

(2018) 09 UK CK 0035

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 209 of 2012

Bata India Limited & Another

APPELLANT

Vs

State of Uttarakhand & Others

RESPONDENT

Date of Decision : 10-09-2018

Acts Referred:

Citation : (2018) 09 UK CK 0035

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : R.S. Sammal, S.R. Joshi, Alok Mehra

Final Decision : Disposed Of

Judgement

Sudhanshu Dhulia, J.

This is a writ petition filed by the employer Bata India Limited challenging the order dated 30.11.2011 passed by the Deputy Labour Commissioner,

Haldwani. In the present case, the workman/respondent no. 3 was retrenched by the employer and thereafter the workman raised the labour dispute.

Ultimately, an award was passed on 14.9.1995 in favour of the workman by the Labour Court, Haldwani whereby the workman/respondent no. 3 was

reinstated along with full back wages. This award was challenged by the employer in a Writ Petition No. 2027 of 1997 before the Allahabad High

Court which was later transferred to this Court after the State of Uttarakhand was created and High Court was formed. The writ petition was

renumbered as Writ Petition (M/S) No. 1013 of 2002. On 15.2.2008, the said writ petition of the employer was dismissed for non-prosecution and the

application for restoration was also rejected by this Court on 22.5.2008. Aggrieved, the employer filed an SLP before the Hon'ble Apex Court.

During pendency of the SLP, the employer moved an application praying for stay on execution proceedings. The Honâ??ble Apex Court passed a conditional stay order on 18.7.2008 asking the employer to deposit the decretal amount before the Labour Court, Haldwani. In compliance of this order of the Honâ??ble Apex Court, the employer deposited the decretal amount. Thereafter vide order dated 27.1.2009, the Honâ??ble Supreme Court set aside the order dated 22.5.2008 passed by this Court and consequently the Writ Petition (M/S) No. 1013 of 2002 stood restored to its original number.

2. The aforementioned writ petition filed before this Court was partly allowed and though the reinstatement was upheld but the back wages were denied to the workman. However, instead of asking the workman to join the place from where he was retrenched, the workman was asked to join at another place in Shahjanpur (Uttar Pradesh). The workman insisted that joining be made at the old place. He consequently moved an application for reinstatement at the place from where he was retrenched.

3. Meanwhile, the Deputy Labour Commissioner, Haldwani vide order dated 30.11.2011 directed that the workman be reinstated at the same place from where he was retrenched. This order has been challenged by the employer in the present writ petition before this Court.

4. It is a case of single workman and during the pendency of the present writ petition, the employer and the respondent workman entered into compromise and the entire settlement has been arrived at. As per the terms of compromise, payment of rupees four lakhs seventy five thousand has been made to the workman, a fact which is admitted by Mr. Alok Mehra, learned Counsel for the respondent workman.

5. In order to verify the veracity of the settlement, this Court on 05.9.2018 directed Mr. Manoj Garbyal, Registrar of this Court, to give a finding in this regard who filed his report dated 05.9.2018 and has approved that parties have entered into settlement with their free will and without any coercion or undue influence. Considering the long pendency of the case and the amicable settlement arrived between the parties, this Court refrains from insisting on the procedure given under the Industrial Disputes Act, 1947 for settlement, also as the matter has been raised by a single workman and not by a union. This would also be in the interest of justice.

6. In view thereof, this writ petition is disposed of in terms of the compromise arrived at between the parties. The amount deposited before the Labour Court shall be returned to the petitioner.