

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9555 of 2008

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The Chapra Dist.Central Co-Operative Bank Ltd. through the District Co-operative Officer cum Assistant Official Liquidator, Jawahar Prasad, S/o Ram Niwas Mahto, Vill. Siktiahi, P.S. Khutauna, Dist. Madhubani.

... .. Petitioner/s

Versus

1. The Presiding Officer, Labour Court, Chapra.
2. Abdul Mannan Mian son of Md. Israil Mian, Resident of Village Nawada, P.O. Baniapur and Dist. Saran.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 12251 of 2008

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The Chapra Dist.Central Co-Operative Officer cum Assistant Official Liquidator Sri Jawahar Prasad, son of Ram Niwas Mahto, Resident of Village Siktiahi, P.O. & P.S. Khutauna and Dist. Madhubani.

... .. Petitioner/s

Versus

1. The Presiding Officer, Labour Court, Chapra.
2. Mankeshwar Prasad Asthana, son of Ram Deep Prasad Asthana, Resident of Village Chanmari, P.O. Motihari (East Champaran).
3. Raj Nath Roy, son of late Baijnath Roy, Resident of At Dahiana, Near Uma Nath Mandir Dargah, P.O. Chapra, Dist. Saran at Chapra.
4. Giridhar Brahmchari, son of late Basudeo Prasad, resident of at Mohan Nagar, P.O. Chapra, P.S. Town, Dist. Saran at Chapra.
5. Rameshwar Kuer, son of Ragho Kuer, Resident of at & P.O. Hariharpur, P.S. Baniapur, Dist. Saran at Chapra.
6. Sachidanand Roy, son of Sri Bishwanath Roy, resident of at & P.O. Gheghtha, P.O. Mufassil, Dist. Saran at Chapra.
7. Rajan Prasad Yadav, son of late Gopal Ram Yadav, resident of at Dahiyama Dargah, P.O. Chapra, P.S. Mufassil, Dist. Saran at Chapra.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 12430 of 2008

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The Chapra Dist.Central Co-Operative Bank Ltd. Through the District Co-operative Officer cum Assistant Official Liquidator Sri Jawahar Prasad son of Sri Ram Niwas Mahto, resident of Village Siktiahi, P.O. & P.S. Khutauna and Dist. Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar through the President Officer, Labour Court, Chapra.
2. Anila Nand Jha, son of Sri Ramji Jha, resident of at & P.O. Luwapur Narayana, P.S. Mahuar, Dist. Vaishali.
3. Satyadeo Pandey, son of late Deonarayan Pandey, resident of At Salkhua, P.O. Aphar, P.S. Amnaur, Dist. Saran at Chapra.
4. Jai Prakash Choudhary, son of late Satya Narayan Choudhary, resident of at Barki Sirisia, P.O. Shobhepur, P.S. Bheldi, Dist. Saran at Chapra.



5. Sunil Kumar Singh, son of late Bhupendra Narayan Singh, resident of at Basatpur, P.O. Satjora, P.S. Panapur, Dist. Saran Chapra.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 9555 of 2008)

For the Petitioner/s : Mr.Tuhin Shankar, Adv.

Mr. Gopal Kumar, Adv.

Ms. Namrata Singh, Adv.

For the Respondent/s : Mr. Ravindra Kumar Tiwari, Adv.

(In Civil Writ Jurisdiction Case No. 12251 of 2008)

For the Petitioner/s : Mr.Tuhin Shankar, Adv.

Mr. Gopal Kumar, Adv.

Ms. Namrata Singh, Adv.

For the Respondent/s : Mr. Ravindra Kumar Tiwari, Adv.

(In Civil Writ Jurisdiction Case No. 12430 of 2008)

For the Petitioner/s : Mr.Tuhin Shankar, Adv.

Mr. Gopal Kumar, Adv.

Ms. Namrata Singh, Adv.

For the Respondent/s : Mr. Ravindra Kumar Tiwari, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 06-05-2019

Heard learned counsel for the parties.

All the cases, with the consent of the parties, have been heard together and are being disposed of by this common order.

In C.W.J.C. No. 9558 of 2008 relates to I.D. Ref. No. 1 of 1996 in which the workman was appointed on daily wages on 22.12.1987 and terminated from service on 30.6.1990 orally but, without compliance of Section 25F of the Industrial Dispute Act, 1947. The Labour Court has granted relief of reinstatement with full back-wages.

In C.W.J.C. 12251 of 2008 is related to two reference cases being Reference Case No. 1 of 1989 and Reference Case No. 1 of 1990. Reference Case No. 1 of 1989 relates to four persons, namely, Mankeshwar Prasad Asthana who was appointed on daily



wages on 14.4.1987 and worked till 6.3.1989, Prem Prakash Singh who was appointed on daily wages on as Clerk on 3.2.1987 and worked till 31.7.1988, Raj Nath Roy was appointed as Clerk on 3.2.1987 to 6.3.1989, Giridhar Brahmchari was appointed as Peon and worked from 5.2.1997 to 6.3.1989. In Reference Case No. 2 of 1990, it relates to four persons, namely, Rameshwar Kuer who was appointed as Assistant and worked from 27.10.1987 to March, 1989, Sachidanand Roy who was appointed on 8.2.1988 and worked till 24.4.1989, Pramod Kumar has not been granted any relief by the Labour Court and there is no need to discuss his case as he has not challenged the award passed by the Labour Court, Chapra and Rajan Prasad Yadav who was appointed on 13.3.1987 and worked from 18.3.1987 to 6.3.1989.

C.W.J.C. No. 12430 of 2008 relates to Reference Case No. 2 of 1991 is related to Anila Nand Jha who worked as Peon from 3.2.1987 till 6.3.1989, Styadeo Pandey who was appointed as Peon on 14.4.1987 and worked till February, 1990, Jai Prakash Choudhary who was appointed as Assistant and worked from 31.3.1987 to June, 1990, Sunil Kumar Singh, was appointed as Assistant Accountant worked from 10.4.1987 to 6.3.1989.

All the cases were heard by the Labour Court, Chapra and, in all the cases, the findings has been recorded by the Labour Court that they have worked for 240 days preceding 12 months from the



date of termination order and the Management utterly failed to comply the provision of Section 25F of the Industrial Dispute Act, accordingly, the order of oral termination has been held to be illegal and, hence, granted reinstatement with back wages.

Learned counsel for the petitioners submits that they were orally appointed and orally terminated and, in such circumstances, the petitioners should not have been granted any relief as they could not make out a case but, the Labour Court, Chapra, has granted relief. The Labour Court has considered the oral and documentary evidence, and arrived to a finding that they have worked for 240 days and, thus, it will not be proper to interfere with the findings recorded by the Labour Court but, it is well known principle of law that merely non-compliance of Section 25F of the Act will not ipso facto result into reinstatement with back-wages rather it depends upon host of factors including balancing the interest of both the parties. It is also a well known principle of law that even though they have worked for a few years as a daily wager, will not be basis for the order of reinstatement, especially in view of fact the Bank has already gone into liquidation and, thus, the question of reinstatement does not arise, after lapse of long period of time, they remained out of job, in such circumstances, no purpose would be served by reinstating them to the respective post with back-wages. It is also a fact that during continuation of termination from service, they have contributed



nothing to the work of the Bank. In such event, the relief granted by the Labour Court is not sustainable as the Labour Court has not considered all aspects of the matter as to whether the compensation would be appropriate relief in place of reinstatement with back-wages for persons who were appointed on daily wage basis. So, it will not be proper to grant relief of reinstatement with back-wages, placed reliance on the judgment reported in the case of U.P. State Brassware Corpn. Ltd. & Anr. Vs. uday Narain Pandey reported in 2006 (1) SCC 479 paragraph no.53 where the Hon'ble Apex Court has held that in the event of order of dismissal is set aside, the reinstatement with full wages used to be granted but, by passage of time, it has come to be realized that the Industry is being compelled pay the workman for a period during which he apparently contributed little or nothing at all, for the period that was spent unproductively while the workman is being compelled to go back to a situation which prevailed many years ago when he was dismissed. It is necessary for us to develop a pragmatic approach to problems dogging industrial relations. However, no just solution can be offered but the golden mean may be arrived at and it is not known to this Court that during that period, the workmen may have gainfully employed anywhere as no one can sustain without earning for his livelihood.



This Court could have remanded the matter back for consideration but, it will not be proper to remand the matter after lapse of long period to the Labour Court, Chapra to pass an order on the quantum of compensation. As more time has already passed, it will not be proper in the interest of justice to again drag the matter for years together. In that view of the matter, the order of the Labour Court, Chapra in all the cases are set aside to the extent that it will be substituted by payment of compensation of Rs. 50,000/- to the workman who have been declared successful by the learned Labour Court.

With the aforementioned observation and direction, these writ applications are disposed of.

The office is directed to return the L.C.R. to the Labour Court, Chapra.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2019
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