

ITEM NO.10

COURT NO.7

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 (Civil) No(s).16036/2010
(From the judgement and order dated 21/01/2010 in WP No.
269/2009 & LPA No. 420/2009 of The HIGH COURT OF PUNJAB &
HARYANA AT CHANDIGARH)

RANBIR SINGH

Petitioner(s)

VERSUS

EXECUTIVE ENGINEER

Respondent(s)

(With prayer for interim relief and office report)

Date: 03/01/2011

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s)

Mr. M.K. Bhardwaj, Adv.
Ms. Priyanka Bhardwaj, Adv.
Mr. R.C. Kaushik, Adv.

For Respondent(s)

Mr. Manjit Singh, AAG.
Mr. Tarjit Singh, Adv.
Mr. Kamal Mohan Gupta, Adv.
Mr. Gaurav Teotia, Adv.
Mr. Sanjeev Kumar, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed
reportable order.

(KALYANI GUPTA)
SR. P.A.

(VEENA KHERA)
COURT MASTER

C.A. No. of 2011 @ SLP(C) No. 16036 of 2010
BLE

REPORTA

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[SIGNED REPORTABLE ORDER IS PLACED ON THE FILE.]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5 OF 2011

RANBIR SINGH	APPELLANT
VERSUS		
THE EXECUTIVE ENGINEER	RESPONDENT

O R D E R

1. Leave granted.

2. The appellant herein, a workman, was engaged on daily wages in the year 1992. His services were terminated in the year 1999 on the ground that he had been involved in a criminal case. It is the conceded position that the criminal case has ended in his acquittal. The appellant also raised an industrial dispute alleging violation of Section 25(f) of the Industrial Disputes Act, 1947.

The in matter was referred to the Labour Court which held favour of the appellant directing his reinstatement with fifty per cent back wages. The State of Haryana challenged the order of the Labour Court exclusively on the plea that the award of back wages was not justified. The learned C.A. No. of 2011 @ SLP(C) No. 16036 of 2010 REPORTABLE

Single Judge, however, allowed the writ petition filed by the State in toto and set side the Award of the Labour Court and instead awarded a compensation of Rs. 60,000/- to the appellant. The matter was thereafter taken before the Letters Patent Bench and it was argued that the challenge in the writ petition had been limited to the award of back wages and the judgment of the Single Bench setting aside the Award in toto was beyond the prayer. The Division Bench noticed this argument but nevertheless went on to hold that as the issue with regard to the status of a daily

wage employee was covered against the appellant by a string of judgments of this Court, the technicality with regard to the prayer in the writ petition would not stand in the way of the High Court making an order setting aside the Award of the Labour Court. The Division Bench, accordingly, affirmed the order of the learned Single Judge. The appellant-workman is here before us in appeal.

3. Before us today, the learned counsel for the appellant has argued that in the writ petition filed by the respondent-State challenging the Award of the Labour Court, the only plea was against the grant of back wages and nothing more. In support of this submission, the learned counsel has drawn our attention to the writ petition which has been appended with the paper book. We find that the

assertion of the learned counsel is correct. We are of 2011 @ SLP(C) No. 16036 of 2010 REPO

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therefore, of the opinion that the order of the Single Judge as well as of the Division Bench was well beyond the scope of the prayers in the writ petition. If the

State felt aggrieved by the Award of the Labour Court in toto there was no impediment in its way to challenge it in its entirety. We feel that a party must be held to be bound by its pleadings; a prayer clause cannot be construed or dubbed as a technicality. We are, therefore,

of the opinion that the appeal deserves to succeed. We, accordingly, allow the appeal and set aside the orders of

the Single Judge as well as the Division Bench and restore the order of the Labour Court to the extent of reinstatement. We are also told by the learned counsel for

the appellant that the appellant had in fact

been

his reinstated but after the order of the Division Bench

services had again been terminated in December, 2009.

We,

accordingly, direct that the back wages envisaged would be

his payable only from January 2010 onwards till

reinstatement as a consequence of this order.

4. The appellant will also have his costs which are assessed at Rs. 5,000/-.

C.A. No. of 2011 @ SLP(C) No. 16036 of 2010

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.....J
[HARJIT SINGH BEDI]
REPORTABLE

NEW DELHI
JANUARY 03, 2011.

.....J
[CHANDRAMAULI KR. PRASAD]