

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2528 OF 2008

DIVISIONAL LOGGING MANAGER, U.P. FOREST
CORPORATION

Appellant(s)

:VERSUS:

SURENDER SINGH

Respondent(s)

O R D E R

Heard Ms. Rachana Srivastava, learned counsel
for the appellant in support of this appeal and Ms.
Desai, learned counsel for the respondent.

2. This appeal seeks to challenge the judgment
and order dated 18.11.2005 rendered by the High
Court of Uttarakhand at Nainital in Writ Petition
No.1047 of 2002 thereby dismissing the writ petition
filed by the appellant. The short facts leading to
this appeal are this wise.

3. According to the appellant, the respondent herein was working as a Logging Forest Guard and that he was engaged on seasonal basis. The case of the respondent is that he had regular work to do, his employment was not on seasonal basis and he had rendered continuous service for more than one year. It appears that the respondent had joined as a Forest Guard way back in 1986 and he continued in that position until February, 1993. It is the case of the respondent that his services were discontinued thereafter whereas the case of the appellant is that since he was not coming for work, the appellant sent him a retrenchment notice dated 19.6.1995 which, according to the appellant, he declined to receive. In any case, the fact remained that before the retrenchment notice, he had raised an industrial dispute in January, 1994.

4. Considering all these facts, the Labour Court came to the conclusion that the order of termination of the services of the workman was illegal and unjustified as the retrenchment notice was subsequent to his termination. That being so, the

Labour Court held that it was a case of termination of his services and not the case where he had stopped from coming to work. Therefore, the Labour Court was of the view that his termination with effect from 23.2.1993 was improper and illegal. The Labour Court, therefore, directed his reinstatement with 50% back-wages and with costs of Rs.1,000/-.

5. A writ petition was filed by the appellant before the High Court for quashing the order passed by the Labour Court which, as stated earlier, came to be dismissed by the learned Single Judge of the Uttarakhand High Court.

6. Mr. Rachana Srivastava, learned counsel for the appellant submitted that the appellant did not require the services of the respondent for all the time and that there was seasonal work for which the respondent was engaged. He had stopped coming to work and therefore, instead of retrenchment notice, the retrenchment compensation was sent to him which fact was not considered by the Labour Court.

7. As against that, learned counsel for the respondent submitted that on the basis of the facts which have come on record, the inference drawn by the Labour Court was justified and therefore, the High Court was right in not interfering therewith.

8. We have noticed the submissions made by the learned counsel for the parties. The view taken by the Labour Court appears to be a plausible one inasmuch as the Forest Guards are very much required in the forest and there is no reason for a lowly paid employee not to report for duty. Similarly, the view taken by the Labour Court that the compensation amount was tendered to him subsequent to his retrenchment also appears to be correct inasmuch as the respondent had already raised an industrial dispute. The payment made subsequently was, in fact, denied. In the facts and circumstances of this case, we do not find any error in the order passed by the Labour Court or by the High Court. The appeal is accordingly dismissed.

9. We make it clear that in case the respondent is not reinstated so far, he will be reinstated

within a period of four weeks from today and the back-wages will be paid to him within a period of eight weeks from today.

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

.....J
(RANJAN GOGOI)

New Delhi;
April 03, 2013.



JUDGMENT