

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

CIVIL APPEAL NO. 5 OF 2011
[ARISING OUT OF SLP(C)NO. 16036 OF 2010]

RANBIR SINGH

.....

APPELLANT

VERSUS

THE EXECUTIVE ENGINEER

.....

RESPONDENT

O R D E R

1. Leave granted.

2. The appellant herein, a workman, was engaged on daily wages in the year 1992. His services were terminated in the year 1999 on the ground that he had been involved in a criminal case. It is the conceded position that the criminal case has ended in his acquittal. The appellant also raised an industrial dispute alleging violation of Section 25(f) of the Industrial Disputes Act, 1947. The matter was referred to the Labour Court which held in favour of the appellant directing his reinstatement with fifty per cent back wages. The State of Haryana challenged the order of the Labour Court exclusively on the plea that the award of back wages was not justified. The learned Single Judge, however, allowed the writ petition filed by the State in toto and set aside the Award of the Labour Court and instead awarded a compensation of Rs. 60,000/- to

the appellant. The matter was thereafter taken before the Letters Patent Bench and it was argued that the challenge in the writ petition had been limited to the award of back wages and the judgment of the Single Bench setting aside the Award in toto was beyond the prayer. The Division Bench noticed this argument but nevertheless went on to hold that as the issue with regard to the status of a daily wage employee was covered against the appellant by a string of judgments of this Court, the technicality with regard to the prayer in the writ petition would not stand in the way of the High Court making an order setting aside the Award of the Labour Court. The Division Bench, accordingly, affirmed the order of the learned Single Judge. The appellant-workman is here before us in appeal.

3. Before us today, the learned counsel for the appellant has argued that in the writ petition filed by the respondent-State challenging the Award of the Labour Court, the only plea was against the grant of back wages and nothing more. In support of this submission, the learned counsel has drawn our attention to the writ petition which has been appended with the paper book. We find that the assertion of the learned counsel is correct. We are, therefore, of the opinion that the order of the Single Judge as well as of the Division Bench was well beyond the scope of the prayers in the writ petition. If the State

felt aggrieved by the Award of the Labour Court in toto there was no impediment in its way to challenge it in its entirety. We feel that a party must be held to be bound by its pleadings; a prayer clause cannot be construed or dubbed as a technicality. We are, therefore, of the opinion that the appeal deserves to succeed. We, accordingly, allow the appeal and set aside the orders of the Single Judge as well as the Division Bench and restore the order of the Labour Court to the extent of reinstatement. We are also told by the learned counsel for the appellant that the appellant had in fact been reinstated but after the order of the Division Bench his services had again been terminated in December, 2009. We, accordingly, direct that the back wages envisaged would be payable only from January 2010 onwards till his reinstatement as a consequence of this order.

4. The appellant will also have his costs which are assessed at Rs. 5,000/-.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
JANUARY 03, 2011.

