

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7391 of 2014
(Arising out of SLP (C) No.21086 of 2012)

State of M.P. and Ors.

... Appellant(s)

Versus

Anees Khan

... Respondent (s)

JUDGMENT

Adarsh Kumar Goel, J.

1. Leave granted.

2. This appeal, filed by the State of M.P., arises out of the proceedings on an application filed by the respondent-workman under Section 108 of the M.P. Industrial Relations Act, 1960 for grant of back wages amounting to Rs. 1,41,762/- for the period from 08.02.1994 to 31.03.2001.

3. The workman was engaged as assistant of driver of Roller No.

Signature Not Verified

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D.R.R. 1080 of PWD at Tarana on 16.08.1991 at a total pay of

Mahabir Singh

Date: 2014.08.07

16:42:57 IST

Reason:

Rs.1215.00 per month. He was disengaged from work on 01.07.1992.

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Challenging the same, the workman filed Case No. 236/92 before the

Labour Court, Ujjain, M.P. claiming reinstatement with back wages.

By order dated 07.02.1994, the Labour Court passed an ex parte

order directing the State to reinstate the workman at his original post

with back wages from the date of termination till the date of the

order. Though the State of M.P. sought setting aside of the ex parte

order but did not succeed. The workman, instead of taking any proceedings for enforcing the order of reinstatement, only sought enforcement for back wages. This claim was contested with the plea that the workman had not reported for duty. However, the Labour Court allowed back wages vide order dated 17.08.2000. The workman was, accordingly, paid a sum of Rs.29,160/- towards back wages for the period from 01.07.1992 to 07.02.1994.

4. Thereafter, the workman initiated second round of proceedings by filing a fresh application No.62/2001 under Section 108 of the M.P. Industrial Relations Act, 1960 before the Labour Court on 17.3.2001 claiming back wages of Rs.1,41,762/- for the period from 8.2.1994 to 31.3.2001. Though the said claim was initially rejected on the ground that in absence of any order to that effect in favour of the workman, the claim for back wages for the period in question could not be upheld, in further proceedings after remand, the Labour Court awarded a sum of Rs.1,23,443/- to the workman towards back wages

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for the period from 08.02.1994 to 31.03.2001 which has been upheld up to the High Court.

5. While issuing notice on 16.07.2012, this Court stayed the operation of the impugned order.

6. We have heard Mr. C.D. Singh, learned counsel for the appellant and Mr. Puneet Jain, learned counsel for the respondent-workman.

7. Learned counsel for the State of M.P. submitted that the engagement of respondent-workman was in connection with the project, "SINHASTHA" 1992 at Ujjain on 16.08.1991 and after completion of the same, he was disengaged on 01.07.1992.

Thereafter, the respondent never worked for the Department. In spite of order of Labour Court, the workman has neither joined service nor taken any step to enforce the order of reinstatement. He is, thus, deemed to have abandoned the said claim. He is also estopped from claiming back wages, having neither worked nor having offered to work.

8. From the counter affidavit filed by the workman, there is nothing to show that any proceeding was initiated by him for

enforcement of order of reinstatement dated 07.02.1994 in his favour. His only claim in the application dated 17.03.2001 is for back wages up to 31.03.2001. In these circumstances, there appears to be substance in the plea that the workman abandoned his right to

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seek reinstatement and his conduct in not reporting for duty disentitles him even to back wages. The workman worked for less than one year without any regular appointment. Though the order of the Labour Court dated 07.02.1994 became final and in proceedings to enforce the said order, the workman was paid back wages from 01.07.1992 to 07.02.1994, since he did not report for duty nor took any proceedings for seeking enforcement of order of reinstatement, he could not be allowed any further relief. Thus, the appeal filed by the State deserves to succeed.

9. Taking an overall view of the matter in the peculiar facts and circumstance, while holding that the workman is not entitled to any further relief, we consider it appropriate to direct the State to pay a sum of Rs. 1 lac to the workman within three months from the date of receipt of a copy of this judgment.

10. The appeal is disposed of.

.....J.
[T.S. THAKUR]

.....J.
[ADARSH KUMAR GOEL]

New Delhi
August 07, 2014
ITEM NO.1A
(For Judgment)

Court No.3

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.7391 of 2014
(Arising out of SLP (C) No(s).21086/2012)

STATE OF M.P. & ORS.

Appellant(s)

VERSUS

ANEES KHAN

Respondent(s)

Date : 07/08/2014 This petition was called on for judgment today.

For Appellant(s) Mr. C. D. Singh ,Adv.
 Ms. Sakshi Kakkar,Adv.

For Respondent(s) Mr. Puneet Jain,Adv.
 Ms. Pratibha Jain,Adv.

Hon'ble Mr. Justice Adarsh Kumar Goel pronounced the judgment of the Bench comprising Hon'ble Mr. Justice T.S. Thakur and His Lordship.

Leave granted.

In terms of the signed reportable judgments, the appeal is disposed of :

"9. Taking an overall view of the matter in the peculiar facts and circumstance, while holding that the workman is not entitled to any further relief, we consider it appropriate to direct the State to pay a sum of Rs. 1 lac to the workman within three months from the date of receipt of a copy of this judgment.

10. The appeal is disposed of."

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed reportable judgment is placed on the file)