

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

CIVIL APPEAL NO.2407 OF 2009
(Arising out of SLP(C) 20509/2007)

Rajasthan Gramin Bank

.. Appellant(s)

Versus

Bishan Lal Bairwa

.. Respondent(s)

ORDER

Leave granted.

Challenge in this appeal by the Management is to an order, dated 2nd August, 2007, passed by an Appellate Bench of the High Court of Judicature at Rajasthan, Jaipur Bench in CSA (W) No. 339 of 2005, whereby the order passed by the learned Single Judge, directing the Management to comply with the provisions of Section 17-B of the Industrial Disputes Act, 1947 (for short,"the Act") has been affirmed.

Since the issue involved in the appeal is short, with the consent of learned counsel for the parties, we proceed to dispose of the matter at this stage itself.

Mr. Dhruv Mehta, learned counsel appearing for the appellant-bank submits that in the first instance the learned Single Judge, while allowing the application preferred by the workman under Section 17-B of the Act has proceeded on the premise that the Management had failed to controvert the

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specific plea of the workman that he was not gainfully employed, whereas, in para 4 of the reply, filed on behalf of the appellant to the said application, their specific case was that after his dismissal, the workman had worked in two transport companies for different periods. Copies of the vouchers showing payment of salary by the transport companies were placed on record with the supporting affidavit. It is asserted that the workman did not rebut the said material. Learned counsel thus contends that the learned Single as well as the Appellate Bench having ignored the said evidence, the impugned direction deserves to be set aside.

Learned counsel for the workman, on the other hand, has supported the impugned orders.

Having heard learned counsel for the parties and perused the material on record, in particular, the reply filed by the Management refuting the claim of the workman that he was not gainfully employed with supporting evidence, we are of the view that the High Court has failed to take into consideration the material which was relevant for deciding the controversy before it. It is clear from the order of the learned Single Judge that he had proceeded on

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the basis that the statement of the workman that he is not gainfully employed has not been controverted by the management, which fact, as noted earlier, is not correct. In view of the factual scenario, as emerging from the record, the impugned orders cannot be sustained.

Accordingly, the appeal is allowed; orders passed by the appellate Bench as well as the learned Single Judge are set aside and the matter is remanded back to the learned Single Judge for fresh adjudication in accordance with law. No costs.

.....J.

[D.K. JAIN]

.....J.

[R.M.

LODHA]

NEW DELHI,
APRIL 13, 2009.