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SUPREME COURT ON REINSTATEMENT AFTER WRONGFUL TERMINATION

A. Introduction:

The Supreme Court of India (“SC”) in the *Allahabad Bank v. Krishan Pal Singh*,¹ held that reinstatement with full back wages is not automatic in every case of wrongful termination.

B. Brief Facts:

1. Krishan Pal Singh (“**Krishan**”) was appointed as a clerk-cum-cashier in Allahabad bank (“**Bank**”) in 1985 and his service was confirmed in 1986. In 1989, when he was posted in the Aurangabad branch of the Bank, his service was suspended, alleging his involvement in burning of bank records. Disciplinary proceedings were initiated against him.
2. On completion of enquiry, the respondent was dismissed from service in 1991. Subsequently, Krishan raised an industrial dispute and the Industrial Tribunal and Labour Court, Kanpur (“**Tribunal**”).
3. The Tribunal ordered Rs. 30,000 as compensation and held that the misconduct alleged against Krishan is not proved but it did not order reinstatement as it found that the management of the Bank had “lost confidence in him.”²
4. Seeking reinstatement with back wages, Krishan went on appeal to the High Court of Allahabad (“**HC**”). The HC ordered reinstatement of Krishan with all consequential benefits on ground that “*suspicion, however, high may be, can under no circumstances be held a substitute to legal proof.*”³
5. The Bank approached the SC against challenging the order of the HC. By interim orders of 2019, the directions for reinstatement ordered by the HC were stayed by the SC.

C. SC Judgment:

1. The SC partly upheld the order of the HC by awarding Rs. 15 lakhs as compensation to Krishan payable within a period of eight weeks from the date of the order.⁴

D. Reasoning:

1. The SC took note of the fact that during the pendency of the proceedings, Krishan had reached age of superannuation and he was in service only for a period of six years.⁵
2. It reiterated that there was no acceptable evidence on record for the dismissal of the worker.⁶
3. It held that this was a fit case of modification by the HC observing:⁷ “*The reinstatement with full back wages is not automatic in every case, where termination / dismissal is found to be not in accordance with procedure prescribed under law. Considering that the respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and*

¹ Order in SLP(C) No.19648 of 2019 available at https://main.sci.gov.in/supremecourt/2019/25097/25097_2019_42_1501_30171_Judgement_20-Sep-2021.pdf.

² Award dated 07.10.1997 in Industrial Dispute No. 98 of 1994.

³ Order dated 25.04.2019 in Writ Petition in Service Single No. 692 of 1998.

⁴ Para 8 of the Judgment.

⁵ Para 8 of the Judgment.

⁶ Para 8 of the Judgment.

⁷ Para 8 of the Judgment.

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in the meantime, respondent had attained age of superannuation, we deem it appropriate that ends of justice would be met by awarding lump sum monetary compensation.

E. Comment:

This judgment is a reaffirmation of the SC's paradigm shift in view on matters of wrongful termination. In its judgment in *Santosh Kumar Seal* case of 2010,⁸ it emphatically observed that:

“In last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. In a recent judgment authored by one of us (R.M. Lodha, J.) in the case of Jagbir Singh v. Haryana State Agriculture Marketing Board and Anr.,⁹ the aforesaid decisions were noticed and it was stated:

“It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.”

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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⁸ *Senior Superintendent Telegraph (Traffic) Bhopal vs. Santosh Kumar Seal and Ors.* (26.04.2010 - SC) : MANU/SC/0292/2010.

⁹ MANU/SC/1213/2009 : (2009) 15 SCC 327.