

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1627 of 2016

1. Uttar Bihar Gramin Bank, H.O. Kalambagh Road, Muzaffarpur (Erstwhile Saran Kshetriya Gramin Bank, Head Office- Dhaniyawan, Chapra) through its Chariman.
2. The Chairman, Saran Kshetriya Gramin Bank Now Uttar Bihar Gramin Bank, Head Office, Kalambagh Road, Muzaffarpur.

... .. Petitioners

Versus

1. The Union Of India through Ministry of Labour and Employment, Government of India, New Delhi, through its Secretary.
2. The Presiding officer, Industrial Tribunal, Patna
3. Sri Shatrughan Prasad Sah, Son of Late Sheo Nandan Sah, Resident of village - Nandanpur, P.O. Gawandari, P.S. Paraiya, District - Saran

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Advocate Mrs. Manju Jha, Advocate
For the Respondent No.1:		Mrs. Nivedita Nirvikar, C.G.C.
For Respondent No.3	:	Mr. Ankit Katriar, Advocate Mr. Shakib Ayaz, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 18-02-2019

Heard learned counsel for the parties.

2. In this case, the petitioner is challenging the order dated 02.06.2014 passed by the Presiding Officer, Industrial Tribunal, Patna, in reference case no. 01(C) of 2009/2 (C) of 2003, by which the Tribunal has recorded a finding of termination of respondent no.3 to be illegal as he has worked



more than 240 days counting back from November-1982 to 27.11.1985, but did not follow the law in terminating the services of respondent no.3.

3. The short facts of this case are that the respondent no.3 was employed intermittently by the Branch Manager on daily wages basis between December 1981 to November, 1985 for an amount of Rs.2.31 Paise to 8.52 Paise per day against unsanctioned post. As per the Bank, the respondent no.3 abused the then Branch Manager on account of fact that he had inquired as to whether the concerned workman accepted Rs.100/- as bribe from one Lakshmaniya Devi as reported by her son to the Branch Manager. As he was not the employee of the Bank, no disciplinary action was taken against him. As per the claim of the Bank, an F.I.R. was lodged against him, whereafter the petitioner failed to report to the duty, thereby he has abandoned the service. A Title suit was filed by the respondent no.3 vide title suit no. 106 of 2001, which he succeeded in passing the judgment in his favour, but ultimately by the order of this Court dated 17.11.1997 passed in Civil Revision No. 2187 of 1996, the same was set aside as the civil court has no jurisdiction to decide the issue and accordingly declared the judgment and decree void. Whereafter, the petitioner raised an industrial



dispute and the matter was referred to Industrial Tribunal, Patna, which was registered as Reference Case No. 2(C) of 2003, in turn, award was passed in his favour vide Award dated 29.12.2005. The same was challenged before this Court in C.W.J.C. No. 4184 of 2006, which was allowed on 14.01.2009 by the learned Single Judge, the same was challenged in LPA No. 213 of 2009. The Division Bench interfered with the order of the learned Single Judge and accordingly allowed the appeal in part and direction was given to record a finding as to whether the workman had worked for more than 240 days preceding to 12 months month from the date of termination. Accordingly, the matter was again remanded back, on remand the case registered as reference case no. 04 (C) of 2009. The award has been passed on 02nd June, 2014 and positively the finding has been recorded that the petitioner has worked for more than 240 days during the period from November 1984 to 27.11.1985 and held that he is entitled to all consequential benefits, which is under challenge in this writ petition.

4. The case was taken up on 06.12.2018 and this Court has considered the hardship of the workman and recorded that it is not proper to again remand back the matter to the Tribunal for clarification and at this stage it would not be proper



for this Court to direct the petitioner-Bank to regularize the respondent no.3 in service, but learned counsel for the petitioner-Bank was directed to take instruction as to whether the petitioner-Bank is ready to pay compensation to the respondent no.3, if any, to what extent.

5. Learned counsel for the petitioner-Bank submits that the last salary the petitioner has received is 8.52 paise, the Bank is agreeably to pay an amount of Rs.80,000/- to the petitioner by way of compensation. It is the travesty of justice, the Bank being the State within the meaning of Article 12 will pay less than minimum wages. The compensation has to be calculated always in the terms of the minimum wages fixed by the State Government from time to time. Though learned counsel for the respondent no.3 has claimed huge amount as compensation but looking to the fact that the petitioner was engaged as daily wager against unsanctioned post for certain period, so there cannot be any order for regularization of service that too in the event when the respondent no.3 has already been superannuated from the service. Further the respondent no.3 was class-IV employee and there is no dearth of work of such nature in the open market.

6. Taking the balancing view and the hardship faced



by the respondent no.3 including the nature of his employment and the period, the impugned ward of reinstatement is modified to the extent that petitioner-Bank will pay an amount of Rs.1,25,000/- to the respondent no.3 by way of full and final settlement. The award dated 02.06.2014 passed by the Industrial Tribunal, Patna, is modified to the above extent.

7. Accordingly, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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Transmission Date	

