

(2000) 05 AHC CK 0133

In the Allahabad High Court

Case No : Writ Petition No. 669 of 2000 (S/S) Connected with 136 other Writ Petitions

Shatrughan Nishad and others

APPELLANT

Vs

District Magistrate/Administrator/Chairman, Kishan Sahkari
Chini Mills, Sultanpur and others

RESPONDENT

Date of Decision : 15-05-2000

Acts Referred:

Constitution of India, 1950 — Article 12, 14, 16, 226, 31
General Clauses Act, 1897 — Section 2(42)
Industrial Disputes Act, 1947 — Section 10, 25F
Uttar Pradesh Industrial Disputes Act, 1947 — Section 2, 4A, 6N

Citation : (2000) 3 AWC 2452 : (2000) 2 UPLBEC 1719

Hon'ble Judges : Bhanwar Singh, J

Bench : Single Bench

Advocate : K.S. Bajpai, for the Appellant; C.S.C., for the Respondent

Final Decision : Disposed Of

Judgement

Bhanwar Singh, J.—All these writ petitions having common issues of law and facts are taken up together for final disposal with the consent of the parties counsel.

2. The common matrix of the petitioners cases is that all of them are the employees of Kisan Sahkari Chini Mills Limited. Sultanpur. They have been working on Class III and IV posts for the last many years. Some of these employees are working against the permanent posts for over a period ranging from 5 to 12 years. However, in spite of their long tenure of service, they have not yet been confirmed on the posts which are available (Writ Petitions at SI. Nos. 3, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 76, 77, 78, 79, 80, 82, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 97, 98, 99, 101, 103, 104, 104A, 105, 105A, 106, 107, 108, 109, 110, 115,

116 and 117). Some of the petitioners are not being allowed to join their duty. The Mill Authorities have asked them not to come on the job. In other words, their services have been terminated by mere verbal orders without any rhyme or reason (Writ Petitions at SI. Nos. 1, 2, 4, 10, 23, 32, 68, 75, 81, 83, 84, 91, 96, 100, 102, 111, 112, 113, 114, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137). The service conditions of the employees in Vacuum Pan Sugar Industries are governed by the "standing orders" issued by the State Government. The petitioners are governed by the definition of "seasonal and permanent workman" as defined in the standing orders and all of them are either seasonal or permanent workmen. Therefore, they are fully eligible and entitled to get all the benefits available under the said orders. But the opposite parties are exploiting their services as they are being compelled to work merely on daily wage basis. The petitioners have been deprived of the salary as per recommendation of the Third Wage Board set up by the Government of India vide resolution of July 17, 1985. The Government had already recommended on 21.12.1989 the report submitted by the said Wage Board. The State Government of U. P. also agreed to implement the recommendations submitted by the Wage Board and accepted by the Government of India for maintenance of public order and supply of services essential to the life of communication. The Kissan Sahkari Chini Mills Limited, Sultanpur, being a co-operative society is an instrumentality of the State Government and, as such, is bound by the recommendations of the Third Wage Board. The U. P. Co-operative Sugar Factories Federation Limited is an apex co-operative society of the State level societies and the objects of the Federation are to assist, coordinate and facilitate the working of the affiliated Co-operative Sugar Factories and to assist in promoting the organisation of the new Cooperative Sugar Factories in the State. In other words, the Federation is the supervisory authority of all the affiliated sugar mills and since the Federation is an instrumentality of the State of U. P. within the meaning of Article 12 of the Constitution of India, its functioning and also that of the co-operative sugar mills are amenable to the writ jurisdiction of this Court. Apart from above, the Sugar Mill of Sultanpur is also an industry within the meaning of the Industrial Disputes Act. The petitioners were also paid bonus under the scheme of the Sugar Mill and their pass-books were being maintained regularly. Even then, their services were terminated by virtue of oral orders and without complying the provisions of the Industrial Disputes Act and Labour Laws. They were neither given any notice nor salary in lieu thereof. As a matter of fact, they deserve to be regularised in service on account of their long tenure but they have been victimised by terminating their services without any reasonable cause.

3. All these petitions have been resisted on behalf of the Sugar Mill with common pleas to the effect that on account of the Kisan Sahkari Chini Mills Limited being a Cooperative Society, the petitions are not maintainable as a co-operative society does not fall within the ambit of "State" as defined under Article 12 of the Constitution of India; the petitioners should have resorted to an alternative

remedy available under the U. P. Industrial Disputes Act ; the services of the petitioners are regulated by the "standing orders" having no statutory force and that the petitioners' services were terminated because of their being surplus and also as their engagement was made without there being any sanctioned post. In the year 1995-96, the then outgoing General Manager had recruited 391 persons without any vacancy in a most arbitrary manner. Apart that, 147 persons were found unsuitable by the Committee which was constituted under the rules. In this way, 542 persons including four workers who did not appear in the interview were declared surplus. Otherwise also, the Sugar Mill, Sultanpur, is running under heavy loss of about 35 crores and even the cane growers are not supplying sugarcane to the mill due to default in payment of cane price. In fact, the petitioners were engaged through back door entry without availability of any work and post and. as such, they are not entitled to claim any relief.

4. I have heard learned counsel for all the petitioners and opposite parties.

5. Learned counsel appearing on behalf of the Sugar Mill raised a preliminary issue that the Kisan Sahkari Chini Mill, Sultanpur, being a co-operative society does not come within the purview of "State" as defined under Article 12 of the Constitution. This issue has been discussed in detail by this Court in Gajendra Kumar Sharma v. General Manager, the Bajpur Co-operative Sugar Factory Limited, District Udham Singh Nagar and others. (1999) 3 UPLBEC 2452. Having regard to the various decisions of this Court as well as the Hon'ble Supreme Court, it was held that a writ petition against a Cooperative Sugar Factory Limited is maintainable. Various factors were considered in the said decision. These controlling factors were held to be the standards to measure the issue. The relevant para may be quoted as below :

"In order to determine the characteristic of instrumentality and agency, it is necessary to find out as to whether the State control is deep and pervasive. While determining, it is to be borne in mind that in a welfare State, the State control may be, very wide and pervasive and may touch various aspects of social life. Thus, Government control over various societies, corporations or various other branches of the social existence, has to be viewed by taking a broad picture of the matter with discerning mind keeping the realities and human experiences within its sight in order to reach a reasonable conclusion."

In addition to above. It was also considered that if deep and pervasive State control exists, the Sugar Mill or a Corporation may be termed to be as State agency or its instrumentality.

6. Having regard to the parameters, as referred to above, the status of the Sugar Mill, Sultanpur, may be examined.

7. Article 31 of the bye-laws of the U. P. Co-operative Sugar Factories Federation Limited, Lucknow, postulates that the Secretary to the Government of U. P., Department of Sugar industry and Cane Development shall be the ex-officio Chairman of the Federation. The Chairman of the Federation wrote a letter to the

General Manager of the Sugar Mill, Sultanpur, communicating a panicky signal that the Mill would go bankrupt if the strength of the employees is not reduced and some workers working in the Mill are not declared surplus and ceased to work. The genuineness of this letter is not disputed by the opposite parties. It would help in better understanding to quote the said letter in order to establish that the Chairman of the Cane federation who is the Secretary of the State Government has an effective control over the functioning of Mill. It is as under :

To,

The Chief Chemist-cum-General Manager (By name),

Kisan Sahkari Chini Mills Ltd.,

Sultanpur,

Sub. : To minimise the pending writ petition cases in Lucknow Bench, Lucknow, as filed by the daily wagers against their removal from the factory as well as to get expeditious disposal of the Balance cases thus left for final hearing.

Dear Sir,

This is in reference to your visit along with Dy. Chief Accountant, Head Time Keeper and Legal Asstt. of Sultanpur Mill Society, to the Federation office on 20.11.1999.

in the light of the detailed discussions held with your staff at the Federation level, it is advisable that out of 708 petitioners, who have filed 137 writ petition cases in Lucknow Bench. Lucknow and out of whom as many as 307 daily wagers have been regularised and the balance of 401 is surplus to the requirement of the factory, it was agreed upon by your staff that so far as the cases of 307 daily wagers, who have been regularised, their Joining report will not be entertained in the ensuing season 1999-2000 till they produce a certified copy of the orders of Lucknow Bench that they have withdrawn themselves from the said petitions. And so far the rest 401 dally wagers are concerned, they are surplus and as such they find no place in the Mill Society, otherwise the Mill Society will be reduced to a financially bankrupt unit, which will be entirely against the interest of member cane growers of the Mill Society and the public at large. The aforesaid set of circumstances need your serious attention and implementation and suggestion accordingly, under intimation to the Federation.

Please give top priority to this important task.

Yours faithfully.

Sd. (Dr. Prabhat Kumar)

Managing Director."

8. A careful perusal of the contents of the letter would reveal that an effective and final decisions had been taken by the Managing Director. His finding

regarding 401 dally wagers was that "they were surplus and had no place in the Mill Society". It has been observed towards the end of his letter that if the above number, of surplus dally wagers would be retained in the Mill, the Mill Society will be reduced to a financially bankrupt unit. The General Manager of the Mill was directed to give a serious thought to the alleged alarming situation and take action accordingly and report compliance. These mandatory directions coupled with the findings and decision taken point to the conclusion that the Sultanpur Sugar Mill Society falls within the category of "State" as defined in the Constitution of india. In compliance of the dictate of the Secretary to the U. P. Government, as envisaged above, the General Manager of the Sugar Mill constituted a Committee which on having reviewed the situation found 147 persons unsuitable. They were, therefore, terminated from their services without following any procedure at all. Neither any notice was served upon them nor the proceedings as laid u/s 6N, U. P. Industrial Disputes Act were taken recourse to. In addition to that, the Committee also took a decision that hundreds of employees were engaged through back door entry without availability of any work or post and therefore, they were simply asked not to work. The strength of such persons was 395. Thus, in all 542 workers including Class III employees were asked not to come to the work. It is significant to note that some of the workers were in the employment of the Mill for over a period of 10 years. These workers were engaged from the year 1988 to 1996. What is relevant to note is that the State Government was instrumental in getting the services of the petitioners and other workers terminated and the letter, quoted above, is the best proof of the said supervisory control over the Sultanpur Sugar Mill.

9. It is also noteworthy that the General Manager of the Sugar Mill is a Government officer who is in direct control and charge of the management of the Sugar Mill. Mere contention that he is there on deputation is a camouflage to rebut the allegation of State supervision over the Mill but the fact is that the General Manager in the disguise of deputation is in complete subordination to the Government from whom he seeks instruction to manage the affairs of the Mill. Further, the fact that the District Magistrate, Sultanpur, is the administrative Chairman of the Kisan Sahkari Chinl Mills. Sultanpur. also lends assurance to the argument advanced on behalf of the petitioners that it is the State machinery which has been managing, supervising controlling and running the Sugar Mill.

10. Sri N. C. Mehrotra, learned counsel appearing on behalf of the Mill Society contended that the General Manager of the Sugar Mill, as stated by the petitioners" counsel was not a Government servant in technical sense as he is an officer of the Government on deputation and his terms and conditions of appointment are not as that of a Government servant. The contention is not tenable as the appointment of senior officer of the Government under disguise of deputation is well thought device to run a sugar mill by the State machinery. The General Manager has the strict vigil over his functioning by two senior Government officers - (1) District Magistrate of District Sultanpur who is the ex officio Chairman, an officer available on the spot to keep a watch and supervision

directly or indirectly ; and the other is the Managing Director of the Apex Federation Body who issues circulars containing decisions, for instance, as quoted above. In these circumstances. Mr. Mehrotra's argument that the Sultanpur Sugar Mill Unit is not the State controlled Mill Is rejected altogether.

11. In view of the above, the citation, Radha Charan Sharma v. U. P. Co-operative federation and others 1982 (8) ALR 342, as relied upon by Sri N. C. Mehrotra, does not help the opposite parties. The petitioner of the said case failed to disclose as to how the Government was in control of the Co-operative Drugs Factory at Ranikhet. Also, he could not even suggest that Articles 14 and 16 of the Constitution have, in any manner, been violated. For these two reasons, the writ petition was held to be not maintainable. However, in that case also, this Court has held that if the State has a deep and pervasive control over a corporation, certainly then, there would be an indication that it is a State agency or an instrumentality.

12. Learned counsel for the opposite parties also referred to the Hon'ble Supreme Court's decision in Rajasthan State Road Transport Corporation and Another Vs. Krishna Kant and Others, , and argued with reference to the ratio arrived at in the said decision that the standing orders may be statutorily Imposed conditions of service binding both upon the employer and employees but they do not amount to statutory provisions and violation of such standing orders may simply entitle an employee to appropriate relief either before the forums created by the industrial Disputes Act or the civil court where recourse to the Civil Court is open under law. Hon'ble Supreme Court held that the powers of the Courts and Tribunals under the industrial Disputes Act are far more extensive in the sense that they can grant such relief as they think appropriate in the circumstances for putting an end to an industrial dispute.

13. As a matter of fact, the petitioners of the case in hand have not invoked this Court's Jurisdiction merely on the basis of the strength of the standing orders. They have come with their clear and candid allegation that the Sugar Unit, Sultanpur, having an effective, deep and pervasive control of the Government is a State run unit and, therefore, this Court can, while exercising jurisdiction under Article 226 of the Constitution of India grant the appropriate relief. In support of their contention, they have relied upon a recent decision of Hon'ble Supreme Court as in U.P. State Cooperative Land Development Bank Ltd. Vs. Chandra Bhan Dubey and Others, . It was held in that case that the control of the State Government on the appellant is all pervasive and the employees had statutory protection and, therefore, the appellant being an authority or even instrumentality of the State, would be amenable to writ Jurisdiction of the High Court under Article 226 of the Constitution. It was observed further that prima facie from the language of Article 226 of the Constitution, there does not appear to exist any divide between public law and private law. It is relevant to quote very useful observation of the Hon'ble Supreme Court as follows :

"In view of the fact that control of the State Government on the appellant is all-

pervasive and the employees had statutory protection and, therefore, the appellant being an authority or even instrumentality of the State, would be amenable to writ Jurisdiction of the High Court under Article 226 of the Constitution, it may not be necessary to examine any further the question if Article 226 makes a divide between public law and private law. Prima facie from the language of Article 226, there does not appear to exist such a divide. To understand the explicit language of the article. It is not necessary for us to rely on the decision of the-English courts as rightly cautioned by the earlier Benches of this Court. It does appear to us that Article 226 while empowering the High Court for issue of orders or directions to any authority or person, does not make any such difference between public functions and private functions. It is not necessary for us in this case to go into this question as to what is the nature, scope and amplitude of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. They are certainly founded on the English system of Jurisprudence. Article 226 of the Constitution also speaks of directions and orders which can be issued to any person or authority including. In appropriate cases, any Government. Under Clause (1) of Article 367, unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under Article 372, apply for the interpretation of the Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India. "Person" u/s 2(42) of the General Clauses Act shall include any company or association or body of individuals, whether incorporated or not. The Constitution is not a Statute. It is a fountainhead of all the Statutes. When the language of Article 226 is clear, we cannot put shackles on the High Courts to limit their jurisdiction by putting an interpretation on the words which would limit their jurisdiction. When any citizen or person is wronged, the High Court will step in to protect him be that wrong be done by the State, an instrumentality of the State, a company or a cooperative society or association or body of individuals, whether incorporated or not or even an individual. Right that is infringed may be under Part III of the Constitution or any other right which the law validly made might confer upon him. But then the power conferred upon the High Courts under Article 226 of the Constitution is so vast, this Court has laid down certain guidelines and self-imposed limitations have been put there subject to which the High Courts would exercise jurisdiction, but those guidelines cannot be mandatory in all circumstances. The High Court does not interfere when an equally efficacious alternative remedy is available or when there is an established procedure to remedy a wrong or enforce a right. A party may not be allowed to bypass the normal channel of civil and criminal litigation. The High Court does not act like a proverbial "bull in a china shop" in the exercise of its Jurisdiction under Article 226."

14. From the above. It is clear that if a person's right to employment is curtailed by the employer, the High Court will take appropriate step to protect Irrespective of the fact that such curtailment of right has been done by the State or instrumentality of the State, or a company or a cooperative society or an

association or body of individuals--whether incorporated or not or even an individual. Following this Judgment of Hon"ble Supreme Court, it is held that this Court is competent to issue appropriate writ in the matter of the petitioners whose services have been terminated by dictatorial verbal orders of the General Manager.

15. Learned counsel for the Sugar Mill argued next that the U. P. Cooperative Sugar Mills. Sultanpur, is an "industry" as defined under U. P. Industrial Disputes Act and, therefore, the petitioner should have approached the industrial Tribunal instead of coming to the High Court. In other words, it was submitted by Sri N. C. Mehrotra, learned counsel for the Sugar Mill that all the writ petitions are not maintainable as barred by the plea of alternative remedy. There is no doubt about the fact that the Kisan Sahkari Sugar Mill Limited. Sultanpur, is an "industry" within the meaning of U. P. Industrial Disputes Act. However, If the principles of natural justice have been violated in terminating the services of the petitioners, an appropriate writ can be issued by the High Court while exercising its writ jurisdiction. Following this principle of law, this Court in Mohd, Vunus and others v. U. P. Co-op. Sugar factories Fed. Ltd. and another. W.P. No. 12324 of 1999, vide Its judgment dated 27.9.1991, issued a writ of mandamus commanding the opposite parties, i.e., the Sugar Mill and others to reinstate the petitioners and pay them their salary equivalent to the other Class IV regular employees. What is relevant to note is that in the said case, the Sugar Mill. Sultanpur, itself was the employer of the workmen who had sought for the relief. In that case, the provisions of Section 6N of the U. P. Industrial Disputes Act were found to have been violated and, therefore. In spite of the fact that the petitioners could approach the labour Tribunal, filed writ petition and this Court granted the relief by virtue of a command to reinstate the workmen whose services had been terminated in Violation of the standing order.

16. In another judgment. Uttar Pradesh Chalchitra Nigam Limited Karmchari Union and another v. State of U. P. and others. 1990 (8) LCD 384, this Court while delving on the point in issue observed as follows :

"Where there is a clear violation of the provisions of Section 25F of the industrial Disputes Act or equivalent provision of Section 6N of the U. P. Act, and nothing further is to be investigated, the Court will proceed to decide the question itself and entertain the petition. But where, as in the instant case, there is serious dispute on vital questions of fact including whether or not retrenchment compensation was paid at the time of retrenchment and whether or not the industry was running at a loss and the management had bona fide decided to close down the industry and there were other exceptional circumstances which had to be investigated, the workmen would better be left to invoke the provisions of Section 10 of the industrial Disputes Act and seek a reference of the dispute to the industrial Court or Tribunal."

17. In the case in hand, the first part of the above quoted para is attracted as here only the question pertaining to termination of services of the petitioners in

violation of Section 6N of the U. P. Act and other provisions of standing orders is in issue. The situation stretching over to the second part, i.e., retrenchment of the employees following closure of the factory has not been pointed out nor pressed into service. It is admitted to the opposite parties that the Sugar Mill is still running and hundreds of workers are still working and contributing in the normal and routine functioning of the mill. Not even a small part of the factory is likely to be closed and, as such, the question of retrenchment does not arise. Even the opposite parties have come up before this Court with the plea that some of the workers were wrongly recruited during the last 10 years and further since the factory was running in loss, the administration of the Mill had taken decision to terminate the services of the petitioners. Even if this argument is accepted, the opposite parties cannot be permitted to act upon in the manner which is contrary to the natural principles of Justice, the provisions of the U. P. Industrial Disputes Act and the provisions contained in the standing orders. Most of the petitioners of the cases in hand have alleged that they have been turned out of the factory without even being told the cause of their termination. Neither they were served with any notice nor their service was liable to be terminated on the ground of mis-conduct, misbehaviour or dereliction of duty. In these circumstances, the plea of the learned counsel for the Mill that these writ petitions are not maintainable on the ground of alternative remedy being available to them is not tenable, hence rejected:

18. Now, the circumstances in which the petitioners' services have been dispensed with are to be looked into and examined. The opposite parties' case is that there were surplus hands working in the Mill and it was causing great financial strain on the factory which had started running in loss. It was supplemented further that some of the General Manager here, during last 10-12 years, had allowed engagement of hundreds of workers against the recruitment provisions and even without the sanctioned posts. Letter dated 22.11.1999 of the Managing Director was also referred to in this regard. It is true that any factory, if runs in loss, is bound to result in its closure on one day or the other. Therefore, the financial condition of any sick unit will be the determining factor regarding the strength of the staff and workers employed therein. But the question arises that once a recruitment to any post has been made-whether it is permanent or seasonal, it cannot be terminated without taking recourse to the provisions of Section 6N of the industrial Disputes Act and the provisions of the standing orders. u/s 6N. a month's notice is required and if notice is not served upon a worker, one month's wages are to be paid in lieu thereof. Similarly, there are provisions under the standing orders regarding termination of employment and under the heading "L. Termination of Employment" of the standing orders as issued by the Government of U. P., the employment of a workman, permanent or seasonal may be terminated in the following cases :

- (a) Genuine retrenchment ;
- (b) infirmity and disability ;

(c) Misconduct.

19. None of the above grounds has been alleged on the part of the petitioners. Their services have been terminated merely on the ground of either unsuitability or over-staffing. In either of the two cases, a notice would be required unless the termination of service of temporary/casual workman is there at the end of the season for which he was engaged. During the course of arguments. It was admitted by the learned counsel for the opposite parties that the crushing season in the factory is in full swing, therefore, it cannot be accepted that notice in the case of casual or temporary workman was not necessary. It is now a well-settled law that if a worker has worked for more than 240 days, his services could not be terminated without complying with the relevant provisions of law. Reliance can be placed upon this Court's decisions, as in *Yogesh Srivastava v. State of U. P.* and another 1998 (16) LCD 785, and *U. P. State Food and Essential Commodities Corporation and another v. Krishan Kumar Dubey* (1992) 10 LCD 147.

20. Further, the petitioners who have put in a long tenure of service have a right to be considered for regularisation. Their long continuance in service gives rise to a strong conviction about the need for creation of regular posts. Hon'ble Supreme Court in *State of Haryana and others Vs. Piara Singh and others etc.*, , has held that the issues pertaining to termination and regularisation of the services of the employees should not be by way of a mechanical act. The Apex Court observed further that where a temporary or ad hoc appointment is continued for long, the Court presumes that there is need and warrant for a regular post and accordingly directs regularisation. But there is no "rule of thumb" in such matters. The relief must be moulded in each case having regard to all the relevant facts and circumstances of that case. It cannot be a mechanical act but a judicious one. Issuing general declaration of indulgence is not part of Court's jurisdiction.

21. In view of the observations of Hon'ble Supreme Court in the case referred to above, it was expected of the opposite parties of the cases in hand not to have acted in an arbitrary manner and terminate the services of the petitioners by way of oral termination orders and even without resorting to the rules and guidelines laid down in the bye-laws. The provisions of Section 6N and 25F of the industrial Disputes Act. 1947, were not followed by the opposite parties and it has been a long drawn settled view that any termination order oral or written contrary to the provisions of the above two kinds of legislation and the prescribed rules of appointment and termination is absolutely illegal. This Court has ruled in *State of U. P. v. Dr. R. P. Goel and others*. 2000 (18) LCD 183, that where a person has worked in a temporary capacity for say 10 to 20 years, the termination of his service without opportunity of hearing would certainly be arbitrary because such an employee would ordinarily have got married and have his children, and is overage for other employment, and has settled down in life with reasonable expectation that ordinarily he will be continued in service till the age of

retirement.

22. The opposite parties have directed for oral termination of several workmen who were engaged for over a period ranging from 5 to 12 years and who were consequently obliged to file Writ Petition Nos. 8117 of 1991, 3007 (SS) of 1995, 3650 of 1996, 905 of 1996, 3648 of 1996, 2075 of 1997, 2443 of 1997, 2894 of 1997, 2303 of 1997, 796 of 1997, 1648 of 1997, 1837 of 1997, 2071 of 1997, 406 of 1997, 335 of 1998, 6899 of 1999, 6898 of 1999, 6897 of 1999, 6896 of 1999, 6895 of 1999, 6893 of 1999. 6892 of 1999. 6891 of 1999, 6894 of 1999, 1395 of 2000, 846 of 2000, 831 (S/S) of 2000, 758 of 2000, 757 of 2000, 684 of 2000, 691 of 2000, 756 of 2000, 86 of 2000. 864 of 2000, 790 of 2000, 1250 of 2000, 1000 of 2000, 669 of 2000 and 683 of 2000. The services of the petitioners were terminated by "Tuglaki" orders without taking recourse to the provisions of law and the bye-laws. Such oral termination by virtue of dictatorial orders is not sustainable in the democratic set up of society, particularly when the Government is under a constitutional obligation as envisaged under the Directive Principles of State Policy to work for the well being of the downtrodden and labour classes and ameliorate their lot by doing social Justice. This Court by virtue of decisions in. *Satish Chandra Shukla v. District Administrative Committee, Unnao and others*. W.P. No. 7721 (S/B) of 1993 and *Kapil Deo Singh v. U. P. Co-operative institutional Service Board, Lucknow and others*. W.P. No. 1343 of 1991, has held that a termination without affording a reasonable opportunity of being heard is contrary to the principles of natural justice. The opposite parties have invariably indulged in unnecessary litigation by flouting the statutory obligations. It appears that they are adamant to take decisions and pass orders in violation of the relevant enactments and bye-laws by passing oral termination orders without giving the workers an opportunity of being heard or following the laws and bye-laws.

23. In W.P. No. 12324 of 1990. *Mohd. Yunus and others v. U. P. Co -op. Sugar Factories Fed. Ltd. and another*, the authorities of the Sugar Mill, Sultanpur, were censured for having terminated the services of the workers who had completed more than 240 days in a year without giving one month's notice. Some of them were old workers and they were directed to be regularised.

24. Even on the point of regularisation. the opposite parties do not seem to have been working in a fair manner. In Writ Petition Nos. 8237 (S/S) of 1991, 9904 of 1993, 2378 of 1994, 479 of 1994, 5947 of 1994, 921 of 1995, 5568 of 1995, 5493 of 1995, 4566 of 1995, 596 of 1995, 63 of 1995, 61 of 1995, 53 of 1995, 5884 of 1996, 1035 of 1996, 397 of 1996, 398 of 1996, 286 of 1996, 823 of 1996, 777 of 1996, 705 of 1996, 399 of 1996, 7957 of 1996, 396 of 1996, 395 of 1996, 394 of 1996, 906 of 1996, 914 of 1996, 2088 of 1996, 1476 of 1996, 1291 of 1996, 1075 of 1996, 1098 of 1996, 7260 of 1996, 7464 of 1996, 7534 of 1996, 7719 of 1996, 7851 of 1996, 7852 of 1996, 4476 of 1996, 4587 of 1996, 5663 of 1996, 7887 of 1996, 1127 of 1996, 6898 of 1996, 1546 of 1996, 1644 of 1996, 1760 of 1996, 1790 of 1996, 1870 of 1996, 1972 of 1996. 2087 of 1996,

2343 of 1996, 2489 of 1996, 2639 of 1996, 2741 of 1996, 2885 of 1996, 2824 of 1996, 7088 of 1996, 2892 of 1996, 3477 of 1996, 2832 of 1997, 2955 of 1997, 2074 of 1997, 2098 of 1997, 2114 of 1997, 2113 of 1997, 2099 of 1997, 2436 of 1997, 2966 of 1997, 2884 of 1997, 2220 of 1997, 2214 of 1997, 5131 of 1997, 2881 of 1997, 96 of 1997, 285 of 1996, 6450 of 1996, 846 of 1997, 1090 of 1997, 1429 of 1997, 1481 of 1997, 1482 of 1997, 1736 of 1997, 1818 of 1997, 1836 of 1997, 2018 of 1997, 3089 of 1997, 3563 of 1997, 2052 of 1997, 2647 of 1997, 2871 of 1997, 2736 of 1997, 2244 of 1997, 4081 of 1998, 2152 of 1998, 1734 of 1998, 4188 of 1999 and 663 of 1999, the petitioners have sought regularisation on the ground of their being in service for a long term and at this juncture of the judgment, some of them have completed 16 years of service. Still, they have not been regularised. Mere sweeping allegation that some of them were engaged without there being any sanctioned post cannot absolve the opposite parties of their obligation to take suitable steps to regularise their employees working in the Sugar Factory, Sultanpur and restore those whose services have been illegally terminated. Their continuance in service for as long as a period, as mentioned above, is indicative of the fact that their services are required by the factory. After a long lapse of time, it will be unfair to terminate the services of the workmen merely on the ground that their engagement some five years back or more was without" justification of work seems to be arbitrary, unfair and unreasonable. The Sugar Mill must resort to its best efforts to resolve the dispute in the light of the observations made above.

25. Having regard to all what has been discussed above, a writ of certiorari quashing the oral termination of the service of the petitioners in the following writ petitions is issued.

Writ Petition Nos. 8117 of 1991, 3007 (S/S) of 1995, 3650 of 1996, 905 of 1996, 3648 of 1996, 2075 of 1997, 2443 of 1997, 2894 of 1997, 2303 of 1997, 796 of 1997, 1648 of 1997, 1837 of 1997, 2071 of 1997, 406 of 1997, 335 of 1998, 6899 of 1999, 6898 of 1999, 6897 of 1999, 6896 of 1999, 6895 of 1999, 6893 of 1999, 6892 of 1999, 6891 of 1999, 6894 of 1999, 1395 of 2000, 846 of 2000, 831 (S/S) of 2000, 758 of 2000, 757 of 2000, 684 Of 2000, 691 of 2000, 756 of 2000, 86 of 2000, 864 of 2000, 790 of 2000, 1250 of 2000, 1000 of 2000, 669 of 2000 and 683 of 2000.

26. The letter dated 22.11.1999, issued by the Managing Director of the Cane Federation directing the General Manager of the Sugar Mill, Sultanpur, to retrench the employees under pressure of a panic of resultant bankruptcy is also quashed. Declaration of 542 workers being surplus is also quashed. The opposite parties are directed to reinstate all the petitioners with immediate effect on the same posts on which they were working. Their rights in various categories of permanent, temporary, skilled, unskilled, non-seasonal and clerical will be protected.

27. Another writ of mandamus is issued commanding the opposite parties to regularise the services in accordance with rules of the petitioners who have filed

Writ Petition Nos. 8237 (S/S) of 1991, 9904 of 1993, 2378 of 1994, 479 of 1994, 5947 of 1994, 921 of 1995, 5568 of 1995, 5493 of 1995, 4566 of 1995, 596 of 1995, 63 of 1995, 61 of 1995, 53 of 1995, 5884 of 1996, 1035 of 1996, 397 of 1996, 398 of 1996, 286 of 1996, 823 of 1996, 777 of 1996, 705 of 1996, 399 of 1996, 7957 of 1996, 396 of 1996, 395 of 1996, 394 of 1996, 906 of 1996, 914 of 1996, 2088 of 1996, 1476 of 1996, 1291 of 1996, 1075 of 1996, 1098 of 1996, 7260 of 1996, 7464 of 1996, 7534 of 1996, 7719 of 1996, 7851 of 1996, 7852 of 1996, 4476 of 1996, 4587 of 1996, 5663 of 1996, 7887 of 1996, 1127 of 1996, 6898 of 1996, 1546 of 1996, 1644 of 1996, 1760 of 1996, 1790 of 1996, 1870 of 1996, 1972 of 1996, 2087 of 1996, 2343 of 1996, 2489 of 1996, 2639 of 1996, 2741 of 1996, 2885 of 1996, 2824 of 1996, 7088 of 1996, 2892 of 1996, 3477 of 1996, 2832 of 1997, 2955 Of 1997, 2074 of 1997, 2098 of 1997, 2114 of 1997, 2113 of 1997, 2099 of 1997, 2436 of 1997, 2966 of 1997, 2884 of 1997, 2220 of 1997, 2214 of 1997, 5131 of 1997, 2881 of 1997, 96 of 1997, 285 of 1996, 6450 of 1996, 846 of 1997, 1090 of 1997, 1429 of 1997, 1481 of 1997, 1482 of 1997, 1736 of 1997, 1818 of 1997, 1836 of 1997, 2018 of 1997, 3089 of 1997, 3563 of 1997, 2052 of 1997, 2647 of 1997, 2871 of 1997, 2736 of 1997, 2244 of 1997, 4081 of 1998, 2152 of 1998, 1734 of 1998, 4188 of 1999 and 663 of 1999.

28. Accordingly, the opposite parties shall examine the individual cases of the petitioners and take suitable steps for regularisation of their service. Of course, the process of regularisation may be completed in a phased manner within a period of two years.

No order as to costs.