

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.8128 OF 2019
(Arising out of SLP(C) No.22377/2017)

U.P. POWER CORPORATION LTD. & ANR. APPELLANT(S)

VERSUS

KIRTI KUMAR SRIVASTAVA RESPONDENT(S)

O R D E R

Leave granted.

No one appears on behalf of the respondent even on the second call.

Learned counsel for the appellants is present before us.

This appeal has been preferred by the appellants against the impugned order dated 20.01.2017 passed by the High Court of Judicature at Allahabad in Writ-C No.62317 of 2015 whereby the High Court declined to interfere with a direction of the Labour Court for reinstatement of the respondent on the ground that he had worked for more than 240 days and hence, dismissed the said writ petition with cost of Rs.25,000/-.

Learned counsel appearing for the appellants has taken us through the material on record.

The respondent was initially engaged on daily wages as Draftsman/Tracer for eleven months which was extended from time to time. In this manner, he worked from June

1991 to May 1992 which is more than 240 days.

The respondent first filed a writ petition claiming regularization after his disengagement. The writ petition was disposed of on 08.05.1998 with the observation that since the writ petitioner (respondent herein) was appointed as an Apprentice under the Apprentices Act, 1961, he cannot claim a right to be appointed or regularized for the post of Draftsman/Tracer. As and when any regular vacancy is advertised, the respondent would be considered for appointment. This order is stated to have attained finality.

In the year 2000, the respondent moved the Labour Court claiming that he had worked from 25.03.1988 to 30.5.1992. The retrenchment was assailed as having been done in violation of Section 6-N of the Uttar Pradesh Industrial Disputes Act 1947. The Labour Court dismissed the claim. The matter was remanded to the Labour Court by the High Court primarily with regard to the question whether he had completed 240 days of work or not.

The Labour Court has now directed reinstatement of the respondent on 27.10.2014 by holding that the retrenchment was in violation of section 6-N of the Uttar Pradesh Industrial Disputes Act 1947 as the respondent had worked for more than 240 days.

The fact of the matter is that the respondent has remained out of work from April 1992 till date. Be that as it may.

We are satisfied that the present appeal has to be allowed on the solitary ground that when the respondent moved the Labour Court for the first time in the year 2000 after his retrenchment in the year 1992, he concealed that he had already filed a writ petition in which no relief had been granted to him. We consider the same as sufficient to set aside the impugned order passed by the High Court and allow this appeal.

Order accordingly.

.....J
[NAVIN SINHA]

.....J
[B.R. GAVAI]

NEW DELHI;
OCTOBER 18, 2019.

