

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3937-3938 OF 2011

Warsaliganj Sahkari Chini Mill Mazdoor Union ... Appellant (s)

Versus

State of Bihar and others ... Respondent (s)

WITH

CIVIL APPEAL NO. 4201 OF 2011

South Bihar Sugar Mills Workers Union
and others
(s)

... Appellant

Versus

State of Bihar and others

... Respondent (s)

J U D G M E N T

KURIAN, J.:

1. Whether seasonal workers of the sugar factories stopped crushing years back would be entitled to retaining allowance, was the main issue agitated by the appellant-union before the High Court. It was held by the High Court that as there was no crushing in the sugar factories, the seasonal

workers will not be entitled to retaining allowance. Aggrieved, the union has come up in appeal.

2. At the time of hearing of the appeals, taking note of the intervening development of an Exit Settlement scheme/plan, learned Senior Counsel Shri Amarendra Sharan submits that at least for the purpose of working out the benefits under the said plan, the retaining allowance may be directed to be taken into account.

3. Heard the learned counsel appearing for the respondents also.

4. It is seen from the additional affidavit dated 10.02.2015 that the seasonal workers attached to the sugar factories which have been closed down long back are actually made to retire only on attaining the age of 60 years. In one of the communications, it is stated that the company did not require their services after the age of 60 years. Thus, in the case of those seasonal workers who had been working in those sugar factories referred to in the appeals, though not actually provided with work after the closure of the factories, they have been retained till they attained the age of superannuation,

apparently for some pensionary benefits which they are otherwise eligible. That being the position, it is only just, fair and reasonable that at least, notionally, the retaining allowance which would have been otherwise payable to them, had the factories been functional, be taken into account for the purpose of calculating their pensionary benefits or the benefits under the Exit Settlement scheme/plan.

5. Ordered accordingly. In order to avoid any confusion, it is clarified that the seasonal workers attached to the sugar factories referred to in the appeals will not be entitled to any retaining allowance: however, the retaining allowance, which would have been otherwise payable, will only be taken into account for the purpose of calculating the benefits due to them in terms of the Exit Settlement scheme/plan or pensionary benefits. Needful shall be done by the respondents within a period of four months from the date of receipt of copy of this order.

6. Appeals are disposed of as above. There shall be no order as to costs.

.....J.
(M.Y. EQBAL)

.....J.
(KURIAN

JOSEPH)

New Delhi;
February 16, 2015.

SUPREME COURT OF INDIA



JUDGMENT