

CASE NO.:
Appeal (civil) 4196 of 2006

PETITIONER:
G.B. PANT UNIVERSITY

RESPONDENT:
GOVIND BALLABH PANDEY & ORS.

DATE OF JUDGMENT: 19/09/2006

BENCH:
Dr.AR.LAKSHMANAN & A.K.MATHUR

JUDGMENT:
J U D G M E N T
(Arising out of SLP(C) Nos.19129-19136 of 2005)
Dr.AR.LAKSHMANAN, J.

Leave granted.

Heard Vijay Hansaria, learned senior counsel appearing on behalf of the appellant-University and Ms.Meenakshi Arora, learned counsel appearing on behalf of all the respondents.

One hundred seventy employees working in the cafeteria of the students' hostel of the appellant-University raised an industrial dispute seeking regularisation. The Labour Court in its award dt.19.9.1995 held that the employees working in the cafeteria were the employees of the University and were entitled to the benefits of regular employees. The Labour Court directed regularisation of 170 employees from the date of the order. The University filed the Writ Petition before the High Court of Allahabad challenging the aforesaid award. The High Court by its judgment dt.10.08.2000 dismissed the appeal of the appellant and directed regularisation of the services of the employees in terms of the award of the Labour Court and payment of arrears of salary in 12 instalments. This court gave the aforesaid direction on the basis that about 170 employees were still working in the cafeteria. The appellant issued an office order asking the employees to complete formalities for regularization by furnishing service details in the prescribed proforma. 128 employees submitted the prescribed proforma and their services were regularised and difference in the salary was paid as per the award. 42 persons including the 8 respondents herein according to the appellant did not approach for regularisation nor they filled up the prescribed proforma seeking regularisation. The appellant filed an application before this Court for clarification to the effect that the judgment would not apply to those who left the cafeteria of the University prior to the date of award. This Court dismissed the I.A. by stating that no clarification is required in the matter. Respondent Nos. 1 to 8 herein filed applications under Section 6H of the UP Industrial Dispute Act, 1947 seeking recovery of arrears of salary. The claim of all the respondents comes to Rs.23,39,738/-. The University filed their reply inter alia stating that the respondents were not in service when reference was made or award was passed and were gainfully employed elsewhere. The Labour Court directed that the respondents be employed on regular basis and the arrears of salary be paid rejecting the contention of the University on the ground that the University has not raised these issues before this Court. The High Court dismissed the Writ Petition by holding that the University has not taken the objection regarding respondents leaving their job in the first round of litigation. This Court issued notice in the SLPs and granted interim stay.

We have heard the learned counsel for the respective parties and have perused the judgment which is impugned in this appeal. At the time of argument, the learned counsel for the respondents submitted that out of 42 persons, many employees were taken back into service without back wages and respondent Nos. 1 to 8 herein should also be given the same treatment. Although this request is opposed by the counsel for the appellant-University, we feel that the request made by the learned counsel for the respondents is fair, reasonable and justifiable. We, therefore, direct the appellant-University

to immediately reinstate respondent Nos. 1 to 8 herein within one month from the date of receipt of this Order. We make it clear that the relief now granted shall be confined only to respondent Nos. 1 to 8 who are before us. We also make it clear that the reinstatement would be without any back wages. However, respondent Nos. 1 to 8 shall be entitled to increments etc. after the reinstatement and they shall also be entitled for pensionary benefits and continuity of service. In other words, respondent Nos. 1 to 8 shall not be entitled for any increment during the period they were out of employment.

This Judgment shall not be quoted as a precedent by any other employee.

With these observations, the appeal stands disposed of. There shall be no order as to costs.

JUDIS