards and confining the relief to the payment of compensation in lieu of reinstatement. While in Ranbir Singh's case (supra) the compensation was limited to Rs.60,000/- in the present case

the compensation is assessed at Rs.55,000/- only. In the circumstances, the very fact that the writ petition filed against the award made in Ranbir Singh (supra) did not challenge the reinstatement order, will not justify a treatment different from the one that was given to Ranbir Singh. Having said so we agree with learned counsel appearing for the respondent that the back wages must remain confined to the amount already received by him towards compensation.

We accordingly allow this appeal, set aside the order passed by the High Court and direct the reinstatement of the appellant as a daily wager in the concerned department with the direction that he shall not be entitled to any back wages except the amount of Rs.55,000/- already paid to him. No costs.

.....J
(T.S. THAKUR)

.....J
(R. BANUMATHI)

NEW DELHI
DATED 22nd September, 2014

ITEM NO.44

COURT NO.3

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 16547/2013

(Arising out of impugned final judgment and order dated 30/03/2009 in CWP No. 13506/2008 passed by the High Court Of Punjab & Haryana At Chandigarh)

SURENDER SINGH

Petitioner(s)

VERSUS

EXECUTIVE ENGINEER & ANR.

Respondent(s)

(with appln. (s) for c/delay in filing SLP and permission to file addl. documents)

Date : 22/09/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. A. Venayagam Balan, Adv.
Ms. V.S.Lakshmi, Adv.

For Respondent(s) Mr. Manjit Singh, AAG,
Mr. Nupur Choudhary, Adv.
Ms. Vivekta Singh, Adv.
Mr. Kamal Mohan Gupta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

In terms of the signed order, the appeal is allowed:

"We accordingly allow this appeal, set aside the order passed by the High Court and direct the reinstatement of the appellant as a daily wager in the concerned department with the direction that he shall not be entitled to any back wages except the amount of Rs.55,000/- already paid to him. No costs."

(Mahabir Singh)
Court Master

(Veena Khara)
Court Master

(Signed order is placed on the file)