

**(2016) 10 PAT CK 0075**

**PATNA HIGH COURT**

**Case No:** L.P.A. No. 2025 of 2010 in C.W.J.C. No. 13529 of 2006 with L.P.A. No. 2042 of 2010 in C.W.J.C. No. 10612 of 2007

State Bank of India

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision:** Oct. 18, 2016

**Citation:** (2017) 152 FLR 1000 : (2017) 1 LLJ 15

**Hon'ble Judges:** Mr. Navaniti Prasad Singh and Smt. Nilu Agrawal, JJ.

**Bench:** Division Bench

**Advocate:** Mr. Chittaranjan Sinha, Senior Advocate, Mr. Siddhartha Prasad, Advocate, Ms. Surya Nilambari, Advocate, for the Appellants; Mr. Arvind Kumar, Advocate Mr. Rakesh Kumar, Advocate, Mr. Arbind Kumar Singh, Advocate, for the Respondents; Mr. Ravinder Kumar S

**Final Decision:** Disposed Off

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### **Judgement**

**Mr. Navaniti Prasad Singh, J.(Oral)** - These two intra-court appeals arise out of judgment and order dated 12.10.2010, passed by learned Single Judge in C.W.J.C. No. 13529 of 2006 and C.W.J.C. No. 10612 of 2007 which were heard and disposed of as analogous. The writ petitions were filed by the State Bank of India (hereinafter referred to as the Bank), which were dismissed, hence, the intra-court appeal.

2. There are three private respondents, who are the same in both the appeals. They have appeared and have been heard.

3. It appears that the private respondents were hired by Darbhanga Branch of the Bank as part time worker as Sweepercum-Farash. Having worked for a considerable period, the three private respondents sought for regularization. This having been refused, industrial dispute was raised and reference was made. During pendency of the reference before the Industrial Tribunal, their services were stopped to be taken. This gave rise to a second reference with regard to validity of their termination. Both the industrial references were decided against the Bank. The Tribunal held that their

termination being without notice the termination was bad, and, accordingly, directed reinstatement. In the other reference, the Tribunal held that they were not merely part time workers but were doing jobs for the benefit of the Bank throughout the day since 1991, and, as such, were liable to be regularised in service. Bank, thus, filed the two writ petitions challenging the two awards. So far as regularisation is concerned, the writ petition was substantially allowed and the regularisation was made depending upon certain facts to be enquired into again. Bank being aggrieved are challenging that it was not a case of regularisation at all. In the second writ petition learned Single Judge refused to interfere with the award of setting aside termination and directing reinstatement. Hence, the two appeals.

4. In course of hearing before us, we noticed that the questions, as raised on behalf of the Bank, are not free from difficulty. The facts, which appear from the record, would show that the petitioners were, in fact, engaged by the Bank as part time Sweepercum-Farash when the Branch had shifted to another premises. This work was hardly of an hour or two a day but the facts are also there that they continued to be in the Bank throughout the day doing various jobs for the officers. According to the Bank, in respect of this part there was no privity of contract between the Bank and these individuals. It was a private arrangement between the officers and these persons. On behalf of the Bank, it was further urged that there was no need for such employees in the Bank and, therefore, there could be no reinstatement, in fact, there was no such post sanctioned.

5. We have considered the matter and heard the parties. To us, it seems that a just settlement could be slightly different from what the Industrial Tribunal did or what the learned Single Judge did. We would rather follow what was done by the Apex Court under somewhat similar circumstances in the case of State Bank of India v. Suresh Thakur and others being Civil Appeal No. 2648- 49 of 2015 (arising out of Special Leave Petition (Civil) Nos. 34444- 45 of 2010) as disposed of on 26.02.2015. Instead of ordering reinstatement and regularization, interest of justice would be sub served if the three private respondents are paid a lump sum settlement amount of Rs. 5 lakhs each, as was done in the aforesaid case before the Apex Court in full and final settlement of all their claims as against the Bank. The awards of the Industrial Tribunal and the order of the learned Single Judge would, thus, be modified accordingly and the awards be deemed to be satisfied accordingly upon payment of the aforesaid separation amount to the three private respondents. The amount aforesaid should be paid within two months.

6. The two appeals are, accordingly, disposed of.