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WA-656-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 21st OF AUGUST, 2026

WRIT APPEAL No. 656 of 2024

VINOD KUMAR BADGAIYAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

*Shri Sanjay Ram Tamrakar- Senior Advocate assisted by Shri
Rambachan Sahu - Advocates for appellant.*

Shri Rajesh Tiwari - Government Advocate for respondent no.1/State.

*Shri Utkarsh Agrawal and Shri Pradeep Kumar Dwivedi - Advocates
for respondent no.2.*

.....
WITH

WRIT APPEAL No. 2325 of 2025

VINOD KUMAR BADGAIYAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

*Shri Sanjay Ram Tamrakar- Senior Advocate assisted by Shri
Rambachan Sahu - Advocates for appellant.*

*Shri Rajesh Tiwari - Government Advocate for respondent
no.1/State.*

Shri Utkarsh Agrawal and Shri Pradeep Kumar Dwivedi -



Advocates for respondent no.2.

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ORDER

Per. Justice Anand Pathak

With consent, heard finally.

2. Present writ appeals are preferred by appellant taking exception to order dated 16.01.2024 passed in Misc. Petition Nos. 5852/2022 and 6047/2023 respectively, whereby petitions preferred by petitioner (respondent no.2 herein) was allowed, whereas the petition preferred by appellant got dismissed.

3. Precisely stated facts of the case are that the appellant was appointed on 26.06.1995 as a daily wage employee in Revenue Department of Municipal Corporation, Katni. The appellant worked continuously with the respondent- organization from the date of appointment till the date of termination of service on 02.08.1999. He was worked for more than 240 days. Without following the provisions of Labor Rules, the services of 273 employees, including appellant were illegally terminated with effect from 02.08.01999.

4. Through the said order, services of employees Sudhir Kumar Khare and Pramod Kumar Khare were also terminated, who were below the appellant in the seniority list. Due to lack of knowledge of law, the first party could not file a case in the appropriate forum on time. After termination of service, the first party filed a writ petition in the Honorable High Court, Jabalpur in the year 1999.

5. Thereafter L.P.A. was filed before this Court. A writ petition was



also filed in the year 2010 for not filing the case in appropriate forum. Due to this, first party could not get justice till date. At the time of termination of service, the monthly salary of appellant was Rs 1855/-. The first party is unemployed from the date of termination till today. The first party has incurred a lot of debt. A petition was filed in the Honorable High Court by other employees, namely Sudhir Kumar Khare and Pramod Kumar Khare. In the order passed in said petition, no direction was given to reinstate aforesaid two employees in service.

6. Even after this, in connivance with the second party organization, the above two employees, who were junior to appellant, were reinstated in service. By doing so, the respondent-organization has violated the principle of settled preposition of law prescribed in the Industrial Disputes Act, 1947. The respondent has also violated Section 25F of the Industrial Disputes Act 1947.

7. It has been requested that the termination order of appellant should be declared illegal. The first party should be given his entire previous salary and like employees Sudhir and Pramod, the first party should also be promoted and given all the benefits. Impugned order has been passed by the Labor Court, whereby the appellant has been reinstated but back wages has not been granted. Hence, appellant filed the writ petition which was dismissed vide order dated 16/01/2024. Therefore, appellant is before this Court.

8. It is the submission of learned senior counsel for appellant that learned writ Court has acted upon the matter as like appellate Court, which is



against the settled principle of law. It is also contended that learned writ Court has committed grave error in setting aside the order of Labour Court; whereas similarly situated person like the appellant has been taken back in the service, therefore, appellant is also entitled for same benefit. Hence, learned senior counsel for appellant prays for setting aside the impugned order.

9. Per contra, learned counsel for respondents opposed the contentions by supporting impugned order and submits that the findings recorded by learned writ Court are just and proper, therefore, no case for interference is made out. Hence, they prayed for dismissal of appeals.

10. Heard learned counsel for the parties at length and perused the impugned order and other documents appended thereto.

11. This is a case, where appellant/employee is running from pillar to post and post to pillar for last more than 26 years to get his case adjudicated. Earlier, the appellant approached this Court but matter was remanded for consideration by the Commissioner, Municipal Corporation, Katni, did not consider the case, compelled by the circumstances, appellant approached the Labour Court. Some of the similarly situated employees approached this Court in contempt jurisdiction and got the relief and were ultimately regularized.

12. Meanwhile, appellant succeeded in labour Court, compelling the Municipal Corporation to approach in writ Court. Under these circumstances, proceedings initiated by appellant or even by Municipal Corporation do not fall under consideration under Section 11 of C.P.C. It is



not a case of *res-judicata*. Once any issue is substantially decided after due consideration, then only *res-judicata* applies.

13. Here in the present case, when matter was relegated to Commissioner, Municipal Corporation, Katni for consideration, the Commissioner did not consider it. Therefore, adjudication remained inconclusive. In that condition, application of *res-judicata* would not be applied, and learned writ Court erred in coming to the conclusion and deciding the controversy on the *lynch pin* of *res-judicata*.

14. Resultantly, both the appeals are allowed. Impugned order dated 16.01.2024 passed in Misc. Petition Nos. 5852/2022 and 6047/2023 respectively are hereby set aside and petitions be restored to file.

15. Parties are directed to appear before learned writ Court and a request is made to writ Court that looking to the long drawn litigation spanning more than 26 years, matters shall be decided at an early note so that parties may come to know the fate of litigation as early as possible.

(ANAND PATHAK)
JUDGE

(B. P. SHARMA)
JUDGE

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