

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3357 OF 2008

CHIEF ADMINISTRATOR, HOUSING BOARD HARYANA Appellant(s)

:VERSUS:

DIWAN CHAND Respondent(s)

O R D E R

1. Heard Mr. Sanjay R. Hegde, learned counsel in support of this appeal and Mr. Adarsh Ganesh, learned counsel appearing for the respondent.

2. This appeal seeks to challenge the judgment and order dated 23.01.2007 passed by the High Court of Punjab and Haryana at Chandigarh in C.W.P. No.16553 of 2005 which confirms the order passed by the Labour Court in Reference No.134 of 2001.

3. The short facts leading to this appeal are this wise. The respondent was working as a Motormate in the appellant Housing Board. The case of the

respondent was that he had put in more than 240 days service in a year when his services came to be terminated some time in the year 1996. This led to a reference to the Labour Court. The Labour Court was of the view that there was no compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947 and therefore, it awarded reinstatement of the respondent with continuity of service without back-wages. That order has been left undisturbed by the High Court. Therefore, this appeal by special leave.

4. Mr. Hegde, learned counsel appearing for the appellant Housing Board submitted that according to the appellant the respondent had not put in 240 days service in one year and therefore, instead of reinstatement, an appropriate amount of compensation be awarded. Mr. Adarsh Ganesh, learned counsel appearing for the respondent on the other hand, submitted that the order of reinstatement passed by the Labour Court cannot be faulted since the respondent had in fact put in more than 240 days in the concerned year and, therefore, the termination was bad.

5. We have noted the submissions of both the learned counsel. We cannot deviate from the finding of fact that the respondent had put in more than 240 days in the relevant year. Therefore, his termination on the face of it was bad. However, we accept the submission made by Mr. Hegde that since the respondent was not in service for very long period, it would be better if an appropriate amount of compensation is paid to him instead of reinstatement. We, therefore, modify the order passed by the Labour Court and substitute it by an award of compensation for a sum of Rs.1 lakh to be paid to the respondent within a period of four weeks from today. The appeal is disposed of accordingly.

JUDGMENT

.....J
(H.L. GOKHALE)

.....J
(RANJAN GOGOI)

New Delhi;
April 03, 2013.