

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4854 OF 2019
(Arising out of SLP (C) No.4478 of 2019)

STATE OF JHARKHAND & ORS.

Appellants

VERSUS

KUMAR KUNAL & ORS.

Respondents

O R D E R

Leave granted.

Writ Petition No.6752 of 2017 was preferred by the respondents no.1 to 12 in the High Court of Jharkhand at Ranchi principally challenging the order dated 07.10.2016 passed by the appellants suspending the services of said respondents.

The basic facts which led to the filing of the writ petition were culled out in para 8 of the judgment of the High Court, which are to the following effect:

"8. The petitioners were appointed on different dates between 2003 to 2008 by the Project Director, Jharkhand State AIDS Control Society (JSACS) and since then they are working on different posts under JSACS before they were issued show-cause notice on 07.10.2016. Their appointment was contractual which has been extended every year; lastly it was extended by an order dated 26.04.2016. The petitioners have pleaded that the posts on which they were appointed are need-based posts and they possess the requisite qualifications for appointments on the said posts."

Finding substance in the submissions advanced by the respondents, the order of suspension was set-aside and following directions were passed by the learned Single Judge of the High Court by his judgment and order dated 06.04.2018:

"15. In view of the aforesaid discussions, the impugned orders of suspension contained in Annexure-5 series, all dated 07.10.2016 are quashed. Consequently, the impugned order contained in letter dated 07.10.2016 vide Annexure-7 stands quashed. The petitioners shall be assigned their duties, within two weeks and they shall be paid salary/honorarium for the period 01.08.2016 to 06.10.2016, as well as, for the current period. A decision on payment of salary/honorarium for the period from 07.10.2016 shall be taken by the competent authority."

The matter was carried in appeal by the appellant by filing LPA No.239/2018.

The Division Bench of the High Court affirmed the view taken by the learned Single Judge and dismissed the appeal with certain observations.

The appellants being aggrieved are in appeal challenging the view taken by the High Court.

On 18.02.2019, notice was issued by this Court confined to the question of quantum of back wages to be made over to the respondents. The appellants were however directed to reinstate the said respondents by 01.03.2019. Said respondents were reinstated but within 20 days of their reinstatement, by reasoned order dated 15.03.2019 passed by the Project Director, Jharkhand State AIDS Control Society, Ranchi, their services were terminated.

Since notice was confined only to the quantum of back wages and the reinstatement as ordered by this Court had been effected, the only question that arises is what should be payable to the respondents by way of back wages.

A Chart has been presented by the learned counsel for respondents no.1, 2 and 4 to 12, which Chart is as under:

| "CALCULATION - BACKWAGES (PERIOD: 07.10.2016 - 25.02.2019) | | | | |
|---|--|-------------------------|------------------------|---|
| S.No. | Respondent's Name | Years of Service | Backwages (Rs.) | Gainfully Employed during Suspension |
| R1 | Kumar Kunal (Accounts/Finance Assistant) | 8.5 yrs. | 8,94,823 | No |
| R2 | Sushma Devi (Divisional Assistant) | 9 yrs. | 8,50,859 | No |
| R3 | Siyaram Manjhi | x | x | x |
| R4 | Seema Rani (Accounts/Finance Assistant) | 8.5 yrs. | 9,38,816 | No |
| R5 | Sudeep Sanyal (Statistical Officer) | 9 yrs. | 3,48,993 | Yes From 01.07.17 |
| R6 | Shyam Sundar Jha (Accounts/Finance Assistant) | 9 yrs. | 9,38,816 | No |
| R7 | Rakesh Ranjan (Peon) | 8 yrs. | 5,06,547 | No |
| R8 | Babita Devi (Peon) | 7 yrs. | 4,46,749 | No |
| R9 | Pawan Kumar (Peon) | 13 yrs. | 5,41,724 | No |
| R10 | Reena Devi (Peon) | 9 yrs. | 5,06,547 | No |
| R11 | Amit Kumar Singh (Night Guard) | 7 yrs. | 5,06,547 | No |
| R12 | Ravi Shankar Ray (Night Guard) | 7 yrs. | 5,06,547 | No |

We have heard Mr. Devashish Bharuka, learned counsel for the appellants and Ms. Cauveri Birbal, learned counsel for respondents no.1, 2 and 4 to 12.

Since a reasoned order terminating the services of the respondents has been passed, said respondents may take recourse to law and challenge the order, if so advised.

As regards back wages, in our view, ends of justice would be met if we direct the appellants to make over 25% of the back wages as indicated in the chart referred to above or Rs.2,00,000/- (Rupees Two Lakhs Only) whichever is greater, to each of the respondents. We order accordingly.

The amount shall be made over within six weeks from today.

We have not expressed any opinion on the merits or demerits of the order of termination, the legality of which, if challenged, be gone into at the appropriate stage.

The appeal stands disposed of in the aforesaid terms.

.....J.
[UDAY UMESH LALIT]

.....J.
[INDU MALHOTRA]

NEW DELHI;
MAY 9, 2019

ITEM NO.46

COURT NO.8

SECTION XVII

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

SLP (C) No.4478 of 2019

(Arising out of the Impugned Judgment and order dated 08.01.2019 passed by the High Court of Jharkhand at Ranchi in LPA No.239 of 2018)

STATE OF JHARKHAND & ORS.

Appellants

VERSUS

KUMAR KUNAL & ORS.

Respondents

(IA No.25966/2019 - For exemption from filing C/C of the impugned judgment; IA No.25967/2019 - For exemption from filing OT; and, IA No.25968/2019 - For permission to file additional documents/facts/annexures)

Date : 09-05-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDU MALHOTRA

For Appellant(s) Mr. Devashish Bharuka, AOR
 Mr. Ravi Bharuka, Adv.
 Mr. Sarvshree Singh, Adv.
 Mr. Justine George, Adv.
 Mr. Aditya Singala, Adv.
 Mr. Akshay Amritanshu, Adv.

For Respondent(s) Ms. Cauveri Birbal, Adv.
 Mr. S.K. Raza, Adv.
 Mr. Parveen Kumar, Adv.
 Mr. Suresh Kumar Sharma, Adv.
 Mr. Rajesh Singh, AOR

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

Leave granted.

The civil appeal is disposed of, in terms of the signed order.

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

(MUKESH NASA)
COURT MASTER

(RAJINDER KAUR)
BRANCH OFFICER

(Signed Order is placed on the File)