

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3708 of 2013

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The Management Of Punjab National Bank, Ramchandrapur, Bihar Sharif,
Bihar, through its Senior Manager, Punjab National Bank, City Branch,
Bhagalpur, Bihar

.... Petitioner

Versus

1. The Union Of India
2. The Industrial Tribunal, Shram Bhawan, Bailey Road, Patna Through Its Presiding Officer
3. The Presiding Officer, Industrial Tribunal, Bailey Road, Shram Bhawan, Patna, Bihar
4. The Government Industrial Tribunal No. 1 , Dhanbad, Jharkhand Through Its Presiding Officer
5. The Presiding Officer, Government Industrial Tribunal No. 1 , Dhanbad, Jharkhand
6. Sanjay Kumar Paswan S/O Late Anil Paswan Resident Of Mohalla - Mohaddinagar, P.O. - Mirjan Hat, District - Bhagalpur, Bihar

... Respondents

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Appearance :

For the Petitioner : Mr. Abhishek Krishna Gupta, Adv.
For the UOI : Mrs. Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

14 08-08-2023 Heard the parties.

2. The present writ petition has been filed by the The Management Of Punjab National Bank, Ramchandrapur, Bihar Sharif, Bihar, through its Senior Manager, Punjab National Bank, City Branch, Bhagalpur, Bihar, being aggrieved by the Award, dated 01.06.2012, in Reference Case No. 68 of 2006.

3. Learned counsel for the petitioner has stated that the Tribunal has exceeded its jurisdiction by directing the petitioner-Bank to reinstate and regularize the services of the workman, Sanjay Kumar Paswan, as a Peon within thirty days



from the date of publication of the Award. Further, it is stated that respondent no. 6 has not produced any material to show that he was ever appointed as a Peon in the petitioner-Bank and that he has worked in the stipulated period, i.e., from 01.07.1989 to September, 2003, continuously. That in the absence of any record to show that respondent no. 6 was ever employed with the Bank, the question of directing the petitioner-Bank to regularize the services of respondent no. 6 does not arise and, therefore, prayed this Court to set aside the impugned order and allow the present writ petition.

4. Per contra, the learned counsel appearing for the respondent no. 6 has vehemently opposed the very maintainability of the writ petition and stated that the Tribunal duly taking into consideration the entire record and also the fact that the respondent no. 6 was appointed as a Peon; has been working in the petitioner-Bank from 01.07.1989 to September, 2003 continuously; has completed more than 240 of days attendance in each calendar year; also discharged the duties of Peon from 10.00 am to 06.00 pm in Bhagalpur City Branch has held that the termination of respondent no. 6 is bad, illegal and contrary to Section 25-F of the Industrial Disputes Act, 1947 and further directed the reinstatement and regularization of



respondent no. 6 as Peon.

5. Learned counsel has stated that the matter is squarely covered by the judgment of the Hon'ble Supreme Court in **Civil Appeal No. 1135 of 2019** (arising out of SLP (C) No. 31795 of 2018) (Mintu Kumar Vrs. The Management of Punjab National Bank Zonal Office, Muzaffarpur, Bihar) wherein under similar circumstances the Hon'ble Supreme Court has upheld the order of the Industrial Tribunal and that of the learned single Judge of the High Court and setting aside the order of the Division Bench. Learned counsel has stated that the facts in the present case are similar to the facts in the matter decided by the Hon'ble Supreme Court in **Civil Appeal No. 1135 of 2019** (supra) and has prayed the Hon'ble Court to dismiss the present writ petition.

6. A perusal of the impugned order shows that the Tribunal duly taking into consideration the fact that the respondent no. 6 has been working as a Peon at Bhagalpur City Branch from 01.07.1989 to September, 2003 continuously, that he was having more than 240 of days attendance in each calendar year has held that the termination of the respondent no. 6 is bad and contrary to Section 25-F of the Industrial Disputes Act, 1947. The Tribunal has further directed the regularization



and also the reinstatement of the respondent no. 6. The Tribunal has considered the exhibits filed by both, the Management as well as the worker, and came to the above conclusion.

7. A perusal of the order passed by the Hon'ble Supreme Court shows that under similar circumstances the Hon'ble Supreme Court while allowing the SLP has upheld the order of the Industrial Tribunal and the Hon'ble Supreme Court while dealing with the question as to whether the Industrial Tribunal has exceeded jurisdiction while directing reinstatement of the workers has held as under :

“10..... The findings recorded by the Tribunal to the effect that the appellant was engaged by the Management of the Bank on regular basis from 1998 to 2001, i.e., for more than three years, was certainly in the context of the claim as raised by the appellant. In the totality of the circumstances it could not therefore be held that the regularization or the fact that the appellant was entitled to be accommodated on regular basis was not an issue before the Tribunal. The Tribunal, in our considered view, was right and justified in arriving at said conclusion.

11. According to us, the Division Bench ought not to have interfered in the matter and set-aside the conclusions drawn by the Tribunal which were affirmed by the Single Judge of the High Court.

12. We, therefore, allow this appeal, set-aside the view taken by the Division Bench and restore the award passed by the Tribunal, as affirmed by the Single Judge of the High Court.”

8. Having regard to the above order of the Hon'ble



Supreme Court and the impugned order which reveals that the Tribunal was well within its power in directing the reinstatement of the worker and also regularizing his services.

9. This Court does not find any merit in the present writ petition and the same is **dismissed** accordingly.

(A. Abhishek Reddy , J)

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