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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.5651 OF 2007
UNION OF INDIA

APPELLANT(S)

VERSUS

SAKAL DEV
WITH

RESPONDENT(S)

CIVIL APPEAL NO.5648 OF 2007
CIVIL APPEAL NO.5653 OF 2007
CIVIL APPEAL NO.5652 OF 2007
CIVIL APPEAL NO.5649-5650 OF 2007

O R D E R

These appeals arise out of similar but separate orders all dated 27.07.2005 passed by the High Court of Uttaranchal at Nainital whereby Writ Petition No.353, 354, 363, 371 and 378 of 2003 filed by the appellantâ- Union of India have been dismissed and the award made by the Labour Court in favour of the respondents directing their reinstatement in service with back wages affirmed with the modification that instead of full back wages the respondents shall be entitled to receive 50% of such wages. Review applications filed by the Union of India against the said order also having been dismissed; both the orders passed by the High Court are under challenge in

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the instant appeals.

We have heard learned counsel for the parties at some length and perused the record. The respondents appear to have been employed as casual labourers in the military farms department of the Indian Army. They were at the relevant point of time posted at the military farm, Dehradun where they were served with retrenchment orders terminating their services. Aggrieved by the said orders, the respondents (15 in number) challenged their retrenchment in separate proceedings filed before the jurisdictional Labour Court at Dehradun. These proceedings were opposed by the Union of India on several grounds but the Labour Court eventually allowed the same on the ground that since the termination was not accompanied by payment of the retrenchment compensation and other dues payable to the respondents, the retrenchment was legally bad. The Labour Court accordingly directed the reinstatement of all the casual labourers with full back wages. Aggrieved by the said award, the Union of India preferred a series of writ petitions challenging each one of the said directions/awards before the High Court of Uttaranchal. These writ petitions were allowed by the High Court but only in part and to the extent that instead of full back wages directed by the Labour Court, the High Court held the workmen entitled to the payment of 50% of

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such back wages.

Learned counsel for the appellant submits that out of a total of nearly 20 separate special leave petitions filed against the awards made by the Labour Court and the orders passed by the High Court affirming the same, this Court has already dismissed 15 of the said cases. Copies of the orders dismissing the special leave petitions challenging the orders passed by the High Court have also been placed on record together with copies of orders by which review petitions filed by the the Union of India before the High Court too were dismissed. It is submitted by learned counsel for the respondents that keeping in view the dismissal of the special leave petitions and the review petitions, respondents in those appeals have been reinstated in service and are currently serving the

military farms at different places including the military farms situated at high altitude at Leh in the Ladakh province of Jammu and Kashmir. It is urged that there is no material difference between the fact situations in which this Court has affirmed the orders passed by the Labour Court and those passed by the High Court in the said cases and the facts of the cases in hand. It is argued that the said special leave petitions may have been dismissed on the ground of delay but the nature of the controversy remains the same. The present appeals also

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therefore deserve to be dismissed not only because there is no reason for interference with the orders passed by the Labour Court but also because a differential treatment in cases decided on a common ground will result in avoidable anomaly and consequent injustice.

On behalf of the appellant-Union of India, Mr.P.S.Patwalia, learned Additional Solicitor General submits that the retrenchment of respondents had become necessary because the Indian Army was going in for a heavy mechanization thereby reducing the need for manpower already employed. He submits that although retrenchment compensation was paid along with the retrenchment order, the Labour Court had mistakenly held the same to be insufficient. It was further argued by Mr.Patwalia that the dismissal of other special leave petitions filed against the connected matters arising out of the judgments of High Court did not affect the maintainability of these appeals especially when this Court has granted special leave to appeal and referred the larger issue for determination by a larger bench of this Court.

Alternatively Mr.Patwalia, submits that even if this Court were to draw an analogy between the cases that were disposed off in similar circumstances and the cases at hand, this Court could consider granting monetary compensation to the respondents instead of directing their

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reinstatement. He submits that the legal position on the subject is very well settled that every erroneous order of dismissal when set aside need not lead to reinstatement in service and that this Court can in appropriate cases direct payment of suitable amount towards compensation to meet the ends of justice. It is argued that keeping in view the length of service rendered by the respondents the age group in which they are placed and the fact that the military farms does not need their services any more, it would be more appropriate if this Court were to direct payment of compensation instead of directing reinstatement as ordered by the Labour Court and affirmed by the High Court.

There is in our opinion considerable merit in the submissions made by Mr.Patwalia that a mere illegality in the order of termination does not by itself justify a direction for reinstatement. This Court has in a series of judgments rendered over the past held that award of suitable compensation in appropriate circumstances can and does meet the ends of justice.

The respondents in the present case admittedly were working as casual labourers in the military farms of the Indian Army. They were not appointed against any substantive vacancy. In the circumstances and keeping in view the fact that respondents have worked for just about

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10 years before they were retrenched as also the fact that they are no longer required as casual labourers for maintaining the military farm we are inclined to

substitute the direction for reinstatement by a direction for payment of adequate compensation in full and final settlement of all their claims. As to the amount of compensation that would meet the ends of justice we have taken into consideration the wages payable to the respondents, the period for which they could possibly serve if reinstated and the direction regarding the payment of wages for the past and come to the conclusion that a sum of Rs.5,00,000/- (five lakhs) each would sufficiently meet the ends of justice in full and final settlement of all their claim arising out of the services including their claims towards back wages and compensation in lieu of reinstatement.

We accordingly allow these appeals but only in part and to the extent that the orders passed by the Labour Court and that passed by the High Court in Writ Petition No.353, 354, 363, 371 and 378 of 2003 and review petitions shall stand modified to the extent that the respondents shall instead of reinstatement be entitled to receive a sum of Rs.5,00,000/- (five lakhs) each in full and final settlement of all their claims in relation to their past services, back wages, future claims and other benefits

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arising out of their appointment in the military farms. We direct that the amount of compensation shall be paid to each one of the respondents within a period of three months from today failing which the said amount shall start earning interest at the rate of 10% per annum with effect from the date the period of three months expires. With the above directions all these appeals are disposed off leaving open for determination by the larger Bench the question whether or not 'military farm' constitutes an 'industry' as defined under the Industrial Disputes Act, 1947.

No costs.

.....CJI.

[T.S.THAKUR]

.....J.

[A.M. KHANWILKAR]

.....J.

[DR.D.Y. CHANDRACHUD]

NEW DELHI

SEPTEMBER 27, 2016.

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ITEM NO.27

COURT NO.1

SECTION XVI

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.5651/2007

UNION OF INDIA

Appellant(s)

VERSUS

SAKAL DEV

Respondent(s)

(with appln. (s) for early hearing and office report)

WITH

Civil Appeal No.5648 of 2007

(With appln.(s) for early hearing and office report)

Civil Appeal No.5653 of 2007

(With appln.(s) for early hearing and office report)

Civil Appeal No.5652 of 2007

(With office report)

Civil Appeal No.5649-5650 of 2007

Date : 27/09/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Appellant(s)

Mr. P.S. Patwalia, ASG

Mr. S. Wasim A. Qadri, Adv.
Mrs. Vimla Sinha, Adv.
Mrs. Natasha Vinayak, Adv.
Mr. M.K. Maroria, Adv.
Mr. D.S. Mahra, Adv.
Ms. Satya Siddiqui, Adv.
Mr. Sarfraz A. Siddiqui, Adv.

For Respondent(s)

Ms. Shalu Sharma, Adv.
Mr. Rajesh Sharma, Adv.
Ms. Nidhi Singh Dubey, Adv.

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UPON hearing the counsel the Court made the following

O R D E R

These appeals are allowed and disposed off in terms of the signed order.

Pending applications, if any, are accordingly disposed off.

(Ashok Raj Singh)
Court Master

(Veena Khera)
Court Master
(Signed Order is placed in the file)