

undefined

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9792 OF 2010

MADHYA BHARAT GRAMIN BANK

APPELLANT(S)

VERSUS

PANCHAMLAL YADAV

RESPONDENT(S)

O R D E R

An industrial dispute was raised by the respondent which is as under:

“Whether the action of the management of Bundelkhand Kshatriya Gramin Bank, Tikamgarh in terminating the services of Sh. Panchamlal Yadav s/o Sh. Mohan Lal Yadav, Ex-Messenger, w.e.f. 12/12/1985 (A.N.) is justified? If not, to what relief the workman concerned is entitled?”

The Central Government Industrial Tribunal (CGIT) answered the reference against the respondent and held that the respondent was not a regular employee as he was employed on daily wages. The CGIT further held that the respondent could not produce any evidence to show that he had continuously worked for five years in the appellant-Bank. The Tribunal also held that the respondent could not prove that he had continuously worked for more than 240 days in a calendar year.

The respondent filed a writ petition before the High Court of Madhya Pradesh at Jabalpur challenging the award

undefined

of the CGIT. Learned single Judge of the High Court allowed the writ petition and directed reinstatement of the respondent with full back wages. The learned single Judge was of the opinion that the CGIT committed an error in not considering a vital piece of evidence while concluding that the respondent did not work continuously for 240 days in a calendar year. Learned single Judge held that it was incumbent on the part of the management to produce all the material in their possession to establish and prove that the respondent was appointed on a daily wage basis and did not work continuously for 240 days in a calendar year. On the basis of such findings, the writ petition filed by the respondent was allowed. The appeal filed by the appellant-Bank was dismissed by the Division Bench of the High Court on the ground that the appellant-Bank failed to produce relevant records to show that the respondent had not worked for more than 240 days in a calendar year. Aggrieved by the said judgment of the Division Bench, the appellant-Bank has come before this Court.

Mr. Sanjay Kapur, learned counsel appearing for the appellant-Bank, submitted that the High Court erred in finding that the respondent has worked for 240 days in a calendar year. He argued that the respondent admitted that he was working on daily wage basis which is clear from the award of the CGIT. He relied upon the judgments of this Court in *Bharat Sanchar Nigam Limited vs. Bhurumal*

undefined

[(2014) 7 SCC 177]; Telecom District Manager & Ors. vs. Keshab Deb [(2008) 8 SCC 402] and Rajasthan Lalit Kala Academy vs. Radhey Sham [(2008) 13 SCC 248] to argue that violation of Section 25F of the Industrial Disputes Act, 1947 does not automatically entail in reinstatement with back wages. He referred to the said judgments to submit that the respondent worked between 26.12.1980 to 12.12.1985 and at the most he is entitled for compensation. According to him, reasonable compensation in this case would be Rs.1.5 Lakhs.

Ms. Prachi Bajpai, learned counsel appearing for the respondent, submitted that deduction towards the Provident Fund of the respondent was being made by the management which clearly shows that the respondent was in regular employment of the Bank and that he was not working on daily wage basis. She submitted that the respondent is entitled for reinstatement as he has not attained the age of superannuation even today. In the alternative, she argued that the respondent is entitled to compensation of Rs.17 Lakhs, according to the calculations made by her.

Having considered the submissions made on behalf of the parties, we are of the view that the respondent is not entitled for reinstatement in view of the law settled by this Court. The judgments relied upon by Mr. Kapur are clear to the effect that violation of Section 25F of the Industrial Disputes Act, 1947, would not automatically entail in the reinstatement with full back

undefined

4

wages. The relief to be granted depends on the facts of individual cases.

In the facts and circumstances of this case, we are of the opinion that compensation of Rs. 5 Lakhs is reasonable.

We direct the appellant-Bank to pay an amount of Rs.5 Lakhs to the Respondent within a period of eight weeks from today.

The appeal is disposed of accordingly. Pending application(s), if any, shall also stand disposed of.

.....J
(L.NAGESWARA RAO)

.....J
(ANIRUDDHA BOSE)

NEW DELHI;
13th JULY, 2021

undefined

5

ITEM NO.103 Court 6 (Video Conferencing) SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 9792/2010

MADHYA BHARAT GRAMIN BANK

Appellant(s)

VERSUS

PANCHAMLAL YADAV

Respondent(s)

Date : 13-07-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Appellant(s) Mr. Sanjay Kapur, AOR

For Respondent(s) Ms. Prachi Bajpai, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the
Signed Order. Pending application(s), if any, shall
also stand disposed of.

(Geeta Ahuja)
Court Master

(Beena Jolly)
Court Master

(Signed Order is placed on the file)