

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5361 OF 2005

H.U.D.A.

.....APPELLANT(S)

VERSUS

JAGMAL SINGH

.....RESPONDENT(S)

J U D G M E N T

Dr.AR.LAKSHMANAN,J.

Heard Mr.Sanjay Jain, learned counsel for the appellant and

Mr.D.P.Chaturvedi, learned counsel for the respondent.

The above appeal is directed against the order passed by the Punjab and

Haryana High Court in Civil Writ Petition No.5947 of 2003. The Writ Petition filed

by the appellant herein was dismissed without assigning any reasons whatsoever.

The respondent herein was appointed by the appellant as sweeper on daily

wages on 01.05.1992. According to the appellant, the respondent had left the service

at his own which has been disputed by the learned counsel for the respondent. The

respondent sent a demand notice after a delay of four and a half years through the

Labour-cum-Conciliation Officer, Panipat to the appellant asking for reinstatement

with continuous service and back wages. The appellant filed reply to the demand

notice before the Labour-cum-Conciliation Officer, Panipat putting it clearly that the

respondent had not completed 240 days service in any of the three years that he had

2

worked there. The dispute was referred to the Industrial Tribunal-cum-Labour

Court, Panipat. The Labour Court passed an award in favour of the respondent

holding that the respondent was entitled to reinstatement to the service with

continuity of service and full back wages from the date of demand notice, i.e.,

11.11.1999. Aggrieved by the said order, the appellant invoked the jurisdiction of the

High Court of Punjab and Haryana seeking setting aside of the order of the Industrial

Tribunal and Labour Court. The High Court, as stated earlier, dismissed the Writ

Petition.

We have perused the orders passed by the High Court and also of the Labour

Court and the evidence led before the Labour Court by both the parties. Our

attention has also been drawn to some documents filed in support of the appellant and

the other relevant documents.

The appellant had also produced before the Labour Court the statement

marked as Annexure P-1. It is seen from the above statement that the respondent-

workman had worked for 204 days (from March, 1994 to February, 1995) on daily

wages. The Labour Court also considered the evidence of Rajesh Kumar, Clerk of the

appellant that the respondent-workman has worked from 01.01.1994 to February

1995 in their Division for 204 days. The Labour Court has further held that the

records from 01.07.1994 to 31.07.1994 was not available and, therefore, the

management has failed to produce the record for the month of July, 1994 and if the

working days of July, 1994 was counted then the workman has worked for 235 days

and if the gazetted holidays and weekly rest were included then definitely the

workman has worked for more than 240 days under the management.

3

We are unable to appreciate the approach made by the Labour Court in

calculating the statutory period of 240 days in a year. In our opinion, both the

Labour Court and the High Court have failed to appreciate the fact that the

respondent has failed to complete the statutory period of 240 days in a year to entitle

him for claiming any benefits whatsoever. As already noticed, evidence has been led

to the said fact before the Labour Court but still the issue of attendance of the

respondent has been decided in his favour. This apart, the respondent was appointed

only as a daily wage earner and not as a permanent employee of the appellant and

hence the respondent cannot claim any right to the post in question and that no right

has accrued to him to claim any benefits from the appellant. This fact has been

overlooked by the Labour Court and also by the High Court. The fact remains that

the respondent has not worked for the statutory period of 240 days which has been clearly established by the appellant. It is settled law that the workman has to prove that he had worked for 240 days. In the instant case, the workman has not established that he has served the appellant for the statutory period of 240 days.

In the result, the order passed by the Labour Court and the non-speaking

order passed by the High Court are liable to be set aside. We do so accordingly and

allow the Civil Appeal filed by the appellant and set aside the order passed by the

Labour Court and the High Court ordering reinstatement and back wages. No costs.

We also make it clear that the payment, if any, made to the respondent during the pendency of the appeal before this Court, shall not be recovered.

.....J.

4

(Dr.AR.LAKSHMANAN)

.....J.

.....
(LOKESHWAR SINGH PAN

TA)

NEW DELHI;

JULY 13, 2006.

ITEM NO.102

COURT NO.9

SECTION XV

RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 5361 OF 2005

H.U.D.A.

Appellant (s)

VERSUS

JAGMAL SINGH

Respondent(s)

(With appln(s) for exemption from filing O.T.)

Date: 13/07/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Mr. Sanjay Jain, Adv.

Mr. Mukesh Kumar, Adv.

For Respondent(s)

Mr. D.P. Chaturvedi, Adv.

Mr. S.N. Bhat, Adv.

UPON hearing counsel the Court made the following

O R D E R

5

The appeal is allowed in terms of the signed judgment.

No costs.

(Satish K. Yadav)

(Phoolan Wati Arora)

Court Master

Court Master

(Signed reportable judgment is placed on the file)