

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

REVIEW PETITION (C) NO. 924 OF 2020

IN

CIVIL APPEAL NO. 9118 OF 2019

SUKHDEV

**PETITIONER(S)
(Respondent in Appeal)**

VERSUS

THE EXECUTIVE ENGINEER

**RESPONDENT(S)
(Appellant in Appeal)**

O R D E R

The appeal was initially disposed by us on 29.11.2019 awarding a compensation of Rs.3 Lacs in lieu of reinstatement. The order was passed ex-parte as the respondent failed to appear on two dates. Review Petition No.924 of 2020 came to be filed by the respondent. Considering the grounds therein, notice was directed to be issued on 8.5.2020 and that is how matter is before us.

Having heard learned counsel for the parties, the review petition is allowed and after restoring the appeal to its original number, we have taken up the appeal for consideration on merits.

The admitted fact is that the respondent-workman was appointed as a daily wage in July 1995 and terminated in August, 1997.

On 3.11.2004, the Labour Court held that the retrenchment was contrary to Section 25-F of the Industrial Disputes Act, 1947. However, the relief for reinstatement was declined and in lieu thereof compensation of Rs.1,20,000/- was awarded. The respondent-workman questioned the same before the High Court by filing a writ petition. The learned Single Judge after noticing that persons appointed subsequent to him had been reinstated granted the relief for reinstatement with 50 per cent back wages. The Division Bench declined to interfere with the appeal preferred by the appellant-management and dismissed the appeal.

We have heard learned counsel for the parties at length.

This Court in *State of Madhya Pradesh vs. Vinod Kumar Tiwari*, (2016) 16 SCC 610, set aside the order of reinstatement considering that the appointment was on daily wage and the retrenchment was only two years later in violation of the provisions of Section 25F opining that the direction for reinstatement was disproportionate and that compensation would meet the ends of justice.

However, in the present case, it is an undisputed fact that persons junior to the respondent-workman have been reinstated while he has been left out. Upon consideration of the entirety of the matter, in the facts of the present case, we are satisfied that the appeal deserves to be allowed partly. But the workman nevertheless deserves to be compensated adequately.

We, therefore, recall our previous order dated 29.11.2019 granting compensation to the respondent - workman for a sum of Rs.3 lacs. The appellant-management is stated to have deposited the aforesaid sum already in the Registry of this Court pursuant to our order dated 04.10.2019. The respondent-workman is at liberty to collect the deposited amount of Rs.3 lacs along with interest accrued thereon. The Management shall pay an additional sum of Rs.5 lacs to the respondent-workman within four weeks from today, failing which it will carry interest at the rate of 7 per cent.

The appeal is disposed of in the aforesaid terms.

.....J.
[NAVIN SINHA]

.....J.
[KRISHNA MURARI]

NEW DELHI;
FEBRUARY 23, 2021

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

R.P.(C) No. 924/2020 in C.A. No. 9118/2019

(Arising out of impugned final judgment and order dated 29-11-2019 in C.A. No. No. 9118/2019 passed by the Supreme Court Of India)

SUKHDEV

Petitioner(s)

VERSUS

THE EXECUTIVE ENGINEER

Respondent(s)

([LIST ALONGWITH PAPER BOOK OF SLP]

IA No. 194762/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 194776/2019 - ORAL HEARING)

Date : 23-02-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA

HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Ms. Priyanjali Singh, AOR
Mr. Rahul Rathore, Adv.

For Respondent(s) Ms. Aastha Mehta, Adv.
Ms. Vishakha, Adv.
Ms. Deepanwita Priyanka, AOR

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

The Review Petition is allowed. The appeal is restored to its original number and is disposed of in terms of signed order.

Pending application(s) stand disposed of.

(NEETA SAPRA)
COURT MASTER (SH)

(DIPTI KHURANA)
COURT MASTER (NSH)

(Signed order is placed on the file)