

(2025) 07 PAT CK 1315

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.10766 of 2022

Vinay Prakash

APPELLANT

Vs

Bank of India

RESPONDENT

Date of Decision : 29-07-2025

Acts Referred:

Citation : (2025) 07 PAT CK 1315

Hon'ble Judges : Anshuman, J

Bench : Single Bench

Advocate : Sanjay Kumar, Rupak Kumar

Final Decision : Disposed Of

Judgement

Anshuman, J

1. Heard learned counsel for the petitioner and learned counsel for the Respondent-Bank.

2. The present writ petition has been filed for the following relief/s:-

"I. For issuance of an appropriate writ/s, order/s, Direction/s for quashing of the order dated 12.05.2022 contained in Ref. No. ZO/MUZ/IR/2022-23/08 whereby and whereunder the representation filed by the petitioner pursuant to order dated 14.02.2022 passed in CWJC No. 7995/2021 has been rejected.

II. For issuance of an appropriate writ/s, order/s, Direction/s to the respondents to regularize the service of the petitioner in light of order dated 14.02.2012 passed in CWJC No. 7995/2021 and directions issued by Hon'ble Supreme Court of India in C.A. No. 10077/2018 whereby and whereunder the respondent authorities have been directed to consider reinstatement of the petitioner with regularization of service and back wages but due to abhorrence of the respondent no. 3 towards the petitioner.

III. For issuance of an appropriate writ/s, order/s, Direction/s to the respondents

to give all consequential benefits to the petitioner for the work which has been taken by him after regularization of his service.

IV. To pass such other order/orders as your Lordships may deem fit and proper in the facts and circumstances of this case.”

3. Learned counsel for the petitioner submits that the petitioner is one of the unfortunate employees of the Bank who has contested the matter up to the Hon’ble Supreme Court of India, before this Hon’ble Court twice, and is now appearing before this Hon’ble Court for the third time. Counsel submits that the petitioner was admittedly casual worker of the Bank. For regularization of his service, he has moved before the Presiding Officer Industrial Tribunal, Patna. Petitioner’s dispute was subsequently referred in Reference Case No.03(C) of 2009. In the said reference case, instead of reinstatement in service, petitioner was awarded compensation of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand). Petitioner thereafter, moved before this Hon’ble Court in C.W.J.C No.23639 of 2013 in which vide order dated 30.03.2016, Hon’ble Court was of the view that the compensation amount of Rs.1,25,000/- was not sufficient to the petitioner and accordingly, the amount was enhanced to Rs.3,00,000/- (Rupees Three Lacs) with further observation that if in future the Bank goes for appointment of Class-IV employee, the petitioner will have liberty to apply against the same and the Bank without being prejudiced of the present litigation, will consider the case of the petitioner in accordance with law. Counsel further submits that the petitioner thereafter, moved before the Hon’ble Division Bench of this Court in L.P.A No.1022 of 2016 which was dismissed vide order dated 18.11.2016. Thereafter, petitioner moved before the Hon’ble Supreme Court of India in Civil Appeal No.10077 of 2018 arising out of SLP (C) No.4574 of 2017 which was allowed vide order dated 28.09.2018 with specific observation that the award of compensation for Rs.3 Lacs passed by High Court could not be said to be adequate for him and he is directed to be reinstated with 40% of the back wages.

4. Learned counsel for the petitioner further submits that the petitioner in compliance of the order passed by the Hon’ble Supreme Court of India dated 28.09.2018, issued a letter dated 02.01.2019 for reinstatement and payment of back wages. Respondent-Bank paid 40% of the back wages to the petitioner amounting to Rs.6,88,724/- (Rupees Six Lacs Eighty Eight Thousand Seven Hundred Twenty Four) after deducting the amount of Rs.62,806/- (Rupees Sixty Two Thousand Eight Hundred Six) by way of Tax. Counsel submits that in the light of the letter dated 02.01.2019 of the Deputy Zonal Manager, Bank of India, Muzaffarpur, the petitioner gave his joining in the Branch Office of Bank of India, Motihari, East Champaran on 15.01.2019 which was duly accepted by the Bank officials and thereafter made prayer for regularization on 30.11.2019 through his advocate. Counsel submits that thereafter, petitioner has moved before this Hon’ble Court second time in C.W.J.C No.7995 of 2021 in which vide order dated 14.02.2022, this Hon’ble Court has pleased to direct the Respondent-Bank to

pass a speaking order and communicate as to whether petitioner is entitled for regularization or not? If he is entitled for regularization, necessary order shall be passed while extending service and monetary benefits in accordance with law. In compliance of the order passed by this Court in C.W.J.C No.7995 of 2021, speaking order was passed on 12.05.2022 in which petitioner's representation has been rejected holding that the petitioner is not found entitled for regularization in Bank's service. Counsel submits that after rejection of his regularization dated 12.05.2022, petitioner again moved before this Hon'ble Court in the present writ petition. Counsel submits that the order passed by the respondent authority dated 12.05.2022 should be rejected at once and the Respondent-Bank be directed to accept the petitioner in regular service.

5. Learned counsel appearing for Respondent-Bank on the other hand submits that the petitioner has made suppression before this Court. He submits that Annexure-A to the counter affidavit is the most relevant document before this Hon'ble Court for kind consideration. According to him, he submits that the petitioner was reinstated as per the directives of the Hon'ble Supreme Court of India and he was advised by the communication reference dated 02.01.2019 to join. But, the petitioner did not report for duty from 16.01.2019 to till date and therefore, he was not eligible for any wage for the period of his absence. Counsel further submits that the petitioner has not placed before this Court that he has also filed a contempt petition before the Hon'ble Supreme Court of India bearing Contempt Petition (C) No.977 of 2019 in which this plea has been taken that the Bank has violated the order passed by the Hon'ble Supreme Court of India and not reinstated him with back wages. Counsel submits that upon hearing the parties, Hon'ble Supreme Court of India has pleased to pass order, that the petitioner seeks leaves to withdraw the contempt petition with liberty to agitate the matter before an appropriate forum with respect to the relief which may be sought in respect of regularization etc. With this liberty, contempt petition was withdrawn. Counsel further submits that the petitioner is moving cold and hot together. He submits that the petitioner has contested this matter from Labour Court upto Hon'ble Supreme Court of India. Petitioner was admittedly a casual worker and his prayer for reinstatement in the service on regular basis has been rejected by the Industrial Tribunal then by the Hon'ble Single Judge of this Court and then by the Hon'ble Division Bench of this Court. The Hon'ble Supreme Court of India has pleased to direct the petitioner to be reinstated with 40% of the back wages, but it is only for casual worker and he was never been directed to reinstate as regular employee. In the recruitment process for regular employment, he has not opted to participate in compliance of Hon'ble Court's order and now come with relief for regularization again.

6. After hearing the parties and upon perusal of the records, it transpires to this Court that the petitioner's case before the Labour Tribunal was to regularize his services and grant compensation. His services was not regularized, but Hon'ble High Court has pleased to enhance the compensation amount. The Hon'ble Supreme Court of India has not enhanced the compensation amount but directed

him to be reinstated with 40% of the back wages. The contempt petition was filed before the Hon'ble Supreme Court of India and after discussion the same was withdrawn by the petitioner to avail the remedy before appropriate forum. Then, petitioner filed writ petition before this Hon'ble Court in C.W.J.C No.7995 of 2021 in which specific order has been passed. After passing the order, the Bank has come with clear stand that the service of the petitioner shall not be regularized and the prayer of the petitioner be rejected.

7. Learned counsel for the petitioner has come with the stand that the petitioner may be permitted to work on casual basis only in the light of Hon'ble Supreme Court's order.

8. It also transpires to this Court that the Bank has come with this case that the petitioner has neither come on duty after 16.01.2019 or participate in advertisement for regular employment in compliance of Hon'ble Court's order, nor started working in the light of Hon'ble Supreme Court's order. Whereas, petitioner is saying that he has provided his joining in the light of Hon'ble Supreme Court's order.

9. It is a disputed question of fact which cannot be decided before Writ Court. It is therefore, directed to the petitioner that he shall file his application before the concerned Labour Court within 30 days from today, who upon calling both the parties shall decide this disputed question of fact that whether petitioner has given his joining continue working, participate for regular appointment before the Bank in compliance of Hon'ble Court's order or not.

10. Hence, with the aforesaid direction, this writ petition stands disposed off.