

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 127 OF 2013

SPORTS AUTH.OF INDIA

APPELLANT(S)

VERSUS

SUNIL KUMAR

RESPONDENT(S)

WITH

CIVIL APPEAL NO. 131 OF 2013

WITH

CIVIL APPEAL NO. 132 OF 2013

O R D E R

1. Heard learned counsel for the parties to the lis.

2. After reference is made to the Labour Court, the parties have adduced evidence on the points of the dispute and also on the additional issues raised with regard to the plea that the appellant is not an industry. The additional issue was treated as preliminary issue and considered at the stage of passing an award after adjudication of the dispute referred to the Labour Court but the appellant neither adduced any evidence nor any argument is made by it before the Labour Court on the above issue. But the Tribunal-cum-Labour Court, on the basis of the evidence adduced before it and applying the law laid down by the seven Judges Bench of this Court in the case of Bangalore Water Supply

and Sewerage Board vs. A. Rajappa and Ors., AIR 1978 SC 548, recorded a finding of fact holding that the appellant is an industry and thus answered the preliminary issue against the appellant.

3. The issue with regard to the decision of justification of the order for termination holding that the workmen have completed 240 days of continuous service till the date of termination as also non-compliance of Clauses (a), (b) and (c) of Section 25-F of the Industrial Disputes Act, 1947, the Tribunal-cum-Labour Court came to the conclusion that the termination order passed against the concerned workmen is not justified in the eyes of law and accordingly the points of dispute referred to it were also answered against the appellant herein. The Tribunal-cum-Labour Court further directed the appellant herein to reinstate the services of each workman along with back wages and consequential benefits.

4. The said Award has been questioned by the appellant before the learned Single Judge of the High Court. The High Court in exercise of its jurisdiction under Articles 226/227 of the Constitution of India has affirmed the finding of fact recorded by the Tribunal-cum-Labour Court on the points of dispute referred to it i.e. the preliminary issue regarding the contentions that the

appellant is not an industry.

5. Dissatisfied with the Order passed by the learned Single Judge of the High Court, the appellant herein again challenged the award by preferring the Letters Patent Appeal before the Division Bench of the High Court. The Division Bench of the High Court of Punjab and Haryana at Chandigarh dismissed the appeal filed by the appellant affirming the concurrent finding of fact recorded by the learned Single Judge on all the issues.

6. Learned counsel for the appellant placed reliance on the judgments of this Court in the case of Jagbir Singh vs. Haryana State Agriculture Marketing Board and Anr., (2009) 15 SCC 327 and in the case of Bharat Sanchar Nigam Ltd. vs. Man Singh, (2012) 1 SCC 558 insofar as the payment of full back wages and an award of reinstatement of the concerned workmen.

7. We have considered the rival arguments made by both the sides.

8. In our opinion, the Award made by the Tribunal-cum-Labour Court which is affirmed by the learned Single Judge and by the Division Bench of the High Court is defensible keeping in view the factual scenario involved in these civil appeals that the appellant is an industry in accordance with

the tests laid down by this Court in the case of Bangalore Water Supply & Sewerage Board etc. (supra). More so, non-compliance of the provisions of Section 25-F, clauses (a), (b) and (c) of the Industrial Disputes Act in stricto sensu and keeping in view the propositions laid down by this Court in the cases of Punjab Land Development & Reclamation Corporation Ltd. vs. Presiding Officer, Labour Court, (1990) 3 SCC 682 and Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) & Ors., 2013 (1) SCC 324 in justification of awarding full back wages and also considering the judgments of this Court, the consequence of non-compliance renders the order of termination void and therefore the concerned workmen are entitled for reinstatement. Hence, we find that reliance placed by the learned counsel for the appellant on the cases of Jagbir Singh (supra) and Bharat Sanchar Nigam Ltd. (supra) is misplaced as the same are not applicable to the fact situation and the finding of fact recorded by the Labour Court on the points of dispute holding that the action of the appellant in terminating the services of the concerned workmen is void for non-compliance with the provisions of Section 25-F, Clauses (a), (b) and (c) of the Industrial Disputes Act. In the facts and circumstances of each case, no straightjacket

formula can be evolved. Each case has to be judged on its own facts by applying the cases, referred to supra. Further in view of the judgments, referred to supra, awarding reinstatement with full back wages is justified in law.

9. In view of the above, we do not find any reason to interfere with the concurrent findings of fact recorded by the courts below in exercise of our power under Article 136 of the Constitution of India.

10. The upshot is that the appeals are dismissed. There shall be no order as to costs.

.....J.
[V. GOPALA GOWDA]

.....J.
[S.A. BOBDE]

NEW DELHI;
DECEMBER 09, 2015

ITEM NO.103

COURT NO.10

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

Civil Appeal No(s). 127/2013

SPORTS AUTH.OF INDIA

Appellant(s)

VERSUS

SUNIL KUMAR
(With office report)

Respondent(s)

WITH

C.A. No. 131/2013
(With Interim Relief and Office Report)C.A. No. 132/2013
(With Interim Relief and Office Report)

Date : 09/12/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s)

Mr. Anil Grover, Adv.
Ms. Shubhangi Tuli, Adv.
Mr. Satish Kapoor, Adv.

For Respondent(s)

Mr. Yash Pal Dhingra, Adv.

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

The appeals are dismissed in terms of signed order.

(Neeta)
Sr. P.A.(Mala Kumari Sharma)
Court Master

(Signed order is placed on the file)