

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 7387-7394 OF 2005

THE EXECUTIVE ENGINEER, PWD & ANR.

Appellant (s)

VERSUS

HET RAM & ORS.

Respondent(s)

O R D E R

These appeals are filed at the instance of the Executive Engineer, PWD (B&R) Haryana, 99, Sector 4, Panchkula, Haryana impugning the judgment of the High Court dated 23.7.2004.

The High Court in the judgment found that the respondent no. 1 herein was employed in the office of the Sub Divisional Engineer, PWED (B&R), as a Beldar on daily wage basis in January, 1993 and thereafter in 1996 his services were dispensed with. The said action of dispensing with his services was challenged by the respondents-workmen before the forum under the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), as there was a failure of conciliation proceedings. The matter was referred for adjudication before the Labour Court, Ambala. Ultimately, the Labour Court in its Award dated 3.4.2001 held against the respondents-workmen.

The said award was challenged before the High Court. The High Court on perusal of the facts and law, came to the finding that the retrenchment of the respondents-workmen has taken place in violation of his right under Section 25-F of the Act and thereafter was pleased to set aside the order of retrenchment dated 30.10.1996 and the Award of the Labour Court dated 3.4.2001. Further, the High Court has been pleased to reinstate the respondents-workmen in service with continuity and full back wages from the date of issue of the demand notice dated 18.9.1998.

The learned counsel for the appellants appearing before us admits that after the Special Leave Petition was filed before this Court in 2004, the respondents-workmen had been reinstated in service w.e.f. 18.7.2007 pursuant to an order passed by this Court on 23.3.2007 whereby the appellants were asked to comply with the provisions of Section 17-B of the Act.

Having regard to the fact that the respondents-workmen have been working since 18.7.2007, we do not feel inclined to interfere with the order passed by the High Court, which is impugned in this appeal save and except modifying the High Court's direction to pay full back wages from 18.9.1998.

We make it clear that having regard to the facts and circumstances of the case and balancing the equities between the parties, the claim of back wages of the respondents-workmen shall be confined to 40% from the date of issue of the demand notice i.e. 18.9.1998. We further direct that the arrears of the back wages shall be paid to the respondents-workmen within four months from today.

The appeals are disposed of with the aforesaid directions.

....., J
(ASOK KUMAR GANGULY)

....., J
(DEEPAK VERMA)

NEW DELHI
MAY 20, 2011
ITEM NO.104

COURT NO.5

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(s). 7387-7394 OF 2005

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(With office report)

Date: 20/05/2011 These Appeals were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY
HON'BLE MR. JUSTICE DEEPAK VERMA
(VACATION BENCH)

For Appellant(s) Mr.T.V.George, Adv.

For Respondent(s) Mr. Ashwani Bakshi, Adv.
Mr. Debasis Misra, Adv.

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

The appeals are disposed of in terms of the signed
order.

(NAVEEN KUMAR)
COURT MASTER

(RENU DIWAN)
COURT MASTER

(Signed order is placed on the file)