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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 11369-11370 OF 2013
(Arising out of SLP(C) Nos. 17186-17187 of 2013)

RAM ASARE

APPELLANT

VERSUS

ALLAHABAD DEVELOPMENT AUTHORITY

RESPONDENT

O R D E R

Leave granted.

Heard counsel for the parties and perused the impugned order passed by the High Court. We found no reason or justification in the impugned order due to which the High Court interfered with the award of reinstatement in favour of the Appellant by substituting it with the payment of compensation of Rs.50,000/- in lieu of reinstatement.

It is no doubt true that the compensation in lieu of reinstatement may be paid to the workman in appropriate cases viz. when the industry has been closed down, where the workman has reached the age of super-annuation, where the workman is under some disability and unable to discharge his duties. None of the grounds are available in this matter which could justify the order of the High Court setting aside the order of reinstatement and paying a sum of Rs.50,000/- by way of compensation.

Counsel representing the respondent-Authority endeavoured hard to impress upon this Court that the petitioner's appointment was a fixed term appointment and, therefore, he had no right of reinstatement. However, this plea had neither been taken before the Labour Court nor has been adjudicated at any level, therefore, this is altogether a new factual ground which has been urged by the counsel for the respondent. In fact, on the earlier occasion, the counsel submitted that the respondent cannot reinstate the petitioner as it has no vacancy and in view of this averment we directed the respondent-Authority to file an affidavit that it has not made any appointment after the petitioner's services were terminated.

The counsel for the respondent sought permission to seek instructions but has not come out with any affidavit to that effect. On the contrary, it was asserted vehemently that the petitioner's appointment was a fixed term appointment which the respondent authority had failed to prove as already indicated hereinbefore.

In the light of these circumstances, we see no justification to uphold the order passed by the respondent-Authority. Hence, the present appeal is allowed and the order passed by the High Court directing payment of compensation of Rs.50,000/- in lieu of reinstatement is set aside. The petitioner shall be reinstated by the respondent-Authority as directed by the Labour Court. However, the parties will bear their own cost.

