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STATE OF UTTARANCHAL & ANR.

v.

SUNIL KUMAR SINGH NEGI
(Civil Appeal No. 1924 of 2008)

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MARCH 12, 2008

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

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Labour Law – Termination from service – Labour Court directing reinstatement – Employee issuing joining letter in compliance of the award – Instead of joining, employee filing claim for money for non-reinstatement – Employee not joining despite employer issuing another letter for joining and Assistant Labour Commissioner asking him to join – Subsequently Assistant Labour Commissioner directing payment of the amount claimed on the ground that reinstatement should have been at the same place from where the services were terminated – Writ petition – Dismissal of by cryptic order – On appeal, held: Since the order of High Court was non-reasoned without taking into consideration stand of the employer, is not sustainable – Matter remitted to High Court.

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Judgment – Reasons in – requirement of – Held: Right to reason is an indispensable part of sound judicial system – It is requirement of natural justice.

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Respondent had raised industrial dispute against the appellant. Labour Court directed his reinstatement and payment of back wages and expenses amounting to Rs. 6000/-. In compliance of the award, Department by a letter asked the respondent to join the duties. Respondent instead of joining, approached Assistant Labour Commissioner (ALC) lodging a claim of Rs. 92,842/- on the ground that Department failed to reinstate him. ALC directed the Department to give one more letter asking him to join. The same was done, but despite that, respondent did not join. ALC himself asked the

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respondent to join the duties. Respondent filed rejoinder stating that the department had deliberately asked him to join the work at different place with a view to harass him. ALC directed the appellant to pay the amount claimed by the respondent holding that respondent should have been reinstated at the same place from where his services were terminated. Department filed writ petition. The writ petition was dismissed by cryptic order. Hence the present appeal.

Disposing of the appeal and remitting the matter to High Court, the Court

HELD: 1.1 In view of the specific stand taken by the Department in the affidavit giving the factual details, the cryptic order passed by the High Court cannot be sustained. The absence of reasons has rendered the High Court order not sustainable. [Paras 6] [808-F]

1.2 Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made. [Para 8] [809-A, B]

State of U.P. vs. Battan and Ors. 2001 (10) SCC 607; *State of Maharashtra vs. Vithal Rao Pritirao Chawan*, 1981 (4) SCC 129; *Jawahar Lal Singh vs. Naresh Singh and Ors.* 1987 (2) SCC 222; *Raj Kishore Jha vs. State of Bihar and Ors.* 2003 (11) SCC 519 – relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1924 of 2008

From the final Judgment and Order dated 26.07.2006 of the High Court of Uttranchal at Nainital in Writ Petition (M/S) No. 820 of 2005.

A Abhishek Attrey and Anuvrat Sharma for the Appellants.

Puneet Aggrawal and Dr. Kailash Chand for the Respondent.

The Judgment of the Court was delivered by

B **P. SATHASIVAM, J.** 1) Leave granted.

2) This appeal is directed against the judgment and final order dated 26.07.2006 passed by the High Court of Uttarakhand at Nainital in Writ Petition (M/S) No.820 of 2005 whereby the High Court dismissed the same affirming the award of the Labour Court.

3) Brief facts:

D The respondent was engaged by the appellant – Horticulture Department as daily wager on 07.09.1987 and thereafter when the work was available he was engaged from time to time. However, he did not work for 240 days in any calendar year. He did not work as daily wager w.e.f. 09.7.1992 of his own. In 2001, the respondent after about nine years, raised an industrial dispute, which was referred to the Labour Court, Dehradun and was registered as Adjudication Case No. 45 of 2001. On 23.07.2001, the Labour Court directed the department to reinstate the respondent and to pay him Rs.5000/- by way of back wages and Rs.1000/- by way of expenses of the case. In pursuance of the aforesaid award, Rs. 6000/- was deposited and the respondent was asked to work as daily wager in Government Fruit Preservation Centre, Pauri under the Department of Horticulture & Food Processing, Pauri by letter dated 24.09.2002. However, the respondent neither joined in the said Department for quite a long period of one month nor gave any reply to the said letter. Instead of joining the work, the respondent approached the Assistant Labour Commissioner by filing a petition under the Industrial Disputes Act, 1947 and lodged a claim of Rs.92,842/- on the ground that he has not been provided the work and as such he is entitled to the salary w.e.f. February 2002 to January, 2005. In the said petition, an

objection was filed by the appellant stating therein that the respondent himself is guilty of disobedience and he himself did not come to join the place of work despite the letter dated 24.09.2002. The Assistant Labour Commissioner, Garhwal Mandal, Dehradun vide order dated 1.10.2003 directed the appellant to send one more letter to the respondent by registered post calling upon him to join the place of work. In compliance of the order, a letter was sent to the respondent on 08.10.2003. On 31.12.2004, the Assistant Labour Commissioner himself advised the respondent to join the work. Instead of joining the work, the respondent filed his rejoinder stating therein that the employer has provided the work at Pauri deliberately with a view to harass him. On 27.05.2005, the Assistant Labour Commissioner, Garhwal Mandal, Dehradun directed the appellant to pay Rs.92,842/- to the respondent holding that the appellant ought to have reinstated the respondent at the same place where he was earlier working and from where his services were terminated and holding that the respondent has been asked to work at Pauri to nullify the award passed by the Labour Court. Aggrieved by the said order, the appellants filed Civil Writ Petition (M/S) No. 820 of 2005 in the High Court of Uttaranchal at Nainital and the same was dismissed on 26.07.2006. Against the aforesaid order, the appellants preferred this appeal by way of special leave.

4) Heard Mr. Abhishek Attrey, learned counsel appearing for the appellant and Mr. Puneet Aggarwal, learned counsel appearing for the respondent.

5) In order to find an answer whether the impugned order of the High Court is sustainable, it is relevant to refer to the assertion made by the State of Uttaranchal in their petition before the High Court. It was stated that though respondent No 1 therein was engaged as daily wager on 07.09.1987 and thereafter when the work was available, he did not work for 240 days in any calendar year. Pursuant to the award of the Labour Court dated 23.07.2001, the Horticulture Department deposited an amount of Rs.6,000/- and the workman was asked to work

A as daily wager in Government Food Preservation Centre, Pauri
under the Department of Horticulture and Food Processing. He
did not join the work as requested but he approached the
Assistant Labour Commissioner by filing a petition and lodged
a claim of Rs.92,842/-. The Assistant Labour Commissioner
B himself advised the workman to join place of work at Pauri.
However, the worker ignored the advice of the Assistant Labour
Commissioner. Thereafter, the very same officer directed the
Department to pay Rs.92,842/- holding that the Department
ought to have reinstated the worker at the same place where
C his services were terminated. In several paragraphs, the
Department highlighted that the worker alone was guilty of not
joining the place of work despite repeated letters sent by them
as such there was no justification to award a claim of Rs.92,842/
-. With these particulars and other details, the Horticulture and
Food Processing Department filed a writ petition NO. 820 of
D 2005 before the High Court, Uttaranchal.

6) Now, let us see the impugned order passed by the High
Court, which reads as under:

E "I have perused the order dated 27.05.2005 passed by
respondent No.2 and I do not find any illegality in the order
so as to interfere under Article 226/227 of the Constitution
of India. The writ petition lacks merit and is liable to be
dismissed."

F In view of the specific stand taken by the Department in
the affidavit which we have referred above, the cryptic order
passed by the High Court cannot be sustained. The absence of
reasons has rendered the High Court order not sustainable.
Similar view was expressed in *State of U.P. vs. Battan and*
G *Ors.* (2001) 10 SCC 607). About two decades back in *State of*
Maharashtra vs. Vithal Rao Pritirao Chawan, (1981) 4 SCC
129, the desirability of a speaking order was highlighted. The
requirement of indicating reasons has been judicially recognized
as imperative. The view was reiterated in *Jawahar Lal Singh*
H *vs. Naresh Singh and Ors.* (1987) 2 SCC 222.

7) In *Raj Kishore Jha vs. State of Bihar and Ors.* (2003) 11 SCC 519, this Court has held that reason is the heartbeat of every conclusion and without the same, it becomes lifeless. A

8) Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made. B

9) In the light of the factual details particularly with reference to the stand taken by the Horticulture Department at length in the writ petition and in the light of the principles enunciated by this Court, namely, right to reason is an indispensable part of sound judicial system and reflect the application of mind on the part of the court, we are satisfied that the impugned order of the High Court cannot be sustained. C D

10) Under these circumstances, the order of the High Court is set aside and we remit the matter to it for fresh disposal in accordance with law by a reasoned order. The appeal is disposed of. No costs. We make it clear that we have not expressed any opinion on the merits of the case though we adverted to the grounds taken by the Department in their writ petition. E

K.K.T.

Appeal disposed of. F