

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 721 OF 2012

State of U.P. & Anr. Appellant (s)

VERSUS

Sushil Kumar Sharma Respondent(s)

O R D E R

The present appeal has been filed against the impugned judgment and order dated 18.07.2008 passed by the High Court of judicature at Allahabad in Civil Writ Petition No. 32285 of 1995, whereby the High Court dismissed the Writ Petition filed by appellants as it found no error in the award of the Labour Court dated 18.02.1995 passed in Suit/Dispute No. 112/93 in favour of the respondent who was appointed as Routine Grade Clerk on 08.05.1983 and he was dismissed from service on 10.10.1983 without any notice to him. The High Court concurred with the Award of the Labour Court. The High Court further found that

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the services of the respondent had been terminated
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Reason:

him illegally by the appellants without giving an opportunity of hearing.

2.After perusal of the record, the Labour Court in

its Award observed that it is clear that the respondent was paid salary till 19.10.1983 and in the cross examination, the witness on behalf of the appellants could not tell whether the respondent had worked till 19.10.1983. The Labour Court further observed while answering the points of dispute that if the appointment of the respondent was intended to be temporary, then he should not have been issued orders to be employed against vacant seat after 30.06.1983 and if orders were passed and there was no work then the services of other employees who were appointed along with him also should have been terminated. The learned Presiding Officer of the Labour Court also found that services of respondent did not end on 10.10.1983, rather they were terminated on 20.10.1983. The Labour Court was of the view that termination order passed against the respondent was not proper and that the appointment order dated 06.05.1983 contained no mention of the fact that the services of the respondent could be terminated at any time, without any prior notice. Thus, the Labour Court has passed an Award in favour of the respondent to reinstate him in
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service after holding that the termination order passed against him is not legal and valid.

3. Aggrieved of the Award of the Labour Court, the appellants filed a Writ Petition before the High Court questioning the correctness of the same urging certain grounds. The High Court in the impugned judgment has observed that the Labour Court recorded a finding of fact on the basis of oral and documentary evidence on record holding that the termination of the services of the respondent by the appellants was a clear case of an unfair labour practice and the same is in violation of the provisions of Section 6N of the U.P. Industrial

Disputes Act, 1947. The High Court further observed that the Labour Court had stated in its award that artificial breaks in services of the respondent are to be counted and the respondent had completed more than 240 days of continuous service. The High Court found no illegality or infirmity with the Award of the Labour Court and concurred with the Award of the Labour Court and dismissed the Writ Petition filed by the appellants. Hence, the present appeal.

4. After hearing both the parties and perusal of both the impugned judgment and the Award of the Labour Court, this Court is of the view that no ground is made out to interfere with the impugned order. The judgment and order passed by the Labour Court and High Court directing reinstatement are in accordance with law. This Court is required to examine the issue of the back wages to be paid to the respondent from the date of Award till the date of reinstatement. When the matter was listed and came up for hearing in this Court on 05.11.2015, Mr. S.R. Singh, the learned senior counsel made submission that he would advise his client to settle the matter and pay 20% front wages to the respondent from the date of passing of the Award. During the pendency of the writ petition the respondent was reinstated. It was then brought to the notice of this Court that the earlier version of the notification of the back wages issued for the period in question is at the rate of 20%, which is not actually indicated in the Award. What is stated in the Award is the denial of back wages to the respondent for the reason that the dispute was raised after ten years, for which the employer could not be held responsible. Therefore, it can be concluded that even according to the Award of the Labour Court, the

respondent was entitled to backwages, though they were denied to him on a mere technical ground. Under the provision of Section 6-A of the U.P. Industrial Disputes Act, 1947 the Award comes into operation on the expiry of 30 days from the date of its publication. As could be seen from the record, the Award was passed on 18.02.1995. The date of publication of the Award has not been mentioned.

Therefore, the workman is certainly entitled for the front wages from the date on which the Award came into force. The Hindi version of notification is brought to our notice today. Backwages at the rate of 20% would amount to Rs.20,000/-, as per the correct front wages awarded by the Labour Court. The respondent is entitled for the front wages from the date of the Award till he is reinstated. Therefore, the submission made by learned senior counsel on behalf of the appellants that he is entitled for 20% backwages on the basis of which the observation made by this Court proceedings is not based on record. The computation of the alleged 20% of backwages is full front wages as per the Award and therefore the observation made in the proceedings dated 5.11.2015 are recalled.

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5. In our considered view, the appellants are not entitled for relief of quashing the Award of the Labour Court or setting aside the judgment and order of the High Court as the same are based on the proper valuation of the evidence on record. Therefore, we do not have any reason to interfere in the impugned judgment of the High Court and the Award of the Labour Court. For the aforesaid reasons, the appeal must fail and accordingly dismissed.

6. The Award is of the year 1995, and 21 years have

lapsed since. The respondent was reinstated in the year 1996. The pay scale and the other consequential benefits must be paid to him for the post in question within eight weeks and further the front wages from the date of Award till the date of reinstatement shall

also be computed and paid within eight weeks.

The

appeal is dismissed.

.....J.
[V.GOPALA GOWDA]

.....J.
[AMITAVA ROY]

New Delhi,
Dated: 25.02.2016

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ITEM NO.305

COURT NO.9

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). 721/2012

STATE OF U.P. & ANR.

Appellant(s)

VERSUS

SUSHIL KUMAR SHARMA

Respondent(s)

(with office report)

Date : 25/02/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s)

Mr. S.R.Singh, Sr. Adv.
Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. Aishwarya Pathak, Adv.

For Respondent(s)

Mr. Debasis Misra, Adv.
Mr. M.P.Chakravarty, Adv.

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

The Appeal is dismissed in terms of the signed order.

(SUMAN WADHWA)
AR-cum-PS

(MALA KUMARI SHARMA)
COURT MASTER

Signed order is placed on the file.