

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No. 266 OF 2014
(Arising out of S.L.P.(C) No. 19368 of 2013)

EXECUTIVE OFFICER,
MUNICIPAL COMMITTEE,
GANNAUR, SONEPAT ... APPELLANT(S)

VERSUS

RAMESH KUMAR ... RESPONDENT(S)

WITH

CIVIL APPEAL NO. 267 OF 2014
(Arising out of S.L.P.(C) No. 19612 of 2013)

O R D E R

The petitioners, aggrieved by common Order dated 28.02.2013 passed by the Division Bench of the High Court of Punjab and Haryana in Letters Patent Appeal Nos. 1265 and 1267 of 2012, have preferred these special leave petitions.

Leave granted.

Short facts giving rise to the present appeals are that the respondents were appointed as Firemen on contractual basis intermittently for a period spread over about two years. Their services were terminated and References were made by the Competent Government in regard to the validity of the termination orders. The Labour Court rejected the references. The respondents herein preferred writ petitions which were dismissed by the learned Single Judge on the ground of delay and latches. However, on appeal, the Division Bench of the High Court by a common order set aside those orders and directed for reinstatement of the respondents with continuity in service along with 50% of the back wages.

The only contention raised on behalf of the appellant-Municipal Committee is that even if the termination of services is in violation of Section 25-F of the Industrial Disputes Act, 1947 ("I.D. Act" for short), in the facts of the present cases, the relief of reinstatement ought not to have been granted. In support of the submission, reliance has been placed on a decision of this Court in a case of Senior Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and Ors. reported in 2010 (6) SCC 773 and our attention has been drawn to Paragraphs 8, 9 and 11 of the said judgment. Same read as follows:

"8. Lastly, learned senior counsel submitted that even if the order dated 10-2-1987 amounts to illegal termination for want of compliance with Section 25-F of ID Act, in the facts and circumstances of the case, reinstatement and back wages was not justified and at best monetary

compensation to the workmen could have been awarded.

9. In last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. (See U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey (2006) 1 SCC 479; Uttaranchal Forest Development Corpn. v. M.C. Joshi (2007) 9 SCC 353; State of M.P. v. Lalit Kumar Verma (2007) 1 SCC 575; M. P. Admn. v. Tribhuban (2007) 9 SCC 748; Sita Ram v. Moti Lal Nehru Farmers Training Institute (2008) 5 SCC 75; Jaipur Development Authority v. Ramsahai (2006) 11 SCC 684; GDA v. Ashok Kumar (2008) 4 SCC 261 and Mahboob Deepak v. Nagar Panchayat, Gajraula (2008) 1 SCC 575).

Xxx

11. In view of the aforesaid legal position and the fact that the workmen were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice. In our considered view, the compensation of Rs. 40,000/- to each of the workmen (respondent nos. 1 to 14) shall meet the ends of justice. We order accordingly. Such payment shall be made within 6 weeks from today, failing which the same shall carry interest at the rate of 9 per cent per annum."

Yet, another decision on which reliance has been placed by learned counsel for the appellant is the decision of this Court in the case of Incharge Officer and Anr. vs. Shankar Shetty reported in 2010 (9) SCC 126 and reference has been made to paragraph 7 of the judgment, which reads as follows:

"7. We think that if the principles stated in Jagbir Singh [2009 (15) SCC 327] and the decisions of this Court referred to therein are kept in mind, it will be found that the High Court erred in granting relief of reinstatement to the respondent. The respondent was engaged as a daily wager in 1978 and his engagement continued for about 7 years intermittently up to 6.9.1985 i.e. about 25 years back. In a case such as the present one, it appears to us that relief of reinstatement cannot be justified and instead monetary compensation would meet the ends of justice. In our considered opinion, the compensation of Rs. 1,00,000 (Rupees one lakh) in lieu of reinstatement shall be appropriate, just and equitable. We order accordingly. Such payment shall be made within 6 weeks from today failing which the same shall carry interest at the rate of 9% per annum."

On the other hand, learned counsel for the respondents,

RAMESH KUMAR Respondent(s)
(With prayer for interim relief and office report)

WITH SLP(C) NO. 19612 of 2013
(With prayer for interim relief and office report)

Date: 10/01/2014 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Petitioner(s) Mr. Bhagwati Prasad, Sr. Adv.
Mr. Kumar Kartikay, Adv.
Mr. Pushpinder Singh, Adv.
Mr. Ran Vijay, Adv.
Mr. Merusagar Samantaray, Adv.

For Respondent(s) Mr. Balraj Rathee, Adv.
Mr. Dinesh Verma, Adv.
Mr. Honey Verma, Adv.
Mr. Subhasish Bhowmick, Adv.

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

Leave granted.
The appeals are allowed in terms of the signed order.

| (S.K. Rakheja)
| Court Master

| |(Indu Satija)
| |Assistant Registrar

|

(Signed order is placed on the file)