

ITEM NO.2

COURT NO.14

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 988/2020 in SLP(C) No. 26805/2017

(Arising out of impugned final judgment and order dated 04-11-2019 in SLP(C) No. No. 26805/2017 passed by the Supreme Court Of India)

THE STATE OF UTTARAKHAND & ANR.

PETITIONER(S)

VERSUS

UDAI SINGH

RESPONDENT/APPLICANT

(IA No.46877/2020-RECTIFICATION OF COURTS ORDER IN TYPOGRAPHICAL ERROR, IA No. 46878/2020 - EXEMPTION FROM FILING O.T.)

Date : 28-10-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s)

Dr. Rajiv Nanda, AOR
Mr. Aviral Saxena, Adv.

For Respondent(s)

Mr. Nagarkatti Kartik Uday, AOR

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

The instant application has been filed by the applicant/workman seeking clarification of the order dated 04.11.2019 of this Court.

It reveals from the record that the reference was answered by the Labour Court in its award dated 29.08.2011 in the following terms:

"In the premises of the discussion as discussed above, I am of the firm opinion that the termination

of the workman by the Employers was illegal and/or not justified. The workman is entitled to get the service related benefit(s) after the date of his termination. He shall be treated in service throughout. However, he shall not be entitled to receive any back wages from the date of his termination upto yesterday."

The matter travelled to the High Court and the writ petition filed at the instance of the State came to be decided by judgment dated 11.01.2017. The relevant paragraphs are quoted hereinbelow:

"13. Since, the retrenchment of the workman was void *ab initio*, hence, he was required to be treated in service with all consequential benefits including back wages from the date of his retrenchment till the date of award, i.e., 29.08.2011.

14. There is no illegality or perversity in the award dated 29.08.2011 passed by the Presiding Officer, Labour Court in Adjudication Case No. 164 of 2009 (Old Adjudication No. 221 of 2004). Accordingly, there is no merit in this petition and the same is hereby dismissed. "

The Special Leave Petition preferred at the instance of the State came to be decided by the present order dated 04.11.2019 by this Court. It reveals that this Court has upheld so far as the reinstatement of the workman is concerned, but back wages was denied to him up to the date of passing of the award, i.e. 29.08.2011.

Taking note of the submissions made, we consider it appropriate to clarify that the applicant/workman is entitled for

reinstatement and other benefits in terms of the award, but at the same time will not be entitled to back wages until the passing of the award, i.e. 29.08.2011.

With this clarification of the order dated 04.11.2019, the Miscellaneous Application stands disposed of.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)