

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.2275 OF 2011

M/s. U.P. Coop. Bank & Anr.

... Appellants

VERSUS

Ram Murti Tripathi & Anr.

... Respondents

O R D E R

This appeal calls in question the legal propriety of the order dated 26.03.2015 passed by the learned single Judge of the High Court of Judicature at Allahabad, Lucknow Bench Lucknow in Writ Petition No.3385 (S/S) of 1988 whereby he has unsettled an award passed by the Labour Court at Lucknow vide order dated 24.12.1987 in Adjudication Case No.111 of 1985 wherein the Labour Court had declined to accede to the prayer of the respondents seeking regularization with effect from 6.12.1980 but has accepted the fact that they have been regularised by the employer with effect from 1.6.1984.

At the every outset, we must state that the facts that have been projected by the parties are not clear. However, filtering the unnecessary details, the requisite facts are that a selection process for filling up Class IV posts was undertaken by the appellant-Bank. The respondents herein were not selected. A resolution was passed on 31.05.1981 cancelling the selection on

the ground that there has been non-compliance of certain Government circulars. The said order of cancellation was assailed before the High Court in Writ Petition No.4394 of 1981 and the Division Bench of the High Court vide order dated 22.05.1986 opined that as the resolution passed by the Bank had been withdrawn, nothing remained to be adjudicated in the writ petition.

At this juncture, it is apt to mention that the respondents were selected by resolution dated 8.11.1982 after following the due procedure. However, they were not appointed because of the stay order existing in the earlier writ petition. Be it stated, the respondents, prior to the said selection, were working on *ad hoc* basis from 1979.

After the disposal of the writ petition, the Management passed a resolution on 18.12.1986. The essential part of the said resolution is reproduced below :

"Resolution No.11 passed in the meeting of Board of Directors of the U.P. Cooperative Bank held on 31.05.1981 is cancelled and it is decided that in compliance of the order dated 22.5.1986 and 14.05.1986 passed by Hon'ble High Court and it has been decided that out of the list of selected Class IV category employees under the resolution dted 06.12.1980 pssed by the Board of Directors of the Bank, 18 employees working in the bank be granted regular appointment from 6.12.1980 and after one year i.e. 06.12.1981 their services be confirmed. Regarding payment of claims of these employees Managing Director has been authorized that he will take necessary action in accordance with law regarding these employees."

It is submitted by Mr. Pradeep Misra, learned counsel for the appellants that the High Court has misconstrued the said resolution by holding that after the said resolution has come into existence, there is no embargo to treat the petitioners as regular appointees with effect from 6.12.1980, for the resolution dated 31.5.1981 that created an impediment had been withdrawn. To bolster the said submission, it is urged by him that the said reasoning would have been justified, had the respondents been selected by resolution dated 6.12.1980. But, unfortunately, they were not selected. In our considered opinion, the said submission has force and we accept the same.

Our acceptance of the said submission cannot revive the award passed by the Labour Court. The Labour Court, as we find, has taken into consideration the order dated 1.6.1984 vide which the respondents have been regularized. There is no cavil over the said fact. However, the question really arises for consideration is whether the respondents should suffer as there was an interdiction by the court as regards the selection on 8.11.1982. The said selection was not cancelled. It is not the case that the respondents were not working on the post in question. The order dated 8.11.1982 is an order of regularization after being satisfied as regards the suitability of the respondents and, therefore, we are of the considered opinion the the regularization of 1.6.1984 should date back to 8.11.1982 and, accordingly, we modify the order passed by the High Court and direct that the

respondents shall be treated to be regular employees with effect from 8.11.1982 with all consequential benefits.

The appeal is allowed to the extent indicated above and the order passed by the High Court stands modified accordingly. There shall be no order as to costs.

.....,J.  
(Dipak Misra)

.....,J.  
(R. Banumathi)

New Delhi;  
August 27, 2015.

ITEM NO.104

COURT NO.4

SECTION XV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2275/2011

M/S U.P.COOP.BANK & ANR.

Appellant(s)

VERSUS

RAM MURTI TRIPATHI & ANR.

Respondent(s)

(with office report)

Date : 27/08/2015 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Pradeep Misra, AOR

For Respondent(s) Mr. Y.S. Lohil, Adv.  
Ms. Renuka Jumrani, Adv.  
Dr. Samual Bhardwaj, Adv.  
Ms. Mridula Ray Bharadwaj, AOR

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

The appeal is allowed to the extent indicated in the signed order.

(Gulshan Kumar Arora)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)