

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2025 of 2010

IN

Civil Writ Jurisdiction Case No. 13529 of 2006

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State Bank of India, a Banking Company constituted under the State Bank of India Act, 1955 having its Corporate Office at Maumbai and Local Head Office at West Gandhi Maidan, Patna through Shreekant S/O Prof. Hiya Lal Singh, Assistant General Manager (Personnel & HRD), R/O State Bank of India, L.H.O., Patna, P.S.- Gandhi Maidan, District- Patna

.... Appellant/s

Versus

1. The Union of India, Ministry of Labour, New Delhi, through its Secretary
2. The Industrial Tribunal, Bailey Road, Patna through its Secretary
3. The Regional Labour Commissioner (Central), Bihar, Patna
4. The Assistant Labour Commissioner (Central), Bihar, Patna
5. The State Bank of India Employees' Union Association Bihar, Patna, 215, Ashoka Place, Exhibition Road, Patna through its General Secretary
6. Ramprit Yadav, S/O Sri Yogendra Yadav, R/O Benta Chauk, P.O.- Laheriasarai, District- Dharbhanga
7. Rajesh Kumar Ram, S/O Shri Lotan Ram, R/O Laxmi Sagar, Saidpur, Anwar City, District- Dharbhanga
8. Ratnesh Paswan, S/O Late Sheojee Paswan, R/O Balbhadrapur, Navtolia, P.S.- Bahadurpur, District- Dharbhanga

.... Respondent/s

With

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Letters Patent Appeal No. 2042 of 2010

IN

Civil Writ Jurisdiction Case No. 10612 of 2007

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State Bank of India, a Banking Company constituted under the State Bank of India Act, 1955 having its Corporate Office at Maumbai and Local Head Office at West Gandhi Maidan, Patna through Shreekant S/O Prof. Hiya Lal Singh, Assistant General Manager (Personnel & HRD), R/O State Bank of India, L.H.O., Patna, P.S.- Gandhi Maidan, District- Patna

.... Appellant/s

Versus

1. The Union of India, Ministry of Labour, New Delhi, through its Secretary
2. The Industrial Tribunal, Bailey Road, Patna through its Secretary
3. The Regional Labour Commissioner (Central), Bihar, Patna
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5. The State Bank of India Employees' Union Association Bihar, Patna, 215, Ashoka Place, Exhibition Road, Patna through its General Secretary
6. Ramprit Yadav, S/O Sri Yogendra Yadav, R/O Benta Chauk, P.O.- Laheriasarai, District- Dharbhanga

- 7. Rajesh Kumar Ram, S/O Shri Lotan Ram, R/O Laxmi Sagar, Saidpur, Anwar City, District- Dharbhanga
- 8. Ratnesh Paswan, S/O Late Sheojee Paswan, R/O Balbhadrapur, Navtolia, P.S.- Bahadurpur, District- Dharbhanga

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Chittaranjan Sinha, Sr. Advocate
Mr. Siddhartha Prasad, Advocate
Ms. Surya Nilambari, Advocate
For the Respondent/s : Mr. Arvind Kumar, Advocate
Mr. Rakesh Kumar, Advocate
Mr. Arbind Kumar Singh, Advocate
For Union of India : Mr. Ravinder Kumar Sharma, CGC
Mr. Awadhesh Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 18-10-2016

These two intra-court appeals arise out of judgment and order dated 12.10.2010, passed by learned Single Judge in C.W.J.C. No. 13529 of 2006 and C.W.J.C. No. 10612 of 2007 which were heard and disposed of as analogous. The writ petitions were filed by the State Bank of India (hereinafter referred to as the Bank), which were dismissed, hence, the intra-court appeal.

There are three private respondents, who are the same in both the appeals. They have appeared and have been heard.

It appears that the private respondents were hired by Darbhanga Branch of the Bank as part time worker as Sweeper-cum-Farash. Having worked for a considerable period, the three private respondents sought for regularization. This having been



refused, industrial dispute was raised and reference was made. During pendency of the reference before the Industrial Tribunal, their services were stopped to be taken. This gave rise to a second reference with regard to validity of their termination. Both the industrial references were decided against the Bank. The Tribunal held that their termination being without notice the termination was bad, and, accordingly, directed reinstatement. In the other reference, the Tribunal held that they were not merely part time workers but were doing jobs for the benefit of the Bank throughout the day since 1991, and, as such, were liable to be regularized in service. Bank, thus, filed the two writ petitions challenging the two awards. So far as regularization is concerned, the writ petition was substantially allowed and the regularization was made depending upon certain facts to be enquired into again. Bank being aggrieved are challenging that it was not a case of regularization at all. In the second writ petition learned Single Judge refused to interfere with the award of setting aside termination and directing reinstatement. Hence, the two appeals.

In course of hearing before us, we noticed that the questions, as raised on behalf of the Bank, are not free from difficulty. The facts, which appear from the record, would show that the petitioners were, in fact, engaged by the Bank as part time Sweeper-cum-Farash when the Branch had shifted to another premises. This



work was hardly of an hour or two a day but the facts are also there that they continued to be in the Bank throughout the day doing various jobs for the officers. According to the Bank, in respect of this part there was no privity of contract between the Bank and these individuals. It was a private arrangement between the officers and these persons. On behalf of the Bank, it was further urged that there was no need for such employees in the Bank and, therefore, there could be no reinstatement, in fact, there was no such post sanctioned.

We have considered the matter and heard the parties. To us, it seems that a just settlement could be slightly different from what the Industrial Tribunal did or what the learned Single Judge did. We would rather follow what was done by the Apex Court under somewhat similar circumstances in the case of State Bank of India Vs. Suresh Thakur and others being Civil Appeal No. 2648-49 of 2015 (arising out of Special Leave Petition (Civil) Nos. 34444-45 of 2010) as disposed of on 26.02.2015. Instead of ordering reinstatement and regularization, interest of justice would be subserved if the three private respondents are paid a lump sum settlement amount of Rs. 5 lakhs each, as was done in the aforesaid case before the Apex Court in full and final settlement of all their claims as against the Bank. The awards of the Industrial Tribunal and the order of the learned Single Judge would, thus, be modified

accordingly and the awards be deemed to be satisfied accordingly upon payment of the aforesaid separation amount to the three private respondents. The amount aforesaid should be paid within two months.

The two appeals are, accordingly, disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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