

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1659 of 2019

In
Civil Writ Jurisdiction Case No.19517 of 2019

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Ram Vinoy Singh @ Ram Vinay Singh S/o Sri Nalish Singh Resident of
Village- Makhdumpur, P.o. and P.s.- Arwal, District- Arwal

... .. Appellant/s

Versus

1. The Chief General Manager, State Bank of India Local Head Office, West Gandhi Maidan, Patna-1
2. The Deputy General Manager State Bank of India, Local Head Office, West Gandhi Maidan, Patna-1
3. The Branch Manager State Bank of India, Arwal
4. The Assistant General Manager State Bank of India, Zonal Office, Patna
5. Presiding Officer Industrial Tribunal, Bailey Road, patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Raghwendra Sharan Pandey, Adv.
For the Bank : Mr. Binod Bihari Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 29-11-2022

Heard Mr. Raghwendra Sharan Pandey, learned
advocate for the appellant and Mr. Binod Bihari Sinha for
the State Bank of India.

The appellant claims that he worked for more
than 240 days in the State Bank as Messenger but was
wrongly removed from service.



In the writ petition that he had filed with a prayer for reinstatement, the learned Single Judge had issued a direction to the respondent/State Bank to consider his case for absorption in the light of a circular dated 06.04.1991. This order by the learned Single Judge was challenged by the State Bank in appeal, when the appellate court found that the appellant had a different forum to agitate and, therefore, it was not appropriate for the learned Single Judge to have issued such a direction. Thereafter, a reference was made to the Labour Court with a mandate to decide whether the action of the management of S.B.I., local head office Patna in terminating the services of the appellant, an Ex-Messenger with effect from 01.10.1998, is justified.

The Labour Court, after recording the deposition of the appellant himself as the sole witness on his behalf and two of the representatives of the Bank, found that the appellant was engaged as a Canteen Boy by the Canteen Committee of local Arwal Branch of the Bank. While



overseeing the canteen arrangement in the Bank, the services of the appellant was utilized as a Canteen Boy.

The Labour Court also relied upon a decision of the Supreme Court in the case of ***State Bank of India & Ors. Vs. State Bank of India Canteen Employees Union (Bengal Circle); (2000) 5 SCC 531*** wherein it was held that the employees of the canteens, which are run at various branches by the local Implementation Committee as per welfare schemes framed by the State Bank of India, would not become the employees of the Bank as the Bank does not have any statutory or contractual obligation arising under any award to run such canteens.

Finding no document or evidence available in the Arwal branch of State Bank of India which could have demonstrated that the appellant was ever engaged as a Messenger in the said Branch, his claim was rejected.

The award was challenged by the appellant before the learned Single Judge who, on going through the award and the justification of the parties in particular, found that



there was no infirmity in the decision arrived at by the Labour Court. The learned Single Judge also examined his own jurisdiction and the powers of review and found that there was nothing which could prompt his interference in the matter.

Considering that it is the case of a poor person who has served the Bank on a monthly salary of Rs. 30/-, we have given an anxious consideration over all the issues raised herein but have found that the appellant could not demonstrate and prove his claim of having worked as a messenger in the Bank. The documents furnished by the appellant before the Labour Court were only in the nature of a list indicating monthly payment and a generous recognition of the services of the appellant by the then Branch Manager, who had expressed his benevolent desire that such person should be absorbed in the regular service of the Bank.



These two documents do not make out any case for absorption or reinstatement of the appellant in the services of the Bank.

We do not find any flaw in either the award of the Labour Court or in the learned Single Judge's order for us to interfere.

There is no merit in this appeal and therefore it is dismissed, but without any order as to costs.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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