

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2032-2033 OF 2008

| UNITED COMMERCIAL BANK THROUGH G.M. | ... | APPELLANT(S) |

| Versus |

| UCO BANK WORKERS ORGANISATION | ... | RESPONDENT(S) |

O R D E R

It is not in dispute that Ashok Kumar Thakur (hereinafter to be referred to as "workman") worked as sub-staff with the appellant bank from 7.10.1985 to 14.8.1986. The Central Government Industrial Tribunal (for short "the Tribunal"), while dealing with the industrial dispute referred to it found that there was no termination of service of the workman. The Tribunal found that the case related to dis-continuation of service and not retrenchment and, accordingly, answered the reference in the negative.

2. In the Writ Petition filed by the respondent Union representing the workman, the High Court overturned the findings of the Tribunal and held that though there was no violation of Section 25-F of the Industrial Disputes Act, 1947 (for short "I.D. Act"), there was violation of provisions of Sections 25-G & H of the I.D. Act. Having recorded that finding, the Single Judge of the High Court directed the appellant to reinstate the workman with 25% back wages.

3. Against the judgment of the Single Judge of the High Court, a Letters Patent Appeal was preferred by the appellant but that was dismissed by the Division Bench as not maintainable.

4. On hearing the learned counsel for the parties, we are of the considered view that the judgment of the Single Judge in directing reinstatement of the workman with 25% back wages in the facts and circumstances of the case cannot be sustained in law. In large number of cases, this Court has held that where the workman had worked hardly for few months as daily wager and his termination is held to be bad, the direction to the employer for his reinstatement with continuity of service and some back wages is legally unsustainable. Some of these cases are: Municipal Council, Sujapur vs. Surinder Kumar¹; Haryana State Electronics Development Corporation Ltd. vs Mamni²; Haryana Urban Development Authority vs. Om Pal³; Uttaranchal Forest Development Corporation vs. M.C. Joshi⁴; Mahboob Deepak vs Nagar Panchayat, Gajraula and another⁵; Jagbir Singh vs Haryana State Agriculture Marketing Board and another⁶; Senior Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and others⁷ and Assistant Engineer, Rajasthan Development Corporation and another vs. Gitam Singh⁸.

5. In light of the legal position laid down by this Court in the above cases and having regard to the undisputed factual position that the workman was engaged as daily wager only for a period of ten months from 7.10.1985 till 14.8.1986, the judicial discretion exercised by the Single Judge of the High Court in directing reinstatement of workman with 25% back wages suffers from very grave error and the said judgment cannot be sustained and has to be set-aside and is set-aside.

6. In our view, in addition to the amount that has already been paid by the appellant to the workman under Section 17-B of the I.D. Act, further compensation of Rs. 50,000/- to the workman shall meet the ends of justice. We order accordingly. Such payment shall be made by the appellant to the workman within six weeks from today failing which the same will carry interest @ 9 % p.a.

7. Civil Appeals are allowed to the above extent with no

1 (2006) 5 SCC 173
2 (2006) 9 SCC 434
3 (2007) 5 SCC 742
4 (2007) 9 SCC 353
5 (2008) 1 SCC 575
6 (2009) 15 SCC 327
7 (2010) 6 SCC 773
8 2013(2) Scale 126