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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.865 OF 2002@@
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Bhartiya Khadi Gramudyog Sangh

Appellant (s)

versus

Pawan Rana

Respondent (s)

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This appeal is preferred by M/s. Bhartiya Khadi Gramodyog Sangh against the judgment of the Division Bench of the High Court of Punjab & Haryana. The respondent was originally appointed as a trainee on 1.11.1991 and he continued as such till 1994. On 1.6.1994 he was appointed as a Karyakarta("Sharmik")temporarily for a period of six months subject to the Rules and Regulations. He continued till 31.5.1995 and on that day his services were terminated. The respondent sought reference and the Labour Court held that in view of the terms and conditions of appointment, the termination of services of the respondent was proper and an Award was passed to that effect by the Industrial Tribunal-cum-Labour Court. The respondent challenged the Award by way of C.W.P.No. 15044/1998 before the High Court. The respondent contended that as per Clause 9 of the letter

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of appointment, the terms and conditions of the service of the respondent was that he could have been terminated only if his work was found unsatisfactory and that he should have been declared as permanent worker on completion of the period of one year. This plea was accepted by the High Court and the respondent was directed to be reinstated in service with continuity of service with full back wages. This decision is challenged before this Court.

We have heard learned counsel for both the parties. We explored the possibility of settlement between the parties but the parties were not agreeable to any settlement. Though the appellant offered some amount as compensation in lieu of reinstatement, the respondent prayed for reinstatement.

Learned counsel for the appellant relied on Clause 9 of the terms and conditions which is to the following effect:

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"During temporary service if your work is found unsatisfactory you can be removed from the service of the Sangh and if your work is found satisfactory your tenure of service shall automatically extend to further 6 months for which there will be no necessity of any separate orders and if during this period also your work is found satisfactory your services shall automatically be regularised for which no separate orders shall be necessary but if

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your work is found unsatisfactory your services shall be terminated during the tenure of your temporary services."

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The above clause shows that the services of the respondent could have been terminated only if his work was found to be unsatisfactory. Admittedly, no material could be placed by the appellant either before the Labour Court or before the High Court to show that his work was found unsatisfactory and on account thereof his services have been terminated. The termination order passed by the appellant does not say anything about the satisfactory nature of the work and conduct of the respondent. The order reads as follows:

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"Your tenure of service is going to be completed on 31.5.95 and on this ground your services are hereby terminated as per terms and conditions of appointment letter.

Your dues amount are offered to you which you can receive."

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The High Court was of the view that Clause 9 of the terms and conditions of service does not permit the employer to simply terminate the services of the workman without there being any finding to the effect that the work was not satisfactory. In our view, the Division Bench was justified in ordering reinstatement of the respondent.

The learned counsel submitted that the appellant is carrying on its business with the financial subsidy given by the Government and there is no sufficient work to engage so many workers.

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Having regard to the facts and circumstances of the case, we direct the appellant to re-instate the respondent with 50% back wages within a period of one month. The appeal is disposed of accordingly.

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.....J
(K.G.Balakrishnan)

New Delhi,
April 22,2003

.....J
(P.Venkatarama Reddi)