

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2027 of 2015
IN
Civil Writ Jurisdiction Case No. 5588 of 2014**

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Mukesh Pandey Son of Sri Shivadhar Pandey Resident of Village - Jagatpur Pakri,
P.O. - Kishangarh, Police Station - Kishangarh, District - Bhojpur.

.... Respondent / Appellant

Versus

1. State Bank of India, LHO West Gandhi Maidan, Patna - 1 Bihar through its Chief
General Manager. Respondent / Petitioner 1st set

2. The Union of India through the Secretary, Ministry of Labour, Govt. of India,
New Delhi.

.... Respondent / Respondent (2nd Set).

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Appearance:

For the Appellant/s : Mr. Birendra Kumar Jha, Advocate.
For the Respondent/s : Mr. Alok Kumar Sinha and
(Bank) Mr. Binod Bihari Sinha, Advocates.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 30-10-2017

Heard learned counsel for the appellant and learned
counsel for the respondent Bank as well as learned counsel for the
Union of India.

2. Challenge is to the order dated 20th July, 2015 passed by
the learned Single Judge in CWJC No. 5588/2014. It is an intra-court
appeal under Letters Patent.

3. Learned Single Judge set aside the Award dated
19.04.2013 passed by the Industrial Tribunal-cum-Labour Court No.
1, Dhanbad in Reference case No. 117/2001 holding that the Award



was in contravention of the reference.

4. No doubt, a dispute was referred by the Central Government, Ministry of Labour under Section 10(1)(d)(2A) of the Industrial Dispute Act. The terms of reference was as under:-

“Whether the action of the management of State Bank of India, Patna in not considering the workman Shri Mukesh Pandey for re-employment, while making appointment of fresh hand i.e. S/Sh Rabindra Kr., Kaushal Kr., Sujit Kr., Awadesh Kr. Singh, Mahendra Roy, Kumar Murlidhar, Bindeshwar Paswan, Sanjal Pandit and Jai Prakash Ojha, is justified, if not what relief the workman is entitled?”

5. The matter was heard by the learned Single Judge in detail. We too have considered and gone through the Award in question dated 19.04.2013. Obviously, the Tribunal has mixed up the two aspects and the Award was given. The basic flaw, which has emerged from perusal of the Award, is that the disengagement of the present appellant was treated as a case of retrenchment under Section 25(f) of the Industrial Dispute Act which it was not as is the stand of the Bank.

6. We do not find any discussion or material to reach the conclusion which has been reached by the Tribunal in terms of the



reference noted above. There is nothing to show that the case of the present appellant was similar or at par with some of the names which have been referred to in the reference made by the Central Government. Either the Tribunal was confused on the issue or did not understand the true import of the reference. Since it was not the case of holding the disengagement of the appellant to be in violation of Section 25(f) of the Industrial Dispute Act for which a reference was made, the order for reinstatement without back wages was uncalled for.

7. The learned Single Judge, in the above circumstances, has rightly held that the Award was beyond the terms of reference.

8. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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