



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No. of 2025
(@Special Leave Petition (C) No.25004 of 2023)**

Jai Narain Vyas University, Jodhpur & Anr.
...Appellants

Versus

Bhanwar Singh
...Respondent

O R D E R

Leave granted.

2. This is a classic case of the appellant-University having mishandled litigation, misinterpreted orders and mistook observations in contempt cases. The sole respondent had initiated his claim for reinstatement by a reference sought under the Industrial Disputes Act, 1947¹ and had agitated his cause again under Section 33C (2) of the ID Act, both of which were challenged by the appellants. Though reinstatement as directed by the Labour Court was eventually carried out, after much delay, regularization was denied. A further litigation was initiated by the respondent for regularization

¹ for brevity 'ID Act'

challenging the order of the Syndicate denying it, which has now reached this Court, the High Court having permitted it by the impugned judgment.

3. There were a batch of Special Leave Petitions clubbed together on the ground that the very same claim of regularization was agitated against the University in all the said SLPs. Before commencement of arguments, it was pointed out that the present appeal stands distinct from others for reason of the respondent herein having approached the Labour Court at the first instance, which order has attained finality. According to the learned Senior Counsel appearing for the appellant-University, the others having not agitated their cause before the appropriate Authority are attempting to urge their claim on the basis of the claim of the respondent herein. None of the other petitioners have approached the Labour Court at the first instance and hence in such circumstances, we detached the above matter to be heard separately.

4. Shri Vipin Sanghi, learned Senior Counsel for the appellant-University submits that the impugned order was passed on the basis of the order in ***Jai Narain Vyas***

University, Jodhpur & Anr. v. Jitendra Kumar (Annexure P6)

by a Division Bench of the High Court of Rajasthan at Jodhpur, which on facts is not at all applicable to the present case. It is submitted that therein, a person was continued for 20 years uninterruptedly, in which circumstance, it was held that his case would squarely fall within the dictum of ***State of Karnataka v. Uma Devi***². In the present case there was no such continuation for a period extending over 10 years and in any event the respondent was merely employed through a contractor, which does not give him any right for continuation or for regularization. The continuance of the respondent after he was reinstated was only on interim orders issued by the Writ Court, which cannot inure to the benefit of the respondent as has been held in ***Uma Devi***². It is alternatively argued that even if his reinstatement is upheld, he cannot be granted regularization since the initial appointment was not in order and was illegal.

5. Shri Devashish Bharuka, learned Senior Counsel appearing for respondent points out that the challenge against the order of the Labour Court granting reinstatement

² (2006) 4 SCC 1

was dismissed as infructuous. The University had granted reinstatement but had refused regularization, which goes against the spirit of the order of the Labour Court. The respondent was never appointed under a contractor as found by the Labour Court and he was paid directly by the University. The respondent has to be regularized and continued till his superannuation.

6. As we noticed at the outset, there are three layers of litigation. The respondent admittedly worked as a Junior Clerk between 16.12.1994 and 31.12.1997. He was terminated by an order of the Dean, Faculty of Law, who had also made the payment of salary to the respondent directly. The respondent approached the Government with a request for reference of the dispute regarding the validity of termination, to a Labour Court, which, on such reference made was answered by the Labour Court, Jodhpur in Labour Dispute No.90 of 2000 by Annexure P1 award.

7. Learned Senior Counsel appearing for the appellant-University had raised a question of delay, insofar as, the dispute having been numbered in the year 2000 while the termination was in the year 1997. We notice the above

contention only to reject it, since the question of delay was never raised before the Labour Court and the reference obviously was raised earlier and the notification referring the dispute to the Labour Court itself indicates the file to be numbered in the year 1999 and the reference order is dated 13.03.2000. The delay of the Government in referring the dispute cannot prejudice the workman.

8. Be that as it may, the specific ground taken by the respondent, who was the applicant-workman before the Labour Court was that he was employed directly by the University and the Contract was only to provide sweepers, janitors and watchmen and not Junior Clerks. The claim as filed before the Labour Court was also that he was employed continuously between 16.12.1994 and 31.12.1997, thus having worked for more than 240 days in three calendar years. The workman argued that he was not given one month's notice or in the alternative notice pay and retrenchment compensation before he was terminated and also that there were other employees similarly placed regularized by the University, without adopting the principle of 'last come-first go' which has to be employed when

bringing to end temporary appointments, made only to meet the incidental man-power requirements.

9. The Dean, Faculty of Law, who was the first respondent before the Labour Court clearly indicated that he was neither competent to provide an appointment and that the workman was deployed by a Contractor. The Labour Court found that the employment of the workman as a Junior Clerk on 16.12.1994 was not disputed and it was admitted that he worked continuously till 31.12.1997. There was no contract produced to provide Junior Clerks and the Assistant Registrar, who deposed before the Labour Court stated that the payment of wages were made from the office of the Registrar and that too without any contract to that end. Even the contract relied on was terminated before the workman himself was terminated. The Labour Court found that the workman was retrenched without following the procedure laid down under Section 25F of the ID Act. An award was passed directing reinstatement of the workman to the post of Junior Clerk in the Faculty of Law of the appellant-University, finding the termination to be unfair and illegal. The workman was also found entitled to receive 40% of the back wages

from the employer commencing from the date of order of reference up to the execution of the order.

10. The appellant-University challenged the above order of the Labour Court in SB Civil Writ Petition No.2723 of 2005 before the High Court. The respondent moved an application under Section 17B of the ID Act, which was allowed by Annexure P2, dated 15.12.2005, directing payment of wages to the workman from the date of the impugned award i.e. 17.02.2003. The appellant-University failed to comply with the said order and the respondent approached the Labour Court under Section 33C (2) of the ID Act; which was challenged by the University in SB Civil Writ Petition No. 542 of 2007. It is the submission of the University that there was a stay granted by the High Court in the said writ petition, which is not produced herein. Even if it is accepted that there was a stay order of the proceedings under Section 33C (2) of the ID Act, the fact remains that there was an order under Section 17B of the ID Act in the writ petition challenging the order of reinstatement; obliging the University to pay the back wages and the future wages, while the writ petition was pending, which was not done.

11. The respondent again approached the High Court in CWP 2723 of 2005 with a contempt application numbered as CP No.238 of 2009 pointing out the refusal to comply with the order under Section 17B. There were conflicting contentions raised by the workman and the University, the latter asserting that the University had been ready to employ the workman since otherwise they will have to pay wages without any work being obtained and the former alleging that despite his consent to join duty he was not permitted so to do. The contempt petition was closed directing the workman to be allowed to resume his duties on the very next day. The respondent has joined duty and is working continuously from then till now.

12. Yet another contempt petition numbered as CP No.568 of 2011 was filed by the workman, which was dismissed by Annexure P4, recording that the payment of wages due has been made to the workman. While dismissing the contempt petition, the Court also observed that the Syndicate would consider the workman's case at its next meeting, sympathetically. Pursuant to the order dated 16.12.2011, the Syndicate of the University by Annexure P7 resolved to

continue the service of the workman as per the provisions of Section 17B of the ID Act, without regularization. This order was challenged by the workman. The challenge to this order declining regularization succeeded before the High Court and the present appeal is filed against the concurring view of the Single Bench and the Division Bench of the High Court.

13. In the meanwhile, it is pertinent to notice that SB Civil Writ Petition No.2723 of 2005 was dismissed as infructuous on 12.04.2022 recording the reinstatement of the petitioner pursuant to the contempt petition. Thus, the order of the Labour Court has attained finality. At this juncture, it is to be noticed that the specific contention of the University is that the Labour Court allowed only reinstatement and not regularization. As noticed in the narration of the findings and directions of the Labour Court, the Labour Court essentially found the termination to be illegal for reason of the employer-University having not complied with the provisions under Section 25F of the ID Act. Hence obviously the University was competent to take such proceedings, if the requirement of the workman to hold the post was not existing, after reinstatement, subject to payment of 40% back

wages as directed by the Labour Court during the period of severance from employment. The University on the other hand, refused to reinstate the respondent, in which circumstance the respondent approached the Writ Court in the petition challenging the order of reinstatement, claiming back wages under Section 17B of the ID Act.

14. Section 17B of the ID Act provides for payment of full wages to workmen, pending proceedings in higher courts, against orders of reinstatement issued by Courts under the ID Act. This absolves the employer from complying with the order of reinstatement and Section 17B of the ID Act can be invoked only on condition of the workman having not been employed during the period and an affidavit to that effect being filed before the higher court. A reading of Annexure P2 order in the application filed under Section 17B of the ID Act clearly indicates that the averments made by the applicant were not controverted by the employer/University. The University could have proceeded with the challenge against the order of reinstatement and even avoided reinstatement during the pendency of the proceedings, by complying with the order passed under Section 17B of the ID

Act i.e. payment of full wages during the period he is kept out of employment, despite an order of reinstatement. As is evident from Annexure P3, on a contempt filed against the non-compliance of Annexure P2 order under Section 17B of the ID Act, the University chose to reinstate the workman and also paid up the dues under Section 17B of the ID Act as has been recorded in Annexure P4 order passed in a subsequent contempt petition initiated by the workman.

15. After having reinstated the petitioner, his continuance was affirmed by the Syndicate, under Section 17B, declining regularization. The Syndicate was ill advised to permit reinstatement under Section 17B, since the provision provided a measure to avoid such reinstatement. Even then, there would have been no difficulty in prosecuting the writ petition challenging the order of reinstatement. However, as is evident from order dated 12.04.2022 passed in SB Civil Writ Petition No.2723 of 2025, handed over to us across the Bar, in the presence of the University, the challenge was dismissed as infructuous, thus giving a finality to the order of the Labour Court. Even prior to that the present proceedings

were initiated challenging the order dated 25.11.2014 of the Syndicate produced as Annexure P7.

16. The learned Single Judge and Division Bench of the High Court in the instant proceedings, we find, have relied on Annexure P6 order, Judgment of the Division Bench in another case, of the very same University. As argued for the University, therein the employee had continued for many years, 20 years to be exact, without break and there can be no parallel to the present case. Therein reliance was placed on ***Uma Devi***², which we agree may not be applicable in the present case. However, the continuation of the respondent herein was not based on any interim order in a writ petition, which orders were deprecated in ***Uma Devi***², terming such continuance in service as 'litigious employment'.

17. In the present case, the workman/respondent had approached the Court of first instance, the Labour Court, through a valid reference by the Government under the ID Act. The Labour Court had directed reinstatement and payment of 40% back wages which has now attained finality, by virtue of the dismissal of the writ petition of the University challenging the order of the Labour Court. The order of the

Syndicate, based on an observation in a contempt case, was only to continue the petitioner under Section 17B of the ID Act but declining the regularization. Section 17B of the ID Act as we found has no application, but the order can only be understood as the respondent having been reinstated and continued as workman, while the challenge to the order of reinstatement was pending before the High Court. The said challenge having been dismissed as infructuous, nothing more survives and regularization is a just consequence of the order of the Labour Court, which has attained finality, especially since the University for long years did not take any steps to retrench the workman as would have been permissible under the orders of the Labour Court.

18. We need not look at *Jitendra Kumar* (supra) or *Uma Devi*² to direct regularization of the respondent herein, in the service of the University. The respondent-workman shall be deemed to be in service from 16.12.1994 and continued till date without break in service. The period from 31.12.1997 to 17.02.2003, the date of the order of the Labour Court will not be considered as break in service but the entitlement of pay during the said period will be confined to 40% back wages

as granted by the Labour Court. From 17.02.2003, the petitioner would be entitled to regular pay scales as a Junior Clerk till his actual reinstatement and from the date of reinstatement also he would be entitled to draw remuneration at the regular scales of pay.

19. The appellant-University would compute the arrears due from the order of the Labour Court and the directions herein, deduct the amounts already paid and pay the balance amounts within a period of six months from today. If the amounts are not paid during the said period, the petitioner shall be entitled to interest at the rate of 6% for the arrears as computed on the 31st December of every year while he was continued in service, that too cumulatively, meaning thereby that the interest accrued in a particular year would carry interest in the subsequent year. We make it clear that the interest liability is only on the failure to comply with the directions herein and if interest liability arises, the University would be entitled to recover it from the officers who caused delay in complying with the directions in this judgment.

20. We also make it clear that the proceedings under Section 33C (2) of the ID Act has no further life insofar as the

Labour Court award having been directed to be complied with.

21. We further make it clear that the order of regularization passed by us in the above case is on the peculiar facts and circumstances of this case, of the initiation and continuation of the litigation as is noticed by us in the above order, commencing from the Labour Court and thus being distinguished from 'litigious employments' deprecated in ***Uma Devi***².

22. The appeal stands dismissed, leaving the parties to suffer their respective costs.

23. Pending applications, if any, shall stand disposed of.

..... J.
(AHSANUDDIN AMANULLAH)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI
DECEMBER 04, 2025.