

(2003) 09 PAT CK 0019
In the Patna High Court
Case No : C.W.J.C. No. 9751 of 2003

The Union of India (UOI) and Others

APPELLANT

Vs

Bithal Paswan and Another

RESPONDENT

Date of Decision : 11-09-2003

Acts Referred:

Citation : (2004) 1 PLJR 38

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The Union of India should have been satisfied with the order of the Central Administrative Tribunal in O.A. No. 920 of 2000: Bithal Paswan v. Union of India and Ors.

2. Firstly, an order of 3rd December, 2002 is being made the subject matter of a challenge after 10 months before the High Court. As casually as the issue has been treated in bringing the writ petition to the High Court so also the cause which was brought by the applicant before the Central Administrative Tribunal.

3. These are the issues:

Under the Ministry of Agriculture along with Indian Council of Agricultural Research, an organization, which functions under the patronage of the Union of India and its Ministry of Agriculture (this is discernible from the vakalatnama, which is appended to the petition), there is a Central Potato Research Institute which its headquarter is at Simla and in other parts of the nation there are research stations. Bihar also has one of them in Patna.

4. Bithal Paswan had been employed as a casual laborer in 1955. This is recorded in paragraph 2 of the order of the Tribunal. He retired in the year 2000 with approximately 34 years of service. When he made a demand for pension and/or regularization of service, an issue was raised that he cannot be regularized and

the question of granting him any pension does not arise. Any regularization which was accorded it was from 1991. This clearly affected the employee's pension. Reckoning of pension from the date of appointment and instead taking into account only the last decade of his service makes much difference to a Class-IV employee. When the matter reached the Central Administrative Tribunal all sorts of pleas were taken as if an employer is fighting with an employee laborer before a Labour Court or a Tribunal. One such plea was that this employee was never regularized, his functions were seasonal and the question of his receiving the benefits of regularization or full pension does not arise. In this decision the Tribunal recorded, to the effect, that the employee was not a farm hand as he worked for research station. Research is done year round. May be the research station also does farming but it does so for finding knowledge in fields of agriculture. Thus, this plea could not be put in the face of the employee that he was casual in nature.

5. There is an age old decision of the Supreme Court 196 IFLR: Baswant Sugar Mills, which was delivered more than 40 years ago that if the work lasts throughout the year is not casual and temporary in nature, then the functions of a workman will be deemed to be continuous service. The research station functions continuously. The dominant purpose of the employer here was research, potato farming may have been seasonal. Preserved potato for further research and the culture which is created, is an aspect, which is the dominant purpose of the employer.

6. The employer (sic-Tribunal ?) gave a decision that from the year 1961 to 1991 the employee should be reckoned as having performed half service and, thereafter, regularized with full service. This in itself should have satisfied such a large dominant employer as the Union of India. This Court is of the opinion that this ought to have been the end of controversies. This writ petition should not have been filed.

7. The employee was not stranger. Year after year he served the Union of India at its research station. There is no issue about the genesis of his employment. It is not the case of Union of India that his very appointment had been obtained fraudulently. This is not the case. The Court expects that the Union of India will act like a large hearted employer and accept the decision of the Tribunal as has been rendered. Otherwise, though no direction is being issued, this Court felt that the regularization ought to have been from the date when this employee entered his service in 1956.

8. Dismissed.