

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1199 of 2019

In
Civil Writ Jurisdiction Case No.8661 of 2011

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1. The State Bank of India through its Chairperson, Corporation Centre, Madam Cama Road, Mumbai.
 2. The Deputy Manager, Zonal Office, State Bank of India, Bhagalpur.
 3. The Assistant General Manager-cum-Regional Manager, Region-III, Administrative Office, State Bank of India, Purnea.
 4. The Branch Manager, State Bank of India, Kadogoan Branch, Kishanganj.

... .. Appellants.

Versus

Rajesh Das S/o Late Dadhilal Das R/o Village-Tatpauwa, P.S.-Sukhar,
District-Kishanganj.

... .. Respondent.

Appearance :

For the Appellant : Mr. Rakesh Kumar Singh, Advocate.
For the Respondent : Mr. Rajnish Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-11-2024

Order dated 23.10.2024 is not complied by the respondent. Respondent's counsel is not prepared to address the matter. It is to be noted that on 23.10.2024, we had passed the following order:

“Matter is of the year 2019. Respondents have not filed Counter Affidavit even to this day. Finally, four weeks' time is granted to file Counter Affidavit, failing which Respondents are liable to pay cost of Rs.10,000/-(Rs. Ten Thousand) to the petitioner.



2. Re-list this matter on 20.11.2024.”

2. In the light of these facts and the circumstances, we are compelled to hear the appellant.

3. The appellants-State Bank of India has assailed the order of the learned Single Judge dated 22.07.2019 passed in C.W.J.C. No.8661 of 2011.

4. Respondent-Rajesh Das services were engaged as a Sweeper in the month of September, 1991 on adhoc basis by the concerned Branch Manager and he was continued in service till 18.05.2007. In the meanwhile, the appellants are stated to have undertaken certain exercise of interviewing the adhoc employees for the purpose of regularization. In the interview, respondent is stated to have failed. To that effect, no documents have been placed on record. Further, the appellants’ counsel submitted that on 14.06.1993, interview was held and respondent was found ineligible for regularization. At the relevant point of time, respondent-Rajesh Das was not displaced from the post. On the other hand, his services have been continued till 18.05.2007. In other words, he was in service for about 16 years.

5. Appellants’ counsel submitted that the respondent has not assailed the discontinuation of oral order dated



18.05.2007 before any of the forum. On the other hand, he has filed C.W.J.C. No.8661 of 2011 in which he has sought for grant of Full Time Scale and regularization.

6. Learned Single Judge has allowed the aforesaid writ petition of the respondent-Rajesh Das. Hence, the present appeal on behalf of the appellants-State Bank of India.

7. Learned counsel for the appellants submitted that in terms of the guidelines for regularization of adhoc employees, there were Bipartite Agreements on 27.10.1988 and 09.01.1991. Read with the guidelines, before regularization of adhoc employee, Interview Committee would be constituted and interview would be held. In the light of those guidelines, respondent has not fulfilled the relevant criteria. Therefore, he is not entitled to have the benefit of reinstatement, grant of Full Time Scale and regularization.

8. The appellants should have resorted to discontinue the services of the respondent Rajesh Das as and when he failed in the interview conducted on 14.06.1993. On the other hand, his services have been continued till 18.05.2007 and appellants have not apprised as to what was the reasons for displacing the respondent on 18.05.2007. It is to be noted that as on 18.05.2007, the decision of the Hon'ble Supreme Court in the



case of **Secretary, State of Karnataka and Ors. vs. Uma Devi (3) and Ors.**, reported in **(2006) 4 SCC 1**, was in vogue in which it was held that such of those persons who are working on daily wage or adhoc employees are entitled to regularization as a one time measure. The principle laid down by the Hon'ble Supreme Court in the aforementioned decision has not been taken into consideration. That apart, having extracted work from the respondent against the Sweeper post from September, 1991 to 18.05.2007, it would be a very harsh on the part of the appellants in discontinuing the services of the respondent Rajesh Das on 18.05.2007. Therefore, appellants have not made out a case so as to interfere with the order of the learned Single Judge dated 22.07.2019 passed in C.W.J.C. No.8661 of 2011.

9. We intend to modify the order of the learned Single Judge dated 22.07.2019 passed in C.W.J.C. No.8661 of 2011 to the following extent:

“The appellants-Bank are hereby directed to reinstate the respondent Rajesh Das into service forthwith. However, he is not entitled to any back wages from 18.05.2007 till 17.05.2009 for the reasons that he had invoked the remedy of filing writ petition in the year 2011. He is entitled to 50% back wages from 17.05.2009 till reinstatement. The reasons for



restricting 50% back wages from 17.05.2009 is with reference to three years prior to filing of C.W.J.C. No.8661 of 2011. This issue has been settled by the Hon'ble Supreme Court in the case of **M.R. Gupta Versus Union of India and others** reported in **(1995) 5 Supreme Court Cases 628**. The concerned appellant is hereby directed to calculate 50% of the back wages from 17.05.2009 till reinstatement and disburse the same within a period of six months from the date of receipt of this order.”

10. Accordingly, the present L.P.A. stands disposed of.

11. At this stage, learned counsel for the appellants submitted that the reasons for removal of the respondent from service was that F.I.R. was registered against him. Merely, registration of the F.I.R. does not empower the appellants to displace their employee unless and until employee has been convicted. At the best, appellants should have resorted to suspending him from the work.

12. Further learned counsel for the appellants submitted that respondent should have resorted to in approaching the Tribunal. It is not appropriate to remand the matter to the Tribunal after more than one decade, since litigation is pending consideration before this Court from the year 2011 pursuant to his displacement from service in the year



2007.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
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