IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.8351-8354 OF 2015
(Arising out of SLP(C) Nos. 12461-12464 of 2013)

NARESH KUMAR THAKUR & ORS. APPELLANT(s)

VERSUS

PRINCIPAL/EXECUTIVE DIRECTOR
CIVIL AVIATION TRAINING COLLEGE, ALLAHABAD RESPONDENT(s)

O R D E R

Leave granted.

These appeals are directed against the judgment and order dated 15th January, 2013 passed by the Allahabad High Court in Civil Miscellaneous Writ Petition Nos.23076, 23077, 23078 and 23079 of 2007.

Appellant No.1 was appointed as a computer operator with the respondent on 1st December, 1992. Appellant Nos.2 to 4 were similarly appointed as computer operators with the respondent from sometime between January, 1994 and May, 1994.

According to the appellants, their services were satisfactory and there was no break in their services, but in spite of this, their services were terminated by an oral order on 3rd October, 1999.

Feeling aggrieved by the termination, the appellants raised an industrial dispute and reference was made to

the Central Government Industrial Tribunal (for short "CGIT"). The CGIT gave its award on 27th December, 2006. It was held by the CGIT that the services of the appellants were terminated contrary to Section 25(f) of the Industrial Disputes Act, 1947 inasmuch as they were not paid any retrenchment compensation nor were they paid any notice pay. Accordingly, the CGIT directed their reinstatement with full back wages.

At this stage, it may be noted that the case of the respondent was that the appellants were engaged for the purposes of a project and since that project came to an end, their services were terminated. We have been shown the Project Document bearing No. IND/88/047/A/01/15. According to the Project Document, the project was to start sometime in April, 1989 and the duration was two years seven months. In other words, the project was to last till November, 1991. We are told today that the project continued up to 1999. Be that as it may, the appellants were appointed as computer operators, as mentioned above, only in December, 1992 and January/May, 1994, which is after the initial duration of the project, but, as now pointed out by learned counsel for the respondent, during the extended period of the project. On this basis, a contention was raised by learned counsel for the respondent that the appointment of the appellants was for the purposes of the project and as the project

came to an end sometime in 1999, their services were terminated.

It has also come on record that there was no advertisement on the basis of which the appellants were engaged, but they were required to take some sort of a written examination followed by an interview and it is on that basis that they were selected.

As mentioned above, the case of the respondent was not accepted by the CGIT and it was held by the CGIT that the appointment of the appellants was in accordance with law and their termination was contrary to Section 25(f) of the Industrial Disputes Act, 1947 and, therefore, a direction was given to reinstate the appellants with full back wages.

Feeling aggrieved by the order passed by the CGIT, the respondent preferred writ petitions in the Allahabad High Court. The writ petitions were allowed by the High Court. The decision of the writ petitions is under challenge before us.

On 15th May, 2007, the High Court passed an interim order to the effect that from the date of the order the appellants will be paid an amount of Rs.3,000/- per month. For the period prior to that, the respondent was directed to deposit back wages of the appellants before the CGIT. It is not in dispute that the appellants were paid Rs.3,000/- per month with effect from 15th May, 2007

till sometime in January, 2013 when the writ petitions filed by the appellants were allowed. While allowing the writ petitions, the High Court permitted the respondent to withdraw the deposited amount of back wages. We are told that the respondent has since withdrawn that amount. In other words, the appellants have only received Rs.3,000/- per month from 15th May, 2007 until the disposal of the writ petitions.

It is under these circumstances the appellants are now before us.

We have gone through the judgment of the High Court and have also heard learned counsel for the parties. We find that the judgment delivered by the High Court is somewhat sketchy inasmuch as no reasons have been given for departing from the view taken by the CGIT. In fact, there is no discussion of any of the findings rendered by the CGIT. All that the High Court has said is that the appellants were appointed without any advertisement and their names were not even called for from the Employment Exchange. On this basis, it was held that since the respondent is a government organization/agency and it could not appoint any one without providing opportunity to apply to each and every eligible person otherwise the appointment would be in violation of Articles 14 and 16 of the Constitution of India. It was held that since the appellants were direct employees with the respondent and

their employment was utterly illegal and unconstitutional, their reinstatement could not be directed. As mentioned above, the High Court has given absolutely no reason for coming to these conclusions and has not discussed any of the aspects on facts rendered by the CGIT nor on the legal issues.

Our attention has been drawn to three decisions of this Court, viz., Harjinder Singh v. Punjab State Warehousing Corporation [(2010) 3 SCC 192], Heinz India Private Limited and Another v. State of Uttar Pradesh and Others [(2012) 5 SCC 443] and Bhuvnesh Kumar Dwivedi v. Hindalco Industries Limited [(2014) 11 SCC 85]. A reading of these decisions indicates the extent of interference permissible by the High Court in respect of the orders passed by the Labour Court/CGIT. The High Court is certainly not an appellate court in such cases. It can interfere only if there is a jurisdictional error committed by the Labour Court/CGIT. The High Court is required to keep in mind that the Industrial Disputes Act is a social welfare legislation and should proceed on that basis.

Insofar as the present appeals are concerned, the High Court has not pointed out any jurisdictional error committed by the CGIT either in accepting evidence or in rejecting evidence. The High court has not even acted as an appellate court and has expressed its views in an *ipse*

dixit **manner without any discussions on the facts or on law.**

Learned counsel for the respondent referred to Rajasthan State Agriculture Mktg. Board v. Mohan Lal, [(2013) 14 SCC 543] to persuade us to come to the conclusion that it would be more appropriate if compensation is given to the appellants rather than directing their reinstatement. We are not persuaded to accept this submission advanced by learned counsel for the respondent simply for the reason that the High Court has not adverted to any of the conclusions arrived at by the CGIT nor has given any reasons to depart from the conclusions arrived at by the CGIT. Consequently, the only option available with us is to set aside the judgment and order of the High Court and to restore the Award passed by the CGIT. We are not inclined, on the facts of this case, to remand the matter to the High Court for reconsideration and driving the appellants to another round of litigation, keeping in mind that the appellants have been out of employment for the last about 15 (fifteen) years.

That apart, we have also been taken through the Award passed by the CGIT and we find no reason to set it aside inasmuch as we do not find any perverse conclusions having been arrived at by the CGIT. However, we are of the opinion that given the nature of the work the

appellants were performing as computer operators and that they had been paid some amounts under the orders of the High Court with effect from 15th May, 2007, the interests of justice would be served if a simple order of reinstatement is made, but without any further amounts to be paid to the appellants, either as back wages or otherwise. We do so accordingly. While ordering reinstatement of the appellants, we make it clear that they would be entitled to continuity of service.

The impugned judgment and order of the High Court is set aside and the Award passed by the CGIT is modified to the extent mentioned above.

The appeals are allowed in part. No costs.

.....J.
(MADAN B. LOKUR)

.....J.
(ABHAY MANOHAR SAPRE)

NEW DELHI
OCTOBER 06, 2015

ITEM NO.5 COURT NO.9 SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).12461-12464/2013

(Arising out of impugned final judgment and order dated 15/01/2013 in WP Nos. 23076/2007, 23077/2007, 23078/2007 and 23079/2007 passed by the High Court of Judicature at Allahabad)

NARESH KUMAR THAKUR & ORS. Petitioner(s)

VERSUS

PRINCIPAL/EXECUTIVE DIRECTOR CATC, ALLAH Respondent(s)

(With interim relief and office report)

Date : 06/10/2015 These petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s)
Mr. Bharat Sangal, AOR
Ms. Vernika Tomar, Adv.
Mr. R.R. Kumar, Adv.

For Respondent(s) **Mr. Praveen Jain, Adv.**
Mrs. Gunjan S. Jain, Adv.
Mr. Vikas Soni, Adv.
for M/s. M. V. Kini & Associates

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

Leave granted.

The appeals are allowed in part in terms of the signed order.

(SANJAY KUMAR-I) (JASWINDER KAUR)
AR-CUM-PS COURT MASTER
(Signed order is placed on the file)