

SUPREME COURT OF INDIA

B.S.N.L. Ltd.

Vs.

Man Singh

C.A.No.8747 of 2011

(Dalveer Bhandari and Dipak Misra,JJ.,)

14.10.2011

ORDER

SLP(Civil)No.7935/2007

1. Delay condoned. Leave granted.
2. We have heard the learned counsel for the parties.
3. The respondents workmen worked with the appellant as casual labourers on daily wages during the year 1984-85. Due to non-availability of work, their services were terminated in the year 1986. No notice or retrenchment compensation was given to them before terminating their services. After about five years, they raised an industrial dispute in the year 1991. The appropriate Government referred the dispute to the Labour Court for adjudication. The Labour Court vide its award dated 27.5.2005 ordered reinstatement of the respondents-workmen on the same post which they were holding at the time of their termination.
4. The award of reinstatement passed by the Labour Court was challenged by the Department by filing writ petitions before the High Court. The High Court after hearing the learned counsel for the parties and going through the records of this case, dismissed the writ petitions filed by the Department. The appellant is thus before this Court.
5. This Court in a catena of decisions has clearly laid down that although an order of retrenchment passed in violation of Section 25-F of the Industrial Disputes Act may be set aside but an award of reinstatement should not be passed. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.
6. In view of the aforementioned legal position and the fact that the respondents - workmen were engaged as 'daily wagers' and they had merely worked for more than 240 days, in our considered view, relief of reinstatement cannot be said to be justified and instead, monetary compensation would meet the ends of justice.

7. Accordingly, the impugned judgment passed by the High Court as also the award dated 27.5.2005 passed by the Labour Court are set aside. We direct the appellant Bharat Sanchar Nigam Ltd. to pay Rs.2 lakhs to each of the respondents in full and final settlement of their claim, within six weeks from today. In case the payment is not made within the aforementioned stipulated time, the amount shall carry interest at the rate of 12% per annum.

8. These appeals are accordingly allowed to the aforesaid extent. The parties are directed to bear their own costs.