

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). 2180 OF 2011

GENERAL MANAGER, HARYANA ROADWAYS, KARNAL Appellant (s)

VERSUS

SATISH KUMAR Respondent(s)

(With appln(s) for stay, exemption from filing O.T., permission to file additional documents and office report)

Date: 21/05/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE A.K. SIKRI
(VACATION BENCH)

For Appellant(s) Dr. Monika Gusain, Adv.

For Respondent(s) Ms. Arti Singh, Adv. (Not present)

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

The appeal is dismissed, in terms of the signed order.

(O.P. SHARMA)
COURT MASTER

(M.S. NEGI)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

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O R D E R

The respondent was engaged as Helper on 21.2.2000 initially for a period of 89 days which period expired on 19.5.2000. After giving artificial break for

ten days, he was re-engaged on 29.5.2000 for another 89 days and again on 24.8.2000 and 24.11.2000 and continued in this capacity till 20.2.2001. The aforesaid period of extensions from 29.5.2000 till 20.2.2001 was without any break in service. No further extension was given beyond 20.2.2001 and this non-extension was perceived by the respondent as his termination. On such termination, the respondent raised an industrial dispute which was referred to the Industrial Tribunal/Labour Court, Panipat on the following terms:

"Whether the services of Sh. Satish Kumar have been terminated validly or not? Whether he is entitled to any relief?"

On the basis of the pleadings of the parties, the Labour Court framed the following issues for adjudication:

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- "1. Whether the service of Sh. Satish Kumar workman have been terminated validly or not? If not, whether he is entitled to any relief?
OPW

2. Relief."

Both the parties led their evidence. After hearing the arguments and examining the record, the Industrial Tribunal-cum-Labour Court passed the Award dated 27.2.2006. On Issue No.1 the findings of the Labour Court was that the respondent has completed more than 240 days continuous service with the appellant from 25.3.2000 to 31.5.2001. In spite thereof, his services were terminated without following the provisions of Section 25F of the Industrial Disputes Act, 1947 ('Act' for short) which mandates giving of retrenchment compensation as well as one month's notice of termination. The Labour Court also held that there was violation of Sections 25G and 25H of the Act as well inasmuch as while wrongly terminating the service of the respondent, services of persons junior to him had been retained and after the termination of his service, fresh hands were also employed. Thus, the principle of last-

cum-first go had also been violated.

The Labour Court

referred to and relied upon various judgments of this Court as well as of the High Courts in support of its

aforesaid conclusion. In so far as the relief is concerned, in the Award, the Labour Court directed

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reinstatement of respondent with continuity of service but with 50% back wages from the date of Demand Notice dated 6.1.2003 at the last drawn salary of Rs.1950/-.

This Award was challenged by the appellant by filing a writ petition in the High Court which has been dismissed by the High Court affirming the aforesaid findings on the basis of which the Labour Court which had held termination to be bad in law as it was in violation of the mandatory provision of Sections 25F, 25G and 25H of the Act.

As per the High Court the engagement for 89 days and extension thereof with some gap and thereafter terminating the services while retaining the juniors amounted to unfair labour practice.

On the facts of this case, we are in entire agreement with the findings of the Labour Court as affirmed by the High Court. It is not in dispute that respondent had worked for more than 240 days continuously. That is a finding of fact which is arrived at on the basis of record. In fact, this is

even admitted by the appellant as alongwith the present appeal, copies of the orders of appointment have been filed by the appellant itself.

Once, it is found that respondent had worked for more than 240 days and it has also come on record that services of persons who were engaged after him and were junior to him were retained, the violation of the aforesaid provisions of the Act is

clearly established. Thus, we do not find any merit in this appeal. It is accordingly dismissed.

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.....J.
(Dr. B.S. CHAUHAN)

.....J.
(A.K. SIKRI)

New Delhi,
May 21, 2014