

# **SUPREME COURT OF INDIA**

State of U.P.

Vs.

Parmanand Shukla (Dead) Thr. Lrs.

C.A.No.11525 of 2014

(Fakkir Mohamed Ibrahim Kalifulla and Abhay Manohar Sapre JJ.)

18.12.2014

## **JUDGMENT**

**ABHAY MANOHAR SAPRE,J.**

1. Leave granted

2. This civil appeal is filed by the State of U.P. against the judgment dated 31.07.2009 passed by Division Bench of the High Court of Judicature at Allahabad in Special Appeal No. 854 of 2009 which in turn arises out of judgment dated 24.01.2007 passed by the learned Single Judge in Civil Misc. Writ Petition No. 2479 of 2001.

3. By impugned judgment, the Division Bench dismissed the intra Court appeal filed by the State and in consequence affirmed the order of the learned Single Judge who had partly allowed the writ petition filed by the original respondent herein, since dead, and now represented by his legal representatives as respondent nos. 1 to 9 to continue the lis which was the subject matter of the deceased's writ petition.

4. The facts of the case lie in a narrow compass so also the controversy, which has narrowed down to short issue on account of subsequent events occurring during the pendency of this appeal requiring no elaborate discussion to adjudicate any legal issue arising in this case.

5. A batch of writ petitions, one consisted of 48 persons (writ petitioners), other with less number of persons and some by individuals came to be filed against the State of UP and its Irrigation Department. These writ petitions were filed with intervals. However, in all these writ petitions whether filed collectively or/and individually, the grievance raised therein was identical in nature so also the reliefs claimed by the writ petitioners against the State/Irrigation Department. It was also founded on identical facts and grounds.

6. In substance, the grievance of the writ petitioners (employees) against the State was that these writ petitioners were engaged by the State as daily waged muster roll employees by the Irrigation Department of Gandak Region to work in their various divisions way back in the year 1982 and onwards. They alleged that they continued to work till 1990 regularly when their services were disengaged resulting in filing of the writ petition (W.P. No. 45752/99) by these terminated employees for grant of appropriate relief against the State. The High Court came to their rescue and by order dated 21.03.2001 directed the State to dispose of the representations filed by the writ petitioners keeping in view the principle of last come first go. The State again discontinued their services in the year 2001 which again gave rise to the filing of the aforesaid batch of writ petitions by the terminated employees. One leading writ petition filed by 48 such employees was C.M.W.P.No 29545/2001 .

7. This writ petition was allowed by the learned Single Judge by order 17.01.2003 along with one more writ petition being C.M.W.P.No 29547/2001 in part wherein the High Court set aside the order dated 07.07.2001 passed by the Executive Engineer by which the services of the petitioners were terminated and accordingly directed the State to draw a list of the petitioners as well as of other employees alike them on the basis of their initial engagement in State service and then by offering them either daily wage employment or regular employment, if available and if needed by the concerned Divisions, in the State service. The State, felt aggrieved, filed S.A.No.737/2003 before the Division Bench. The Division Bench dismissed the appeal vide order dated 01.09.2004 and affirmed the directions issued by the learned Single Judge. The State pursued the matter to this Court by filing S.L.P. No.....CC342/2005 against the order of the Division Bench. This Court by order dated 20.01.2005 dismissed the SLP.

8. So far as the original respondent of this appeal, namely, Mr. Parmanand Shukla was concerned, he filed his individual writ petition being W.P. No. 2479 of 2001 claiming

therein the same reliefs, which were the subject matter of the aforesaid batch of writ petitions/writ appeals/SLPs. According to him, he too was working like other writ petitioners as muster roll daily wage employee in the same Irrigation Department of State of U.P. from 1986 till 2000 when his services were brought to an end along with others giving rise to filing of the writ petition challenging his termination order and for claiming regularization in the services.

9. However, the writ petition filed by the original respondent herein was not clubbed with the aforesaid batch and the same remained pending. It was, however, allowed by the learned Single Judge by order 24.01.2007 in the light of leading order passed by the Single Judge in W.P.No 29545/2001 on 17.01.2003 which was by that time allowed by the learned Single and upheld by the Division Bench and even by this Court by dismissing the State's special leave to appeal. In other words, the respondent's writ petition was allowed and he too was granted the same benefits, which were granted to all the writ petitioners in the aforementioned batch of writ petitions so as to maintain the parity and judicial consistency in passing similar orders in identical nature of writ petitions.

10. However, the State instead of giving benefit of the order of the High Court to respondent pursued the matter and filed intra court Appeal being S.A. No. 854/2009 in the High Court out of which this appeal arises. The Division Bench, by impugned order, dismissed the State's appeal and affirmed the order of the learned Single Judge. It is against the said order, the State has filed this appeal.

11. During the pendency of this appeal, the original respondent (writ petitioner) Parmanand Shukla left this world on 14.04.2013 leaving behind his wife, 5 unmarried daughters, one minor son, old father and mother. They were brought on record as his legal representatives as respondent Nos. 1-9 to contest this appeal.

12. On 30.06.2014, this Court observed that consequent upon the death of original respondent (Parmanand Shukla), the benefit of reinstatement order passed by the High Court in his favour was no longer available to him and hence the matter can be amicably settled by directing the appellant (State) to settle the whole claim to the limited extent of payment of 50% of whatever benefits for which the respondent would have been found entitled.

13. Accordingly, by orders dated 04.08.2014 and 25.8.2014, this Court granted time to the parties to furnish details as to the amounts that would be payable to the original respondent by way of services rendered by him and also his claim of back wages payable for the period between the date of his termination and death. The respondents have accordingly filed the details along with the affidavit dated 06.09.2014. So far as the appellant (State) is concerned, they have not filed any details nor filed any affidavit and has left the issue to be decided by this Court having regard to the totality of the circumstances.

14. We have heard the learned counsel for the parties and also perused the entire record of the case.

15. As mentioned above, this Court has already upheld the main order passed by the High Court on 01.09.2004 in S.A. No. 737/2003 which had arisen out of the order dated 17.01.2003 passed by the learned Single Judge in main W.P.No 29545/2001 when SLP No.....CC342/2005 filed by the State was dismissed by this Court on 20.01.2005 (Annexure-R-1). It was not disputed that the present case though came to be decided later in point of time, but it was identical in nature with the cases which were the subject matter of SLP No.....CC342/2005 and hence the case in hand was rightly disposed of by the learned Single Judge and then by the Division Bench by placing reliance on the said judgments passed in identical cases by the High Court. In other words, the original respondent of this case was also entitled to claim the same benefits, which were granted to other similarly situated employees like him by the High Court. Since the original respondent, in the meantime, died and was deprived of the benefit of enjoying the relief of reinstatement in State services along with other similarly situated employees, he was at least entitled to be compensated by paying money compensation to enable his large family to survive due to his untimely death. At least, in our view, his claim to this extent survived.

16. As observed supra, since this Court has already dismissed the State's SLP arising out of the main case on which the impugned order in question is founded and hence, we are not inclined to entertain any legal submission again though urged by the learned counsel for the appellant and nor in our view, there arises any scope for the appellant to again press any legal submission in this appeal and revive the controversy which has otherwise attained finality.

17. Coming to the question as to what relief the respondents are now entitled to get in this appeal in the light of subsequent events, which occurred during the pendency of this appeal i.e., death of Parmanand Shukla (original respondent), we are of the view that the respondents are only entitled to receive money compensation from the appellant (State) in lieu of the deceased's right to claim reinstatement in service and also his right to receive any claim of back wages, if any. Indeed on this question, the appellant did not join any issue seriously. We have, accordingly, examined the case for grant of this relief.

18. Keeping in view the statement of details of payment of monthly salary filed by the respondents-Legal Representatives coupled with other material factors to enable this Court to work out a reasonable amount of compensation payable to the original respondent such as - the length of the service of the deceased, his age, total length of service rendered, rates of daily wages payable to muster roll employees in State of UP from time to time in the last three decades, and lastly large number of surviving dependents (8) in the family, we are of the considered opinion that the interest of justice would demand that the respondents are to be paid in lump sum a total sum of Rs. 10 Lacs (Rs. Ten Lacs) by the appellant-State in full and final settlement of all the claims arising out of this litigation relating to the service of the original respondent-Parmanand Shukla.

19. Let the amount of Rs. 10 Lacs (Rs. Ten Lacs) be paid to the respondent - Smt Kiran Devi - wife of the deceased Parmanand Shukla by the appellant (State of UP) within three months by account payee cheque/DD.

20. With these directions, the appeal stands disposed of.