

# SUPREME COURT OF INDIA

State of U.P.

Vs.

Rajendra Singh Butola

(S Majmudar and U Banerjee JJ.)

08.12.1999

## ORDER

**S.B. MAJMUDAR, J.**

1. The State of Uttar Pradesh and an other being the Executive Engineer of the Irrigation Department, have brought in challenge the order of the High Court which in its turn has confirmed the order of reinstatement and back wages as awarded by the Presiding Officer, Labour Court, Dehradun in favour of respondent No.1-workman.

2. At the relevant time, respondent No.1 was working as a daily wage cleaner on the motor truck belonging to the Irrigation Department of the appellant-State. According to respondent -workman the truck became out of order and no new truck was purchased and as a result, because the exigencies of the work had come to an end the services of respondent No.1 were dispensed with on 21.09.1988. He raised an industrial dispute which was adjudicated upon by the Presiding Officer, Labour Court, Dehradun in Case No.77 of 1993. After hearing the parties, the Labour Court came to the conclusion that respondent No.1- workman was employed from September, 1984 to 20.09.1988. It was also found that when his services were terminated, retrenchment procedure as per Section 6N of the Uttar Pradesh Industrial Disputes Act, 1947 was not followed. As a result, an award was passed setting aside the order of termination and directing his reinstatement with full back wages and Rs.500/- as costs. This order came to be confirmed by the High Court in a writ petition moved by the appellants. This is how on grant of special leave the appellants are before us,

3. In the light of the concurrent finding of facts reached by the trial court as well as by the High Court, it becomes clear that though the appellants contended that the workman was a daily wager and therefore, the provision of Section 6N of the U.P. Industrial Disputes Act, 1947, did not apply

there is no escape from the conclusion that the workman had worked for four years as clearly established and if he was to be terminated due to any exigencies of service, the procedure for retrenchment was required to be followed. As the condition precedent to such retrenchment was not complied with, the order of reinstatement granted by the Labour Court could not be found fault with.

4. Learned Additional Advocate General of State of U.P. is right when he contends that for year since September, 1988, the workman might have been gainfully employed somewhere else especially when he has not thought it fit to appear and contest in this proceeding, back wages for all these years may not be granted. This grievance of the appellants appear to be well sustained especially when respondent No.1 has not thought it fit to appear and contest this proceeding. Keeping in view these facts and the absence of respondent No.1 in the present proceedings, we deem it fit to direct while confirming the order of reinstatement as granted with continuity of service of respondent No.1 as Cleaner, that back wages awarded to respondent No.1 deserve to be sliced down to 50 percent and to be quantified as a lump sum. Respondent No.1 at the relevant time as a Cleaner was drawing a salary of Rs.540/- and if that amount is sliced down to 50 percent, an amount of Rs.250/- works out per month and multiplied by 12, it comes to Rs.3000/- Per year. According to us, 10 years' back wages on that basis amounting to Rs.30,000/- would meet respondent's case so far as back wages are concerned. The appeal is partly allowed. The judgment and order of the High Court and the Labour Court will stand modified accordingly. Respondent No.1 workman will be reinstated in service as cleaner with continuity of service and will be paid towards full and final satisfaction of his claim for back wages a lump sum of Rs.30,000/-, which shall be paid to him within eight weeks from the date on which respondent No.1 reports for duty. The order of reinstatement with continuity of service shall be complied with by the appellants within eight weeks from today. No costs.