

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8901 OF 2013

[ARISING OUT OF S.L.P. (C) NO. 22308 OF 2008]

LAKHA NARAIN

... APPELLANT(S)

Versus

STATE OF U.P. & ANOTHER

... RESPONDENT(S)

O R D E R

Leave granted.

2. Appellant, Lakha Narain (hereinafter referred to as "workman"), had worked intermittently for the period 11.7.1980 to 30.6.1990 when his services were terminated. During this period, sometimes he was posted as temporary outlet clerk and sometimes as gateman. The workman raised the industrial dispute concerning his illegal termination which was referred by the appropriate authority for adjudication to the labour court, Varanasi, U.P.

3. The respondents contested the workman's claim before the labour court.

4. The labour court, after recording the evidence tendered by the parties and on hearing them, held that the workman had worked from 11.7.1980 intermittently but continuously after 8.11.1985 till 30.6.1990. During the period 8.11.1985 and 30.6.1990, the workman had worked more than 240 days in every 12 months. The labour court also held that the termination order suffered from non-compliance of mandatory provision contained in Section 6-N of U.P. Industrial Disputes Act (for short "the Act"). The workman's termination of services on 30.6.1990 was, thus, held illegal. The labour court, in its award dated 23.4.1998, ordered that the workman was entitled to reinstatement and he would be entitled to the salary during the period he remained out of service.

5. The present respondents challenged the award in the writ petition before the Allahabad High Court.

6. The High Court heard the arguments and vide its judgment dated 28.4.2008 allowed the writ petition filed by the present respondents, set-aside the award of the labour court and ordered that the workman would be entitled to Rs. 30000/- (thirty thousand only). It is this judgment which is under challenge in the present appeal, by special leave.

7. The judgment of the High Court runs into 14 pages. Except page 1 and one paragraph at page 14, in 12 pages the High Court has discussed various decisions of this Court. The only relevant discussion is in one paragraph at page 14 which reads as follows:

"It is not the case of respondent workman that he was appointed in pursuance of some selection process. The appointment of the workman was in violation of Articles 14 & 16 of the Constitution of India and as such, even if there is violation of Section 6-N of the Act, interest of justice would be sub-served by awarding compensation to the tune of Rs. 30,000/- instead of reinstatement with back wages."

8. Before the labour court, there was no plea by the employer that the appointment of the workman was in violation of Articles 14 and 16

of the Constitution of India. The question whether the workman was appointed pursuant to some selection process was also not an issue before the labour court. However, the High Court in a very cryptic manner concluded that the appointment of the workman was in violation of Articles 14 and 16 of the Constitution of India and as such even if there was violation of Section 6-N of the Act, interest of justice would be sub-served if compensation of Rs. 30,000/- was awarded to the workman instead of reinstatement with back wages. In our view, the High Court overlooked the finding of facts recorded by the labour court that the workman had worked continuously w.e.f. 7.11.1985 to 30.6.1990 and in every 12 months, he worked more than 240 days and there was non-compliance of Section 6-N of the Act. The High Court was, thus, clearly wrong in upturning the award of the labour court.

9. However, in the peculiar facts of the case, particularly that the workman has already superannuated, there is no justification for restoration of the labour court's award. It transpires from the material placed before this Court that the workman was engaged as temporary outlet clerk from 1998 till 2012. Having regard to all this, in our opinion, interest of justice would be sub-served if the compensation of Rs. 30000/- awarded by the High Court is enhanced to Rs. 3,00,000/- (three lakhs only) in lieu of reinstatement and other consequential benefits which were ordered by the labour court. The order of the High Court is modified accordingly. If the above amount is not paid to the workman within three months from today, the respondents shall be liable to pay simple interest on that amount @ 9% p.a. from 30.6.1990 until the date of payment. It is clarified that the amount of Rs. 2,07,130/- which has been paid by the respondents to the appellant shall not be adjusted against the amount which we have ordered above.

10. Appeal is disposed of as above. The parties shall bear their own costs.

.....J.  
(R.M. LODHA)

.....J.  
(KURIAN JOSEPH)

NEW DELHI;  
OCTOBER 1, 2013.

ITEM NO.7

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

Petition(s) for Special Leave to Appeal (Civil) No(s).22308/2008

(From the judgement and order dated 28/04/2008 in CMWP  
No.12284/1999 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

LAKHA NARAIN

Petitioner(s)

VERSUS

STATE OF U.P.& ANR.

Respondent(s)

[FOR FINAL DISPOSAL]

Date: 1/10/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s) Mr. S.R. Singh, Sr. Adv.  
Ms. Sunita Pandit, Adv.  
Mr. Sushant K. Yadav, Adv.  
Mr. Ankur Prakash, Adv.  
Mr. Sudeep Kumar, Adv.  
Ms. Namita Choudhary, Adv.

For Respondent(s) Mr. Abhishek Chaudhary, Adv.  
Mr. Rishi Jain, Adv.  
Mr. Piyush, Adv.  
Mr. Amit Kumar Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Appeal is disposed of in terms of signed order. The  
parties shall bear their own costs.

|(Pardeep Kumar)  
|Court Master

|(Renu Diwan)  
|Court Master

[SIGNED ORDER IS PLACED ON THE FILE]