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C.A.No. 11893 OF 1996

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~ ITEM NO.104 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

CIVIL APPEAL NO. 11893/1996

Sain Steel Products .. Appellant (s)

Vs.

Naipal Singh & Ors. .. Respondent(s)

(with appln. for stay and office report)

DATE : 15.2.2001 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE S.N. PHUKAN

For Appellant (s) : Mr. O.N. Vohra, Adv.
Mr. Balram Dewan, Adv.

For Respondent (s) : Mr. Manish Srivastava, Adv.
Mr. Pankaj Srivastava, Adv.
Mr. I.M. Nanavati, Adv. for
M/s I.M. Nanvati Associates.

UPON hearing counsel the Court made the following

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

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Charanjit [S. Malkani]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 11893/1996@@
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Sain Steel Products .. Appellant

Vs.

Naipal Singh & Ors. .. Respondents

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In this appeal the aggrieved employer is the appellant. His case is that respondent No.2 (hereinafter referred to as the respondent) who was employed pursuant to an appointment order dated 10.9.1974 for a period of 11 months to be on probation and to be continued only on satisfactory completion of the probation but by an order made on 8.9.1975 his services were terminated. On the ground that he had been illegally retrenched from service, a dispute was raised under the Industrial Disputes Act (for short 'the act') and the matter was referred to the Labour Court. The Labour Court held that the termination of the services of the respondent did not comply with the provisions of Section 25-F of the Act and therefore illegal and directed his reinstatement with wages at Rs. 137/- per month which was the last drawn wage or the minimum wages permissible under the Minimum Wages Act whichever is higher till the date of his reinstatement. This order was challenged in a writ petition before the High Court. The High Court dismissed the same. Hence this appeal by special leave.

In this Court the learned counsel for the appellant raised several contentions of which two are important in relation to termination of the services of the respondent. Firstly, he contended that the appointment of the respondent was for a period and if it is for a period his termination was in terms of Section 2 (oo) proviso (bb); that on being brought to his notice that on the date of this termination of the services of Respondent the said provision was not available he did not pursue with this line of argument.

Secondly, he contended that the termination of services of the respondent was in terms of Section 25-F of the Act as the order of termination discloses that it is open to the respondent to collect the dues before leaving and in this context he relied upon two decisions of this Court in AIR 1962 SC 1500 - The Straw Board Manufacturing Co. Ltd. Saharanpur Vs. Govind and 1965 (1) SCR 998- Management of Delhi Transport Undertaking Vs. Industrial Tribunal, Delhi & Anr. to contend that even an offer of payment is as good as payment itself in terms of Section 25-F of the Act. However, a reading of the letter dated 8.9.1975 on which reliance is

placed, it is clear that all that is stated is to ask the respondent to collect whatever is due to him but it does not spell out whether it included the amount as contemplated under Section 25-F or not. In these circumstances we cannot take this sentence to be making an offer in terms of Section 25-F

of the Act to comply with the terms thereof. Hence the view taken by the Labour Court as affirmed by the High Court stands to good reason and it does not call for any interference at our hands.

Considering the fact that the respondent has not been in employment of the appellant since 1975 for well over quarter of a century we do not think it appropriate to put him back in service of the appellant. It would be proper that some reasonable compensation be paid to him in lieu of back wages and reinstatement. We think, in the circumstances of the case, appropriate relief to be granted is a sum of Rs. 50,000/- which shall be paid to the Respondent or deposited with the Labour Court within a period of one month from today to be drawn by the Respondent. Award made by the Labour Court as affirmed by the High Court shall stand modified in terms stated above. The appeal is accordingly allowed in part.

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[S. RAJENDRA BABU]@@
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[S.N. PHUKAN]@@
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New Delhi, @@
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February 15, 2001 @@
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