

**NON-REPORTABLE**

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO. 9999 OF 2014**

(Arising out of S.L.P. (Civil) No.17291 of 2014)

State of U.P. Thru. Secy.  
Irrigation and Anr.

... Appellants

Km. Shashi Joshi

Versus

... Respondent

**J U D G M E N T**

**ANIL R. DAVE, J.**

1. Leave granted.
2. Looking at the facts of the case, the learned counsel had agreed for final hearing of the appeal and therefore, the appeal was taken up for hearing.
3. In this appeal, the judgment delivered by the High Court of Judicature at Allahabad, Lucknow Bench, dated 20th

August, 2013 in Service Single –C No.6258 of 1993 has been challenged.

4. The facts giving rise to the present litigation in a nutshell are as under:

The respondent was engaged as a daily wagger typist, as and when services of a typist were required by the Irrigation Department of the State of U.P. from 1988. It is an admitted fact that she had worked intermittently till 19<sup>th</sup> January, 1990 and thereafter she was never engaged by the appellant Authority. According to the respondent, she had worked for 244 days in the year preceding to 19<sup>th</sup> January, 1990, whereas the case of the appellants was that she had worked for hardly 220 days in the year preceding to the date when she was engaged as a daily wagger last.

5. The respondent had raised a dispute under the provisions of the Industrial Disputes Act upon her termination as she had not been given retrenchment compensation and ultimately, the Labour Court, Lucknow had held under Award dated 20<sup>th</sup> August, 1992, that termination of services of the

respondent was not justified and it was directed that she be re-instated in service with back wages.

6. Being aggrieved by the Award, the appellants had filed the aforesaid writ petition before the High Court which had been dismissed and therefore, the appellants have approached this court by way of the present appeal.

7. At the time of hearing of the appeal, a grievance was made by the learned counsel appearing for the respondent that in spite of the fact that petition filed by the appellants had been dismissed on 20<sup>th</sup> August, 2013, the respondent had not been taken back in service and also submitted that the respondent was prepared to forego back wages if she is re-employed in terms of the Award dated 20<sup>th</sup> August, 1992.

8. In pursuance of the instructions received from the Chief Engineer, Irrigation Department of the State of Uttar Pradesh, the learned counsel appearing for the appellants had submitted that the appellants had no objection to re-instate the respondent as a daily wager in terms of the Award, if the respondent was ready to waive her right to recover back wages,

as according to the appellants the respondent was not entitled to back wages.

9. Upon hearing the learned counsel and upon perusal of the Award as well as the impugned judgment, we find that there is no finding to the effect that the respondent had not worked anywhere after 19<sup>th</sup> January, 1990 and therefore, in our opinion, it would be just and proper if the respondent is re-instated in terms of the Award without back wages.

10. As the learned counsel appearing for the parties have fairly stated that the appeal be allowed to the limited extent so as to re-instate the respondent daily wager without back wages, we quash and set aside the direction with regard to payment of back wages to the respondent. The appeal is allowed to the above extent with a direction that the respondent shall be re-instated within one month from today in terms of the Award dated 20<sup>th</sup> August, 1992. We make it clear that if the respondent is not re-instated in service as a daily wager within one month from today, as directed by the Labour Court, the appellants shall pay to the respondent wages as a daily wager

immediately after completion of one month from the date of this judgment.

11. The appeal is, accordingly, disposed of as partly allowed with no order as to costs.

.....J  
(ANIL R. DAVE)

.....J  
(KURIAN JOSEPH)

.....J  
(R.K. AGRAWAL)

NEW DELHI;  
NOVEMBER 03, 2014

JUDGMENT