IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (L) No. 3745 of 2009

Employer in relation to Management of Food Corporation of India, a Body Corporate incorporated under the Food Corporation of India Act, through its Area Manager, Manoj Kumar, son of C.P. Gond, Resident of Nutan Nagar, P.S. – Civil Lines, P.O. and District – Gaya.

… … **Petitioner**

V E R S U S

Anil Kumar, son of Ram Parmeshwar Prasad Sharma, Resident of FCI, Civil Lines, P.O. and P.S. – Civil Lines, District – Gaya, Bihar

… ... **Respondent**

CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK

For Petitioner : Mr. Nipun Bakshi, Advocate
For the Respondent : Mrs. M.M. Pal, Sr. Advocate
Ms. Mohua Palit, Advocate.

C.A.V. on 08.09.2020 **Pronounced on 21.10.2020**

Dr. S.N. Pathak, J. In view of outbreak of COVID-19 pandemic, case was taken up through Video Conferencing and heard at length. Concerned lawyers had no objection with regard to the proceeding which was held through Video Conferencing and there was no complaint in respect to audio and video clarity and quality and after hearing at length, the matter was reserved for final disposal.

PRAYER OF THE PETITIONER - MANAGEMENT

2. Petitioner-Management has approached this Court with a prayer for quashing the Award dated 08.05.2009, pronounced on 27.05.2009, passed by Presiding Officer, Central Government Industrial Tribunal No. 1, Dhanbad, passed in Reference Case No. 76 of 1997, whereby a direction has been issued to the petitioner – Management for regularization in service of the respondent - workman.

CASE OF THE PETITIONER – MANAGEMENT

3. The case of the petitioner – Management is that the respondent – workman was appointed on 04.12.1982 purely on casual basis. The workman has never pleaded that either any appointment letter was issued to him or he was appointed against any sanctioned post or his appointment was made after following any selection procedure or through employment exchange. The workman even did not bring on record anything to show that he was having requisite qualification for being appointed to the post of

Hindi Typist in Food Corporation of India. On 06.05.1984, the casual service of the workman was terminated which was challenged by him before the Central Government Industrial Tribunal No. 1 at Dhanbad. Vide Award dated 08.08.1990, the Central Government Industrial Tribunal No. 1 at Dhanbad held that the workman completed 240 days of service and since he had not been paid retrenchment compensation, so his termination of service was wrong and a direction was made for his reinstatement. After his reinstatement in service on 10.05.1991, the workman is continuing in service on casual basis.

4. It is further case of the Management that on 03.02.1995, a Circular was issued inviting applications from internal candidates fulfilling eligibility criteria for filling up the post of Hindi Typist. Though a co-worker applied for the said regular post, but the workman/respondent did not apply for the same and chose to raise industrial dispute claiming regularization of service and got a reference made under Section 10 of the Industrial Dispute Act vide Reference Case No. 76 of 1997. The said Reference was decided in favour of the workman holding that the concerned workman is entitled for regularization as Hindi Typist on regular basis since 13.12.1991 with full back wages and also entitled for pay protection from 08.05.1984 and a direction was passed to the Management to implement the Award within 30 days from the date of publication of the same. Being aggrieved by the same, the Management has preferred instant writ petition.

ARGUMENTS ON BEHALF OF THE PETITIONER-MANAGEMENT

5. Mr. Nipun Bakshi, learned counsel appearing on behalf of the petitioner-management argues that litigious employment has been deprecated by the Hon'ble Supreme Court in the case of ***Uma Devi*** reported in ***2006(6) SCC 1*** and it has been held that the benefits of one time reglarisation to irregular workers who have put in more than ten years of service, cannot be extended to those who are in service only by virtue of orders of Courts and Tribunals. The concerned workman has not been able to bring on record the appointment letter nor did he possess the requisite qualification. The concerned workman never appeared in any selection process held by the Management. The concerned workman did not fulfil the

conditions and criteria as laid down in FCI Staff Regulation of 1971. The direction to regularize the workman in service is totally contrary to law making the award unsustainable and the same is fit to be set aside. Relying on the Judgment reported in ***AIR 1992 SC 789,*** learned counsel further argues that the Hon'ble Apex Court has deprecated the backdoor entry in any establishment. Learned counsel further submits that it has clearly been held in the case of ***Uma Devi*** (Supra) that the Supreme Court and the High Courts should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees unless the recruitment itself was made regularly in terms of the constitutional scheme. Learned counsel further places heavy reliance in the Judgment passed in the case of ***Hari Nandan Prasad and Another Vs. Employer I/R to Management of Food corporation of India and Another*** reported in ***(2014) 7 SCC 190*** and submits that it would depend on facts of each case whether order of regularization is necessitated to advance justice or has to be denied if giving of such a direction infringes upon the employer's rights. It has further been argued that the law laid down in ***U.P. Power Corporation and Maharashtra SRTC cases*** is not contradictory to each other. On a harmonious reading of the two judgments, even when there are posts available, in the absence of any unfair labour practice, the Labour Court cannot give direction for regularization only because a worker has continued as a daily-wage worker/ad-hoc/ temporary worker for number of years. When the worker concerned does not meet the eligibility requirements of the post in question as per the recruitment rules, he cannot be regularized in the said post.

ARGUMENTS ON BEHALF OF THE RESPONDENT – WORKMAN

6. Mrs. M.M. Pal, learned Sr. Counsel argues that the Award dated 08.05.2009, passed in Reference Case No. 76 of 1997 is legal, proper, valid and is based on evidences on record and no interference is warranted by this Court. The writ petition is not maintainable and is fit to be dismissed. The respondent-workman was appointed on 04.12.1982 and since then he is in continuous service without any break and he is still holding the post under the Management herein. There is clear finding of the Tribunal that the Regional Office, Patna had written a letter to the District Manager, FCI,

Gaya for appointment of casual typist and approval was given by the Regional Office on 01.12.1982 on which post the workman was appointed after interview and the typing test and he is continuing to the said post. There is no difference between the work of a casual Hindi Typist or the permanent Hindi Typist and the workman is performing the same, similar and identical duties to that of a regular Hindi Typist. Learned Sr. Counsel further argues that earlier also termination of the workman was challenged before the Tribunal and after the Award passed by the Tribunal, he was reinstated to the original service with back wages. The long continuous service of more than 25 years itself is sufficient to prove eligibility of the workman. Quoting the established law reported in ***2001 SC 706,*** learned Sr. Counsel argues that long service on the post in question is enough to prove eligibility/ qualification and as such, workman is qualified and eligible for the post of Hindi Typist as he is holding the post for more than 25 years without any complaint from any corner. Learned Sr. Counsel further argues that in spite of having sanctioned vacant post, the concerned workman has not been regularized arbitrarily in order to deny him regular pay scale as also to deny the benefits of regular services and accordingly, the Award has rightly been passed holding the workman entitled to be regularized as a Hindi Typist since 13.12.1991 with full back wages and pay protection has also been given from 08.05.1984. Learned Sr. Counsel further argues that the workman has been denied regular appointments held in the years 1994, 1995 and 1996. It is own scheme of the management to regularise the casual workers who have worked for more than 90 days on or before 02.05.1986 for which Circular was also issued, but in spite of that the respondent was not regularized. One Manoj Kumar was also appointed as a casual typist at par with the workman and he was regularized as a regular typist from the year on the basis of the Award passed by the Tribunal but the workman has been denied the same. Learned Sr. Counsel further argues that more than 75 – 80 such casual workers who have worked for more than 90 days on or before 02.05.1986, were regularized under the FCI Management on the basis of Circular dated 06.05.1987 issued by the Head Quarters but in spite of that, the benefits of regularization has not been extended to the workman till date even after continuous service of 25 years.

While concluding her arguments, learned Sr. Counsel submits that during pendency of the writ petition, the workman has already superannuated from his service on and from 23.01.2018 on attaining his age of 60 years. The typing speed of the workman dated 03.03.2014 along with order of superannuation has been placed on record along with written argument dated 02.09.2020. Learned Sr. Counsel further submits that in the circumstances, appropriate directions may be passed to give him retiral benefits after regularizing his services.

CONCLUSION

7. The Industrial Disputes Act is a benign measure which seeks to pre-empt industrial tensions, provide the mechanics of dispute resolution and set up the necessary infrastructure, so that the energies of the partners in production may not be dissipated in counterproductive battles and the assurance of industrial justice may create a climate of goodwill. In order to achieve the aforesaid objectives, the Labour Couts/Industrial Tribunals are given wide powers not only to enforce the rights but even to create new rights, with the underlying objective to achieve social justice. Way back in the year 1950 i.e. immediately after the enactment of the Industrial Disputes Act, in one of its first and celebrated Judgment in the case of ***Bharat Bank Ltd. V. Employees*** reported in ***AIR 1950 SC 188***, it has been held in para 61 as under;

> *"61. ... ... In settling the disputes between the employers and the workmen, the function of the tribunal is not confined to administration of justice in accordance with law. it can confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing agreement. It has not merely to interpret or give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace."*

8. Be that as it may, having considered rival submission of the parties across the bar and after examination of the documents brought on record, this Court is of the view that there is no illegality or any infirmity in the order passed by the Presiding Officer, Central Government Industrial Tribunal No. 1, Dhanbad in Reference Case No. 76 of 1997 on the following grounds:

(i) Admittedly the documents brought on record filed by the Management as well as the concerned workman shows that there was vacancy of Hindi typist in the Management.

(ii) Law is well settled that there has to be equality in law and nobody can be discriminated if the nature of job is same and performance are same or similar, they are entitled for pay protection and salary on the principle of '*equal pay for equal work'*

In the case of "**Mewa Ram Kanojia v. All India Institute of Medical Sciences *[(SCC pp. 239 & 241, paras 5 & 7]*** it has been held as follows:

> *"5. While considering the question of application of principle of 'Equal pay for equal work' it has to be borne in mind that it is open to the State to classify employees on the basis of qualifications, duties and responsibilities of the posts concerned. If the classification has reasonable nexus with the objective sought to be achieved, efficiency in the administration, the State would be justified in prescribing different pay scales but if the classification does not stand the test of reasonable nexus and the classification is founded on unreal, and unreasonable basis it would be violative of Articles 14 and 16 of the Constitution. Equality must be among the equals. Unequal cannot claim equality".*

(iii) In the instant case, though the workman and the other two persons who are doing the same and similar job as a regular Hindi Typist and Casual Hindi Typist, and as there is no difference of work between them, which is clear from the evidence of M.W.-1 [Cross Examination] and when there is no vacancy as per the M.W.-3, sanctioned strength of seven and existing 6 permanent and one casual, there is no reason to keep vacant the post of one Hindi Typist for an indefinite period. This amounts to malice in law. The Management cannot take the shelter of the Judgment passed in the case of ***Uma Devi (Supra)***. Since there was clear vacancy with the Management with sanctioned permanent post, the concerned workman should not have been deprived. The Hon'ble Division Bench in **L.P.A. No. 516 of 2006 with L.P.A. No. 518 of 2006** has held as under:

> *"**15.** It appears that learned Single Judge has not taken into consideration the fact that there is already a policy*

decision dated 6th May, 1987 (Ext. 8 before the Central Government Industrial Tribunal, Dhanbad) and relevant abstracts, para-4 of the Circular reads as under:-

> *"4. In view of the above decision of the Board of Directors, it has been decided to relax the ban on recruitment for filing in country level Category-III and IV posts by considering full-time casual/ daily rated employees who have been performed duties of regular employees of the Corporation under FCI (Staff) Regulations, 1971 and who have completed three months periods of service as on 2.5.1986 and passes the requisite qualification etc. The casual employees who do not fulfill the conditions of appointment for any entry level category-III and IV posts shall be retrenched by paying retrenchment compensation as required under the provision of I.D. Act, 1947. The age limit, however, be relaxed by the competent authority as specified in appendix-II of the FCI (Staff) Regulation to the extent of service rendered by such casual employees in the Corporation on daily rated/ casual basis. This decision shall not apply for part time casual employees and they shall not be regulated."*

16. In view of policy decision of the Food Corporation of India, which is a Govt. of India undertaking, services of all similarly situated workers have been regularized because they were fulfilling required criteria of three months service as on 2nd May, 1986. Present Worker, Shri Jamuna Das was admittedly working for the year 1972 – 73. This fact has already been established as per the award passed by the tribunal and therefore, when this policy decision was applied for other similarly situated workers, there is no reason for the Food Corporation of India not to follow the same with respect to the present worker Shri Jamuna Das."

…. .,.. … …

18. This aspect of the matter has also not been properly appreciated by the learned Single Judge. It appears that several decision in ***Uma Devi (Supra)*** *was relied upon by the learned Single Judge. But, we like to observe here that the ratio decidendi in these cases does not apply to the present case. Nonetheless, said ratio should be read in the context of facts of the present case. No Judge can lost site of the facts. The fabric of the facts is to be viewed in its proper perspective. When there is already a policy decision of the Food Corporation of India for regularization and when the concerned workmen are fulfilling all the criteria, including the length of service on or before a particular cut off date (in the present case there is a condition of three months service as on 2nd May, 1986), said policy decision is*

to be followed by the Management uniformly in all cases. The Management can not adopt pick and choose method in regularization. Applying the policy decision in few cases while not doing so with respect to others tantamount not only to discrimination but also to arbitrariness on the part of the respondent Management and whenever there is arbitrariness there is always a breach of right to equality. Arbitrariness and equality are sworn enemies. When arbitrariness is present, equality is always absent and vice versa. Thus, there was already a policy decision issued by the respondent – Food Corporation of India, under which, if any casual worker or daily wages worker on or before 2nd May, 1986 has completed three months' of service, he should be regularized and as per the said policy decision, similarly situated co-workers have been regularized. The present workman Jamuna Das was also fulfilling the criteria of the completion of three months' service on 2nd May, 1986 as required under the said policy decision. In these circumstances, no error has been committed by Central Government Industrial Tribunal No. 1, Dhanbad in passing the Award dated 6th May, 1997 in Reference No. 122 of 1996. This aspect of the matter has also not been properly appreciated by the learned Single Judge while allowing the writ petition.

(iv) The Hon'ble Apex Court in the case of ***Hari Nandan Prasad and Another Vs. Employer I/R to Management of Food Corporation of India and Another*** reported in ***(2014) 7 SCC 190*** **: 2014 SCC OnLine SC 132 at page 209,** has also dealt with similar matter and in paragraphs 28, 30 and 34 it has held as under:

"**28.** The Corporation challenged the decision of the learned Single Judge by filing LPAs which were dismissed by the Division Bench on 6-5-2005 [*Maharashtra SRTC* v. *Kishore Kondiram Jagade*, (2006) 2 Bom CR 340 : (2005) 4 Mah LJ 798] . This is how the matter came before the Supreme Court. One of the contentions raised by the appellants before this Court in *Maharashtra SRTC case* [*Maharashtra SRTC* v. *Casteribe Rajya Parivahan Karmchari Sanghatana*, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] was that there could not have been a direction by the Industrial Court to give these employees status, wages and other benefits of permanency applicable to the post of cleaners as this direction was contrary to the ratio laid down by the Constitution Bench of this Court in *Umadevi (3)* [*State of Karnataka* v. *Umadevi*

(3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . The Court while considering this argument went into the scheme of the MRTU and PULP Act. It was, inter alia, noticed that complaints relating to unfair labour practice could be filed before the Industrial Court. The Court noted that Section 28 of that Act provides for the procedure for dealing with such complaints and Section 30 enumerates the powers given to the Industrial and Labour Courts to decide the matters before it including those relating to unfair labour practice. On the reading of this section, the Court held that it gives specific power to the Industrial/Labour Courts to declare that an unfair labour practice has been engaged and to direct those persons not only to cease and desist from such unfair labour practice but also to take affirmative action. Section 30(1) conferring such powers is reproduced below:

> "**30.*Powers of Industrial and Labour Courts***.—(1) Where a court decides that any person named in the complaint has engaged in, or is engaging in, any unfair labour practice, it may in its order—
>
> (*a*) declare that an unfair labour practice has been engaged in or is being engaged in by that person, and specify any other person who has engaged in, or is engaging in the unfair labour practice;
>
> (*b*) direct all such persons to cease and desist from such unfair labour practice, and take such affirmative action (including payment of reasonable compensation to the employee or employees affected by the unfair labour practice, or reinstatement of the employee or employees with or without back wages, or the payment of reasonable compensation), as may in the opinion of the court be necessary to effectuate the policy of the Act;
>
> (*c*) where a recognised union has engaged in or is engaging in, any unfair labour practice, direct that its recognition shall be cancelled or that all or any of its rights under sub-section (1) of Section 20 or its right under Section 23 shall be suspended."

… … …

"**30.** Detailed reasons are given in support of the conclusion stating that the MRTU and PULP Act provides for and empowers the Industrial/Labour Courts to decide about the unfair labour practice committed/being committed by any person and to

declare a particular practice to be unfair labour practice if it so found and also to direct such person to cease and desist from unfair labour practice. The provisions contained in Section 30 of the MRTU and PULP Act giving such a power to the Industrial and Labour Courts vis-à-vis the ratio of *Umadevi (3)* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] are explained by the Court in the following terms: (*Maharashtra SRTC case* [*Maharashtra SRTC* v. *Casteribe Rajya Parivahan Karmchari Sanghatana*, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] , SCC pp. 573-74, paras 32-33 & 36)

> "*32*. The power given to the Industrial and Labour Courts under Section 30 is very wide and the affirmative action mentioned therein is inclusive and not exhaustive. Employing badlis, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent employees is an unfair labour practice on the part of the employer under Item 6 of Schedule IV. Once such unfair labour practice on the part of the employer is established in the complaint, the Industrial and Labour Courts are empowered to issue preventive as well as positive direction to an erring employer.
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> *33*. The provisions of the MRTU and PULP Act and the powers of the Industrial and Labour Courts provided therein were not at all under consideration in *Umadevi (3)* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . As a matter of fact, the issue like the present one pertaining to unfair labour practice was not at all referred to, considered or decided in *Umadevi (3)* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . *Unfair labour practice* on the part of the employer in engaging employees as badlis, casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent employees as provided in Item 6 of Schedule IV and the power of the Industrial and Labour Courts under Section 30 of the Act did not fall for adjudication or consideration before the Constitution Bench.
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> *36. Umadevi (3)* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753]

> does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of the MRTU and PULP Act to order permanency of the workers who have been victims of unfair labour practice on the part of the employer under Item 6 of Schedule IV where the posts on which they have been working exist. *Umadevi (3)* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under Section 30 of the MRTU and the PULP Act, once unfair labour practice on the part of the employer under Item 6 of Schedule IV is established."

… … …

"34. A close scrutiny of the two cases, thus, would reveal that the law laid down in those cases is not contradictory to each other. In *U.P. Power Corpn.* [*U.P. Power Corpn. Ltd.* v. *Bijli Mazdoor Sangh*, (2007) 5 SCC 755 : (2007) 2 SCC (L&S) 258] , this Court has recognised the powers of the Labour Court and at the same time emphasised that the Labour Court is to keep in mind that there should not be any direction of regularisation if this offends the provisions of Article 14 of the Constitution on which the judgment in *Umadevi (3)* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is primarily founded. On the other hand, in *Bhonde case* [*Food Corporation of India* v. *Union of India*, (2005) 106 FLR 1171 : 2005 AIR Jhar R 1962] , the Court has recognised the principle that having regard to the statutory powers conferred upon the Labour Court/Industrial Court to grant certain reliefs to the workmen, which includes the relief of giving the status of permanency to the contract employees, such statutory power does not get denuded by the judgment in *Umadevi (3) case* [*State of Karnataka* v. *Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . It is clear from the reading of this judgment that such a power is to be exercised when the employer has indulged in unfair labour practice by not filling up permanent posts even when available and continuing to employ workers on temporary/daily-wage basis and taking the same work from them and making them do some purpose which was being performed by the regular workers but paying them much less wages. It is only when a particular practice is found to be unfair labour practice, as enumerated in Schedule IV of the MRTP and PULP Act, and it necessitates giving direction under Section 30 of the said Act, that the court would give such a direction."

9. Though the workman was reinstated but instead of regular Typist, he was allowed to join as a casual typist in the year 1991. From the evidences brought on record, it appears that there was regular appointments of regular typist by the Management but the concerned workman was neither informed nor any opportunity was given to confirm his as a regular typist. Even after his reinstatement, the Management made regular appointments in the years 1994, 1995 and 1996 but nothing has been brought on record to show that the concerned workman was ever informed or given any opportunity to participate for appointment as a regular typist. The nature of work of casual typist and the regular typist are same and similar. The concerned workman has been discriminated as he was getting salary of Rs.1,400/- though on salary hike, he was getting a sum of Rs.1,890/- per month but the regular typist who was appointed in the year 1984, was getting monthly salary of Rs.8,000/-, besides the other benefits of Earned Leave, Commuted Leave, etc.

10. The similarly situated one Manoj Kumar, who was also appointed as a casual typist at par with the workman, was regularized as a regular typist on the basis of the Award passed by the Tribunal but the workman has been denied the same. Even the Circular dated 02.05.1986 has not been considered by the Management and the petitioner has not been regularized though there was clear vacancies in the cadre of regular typist. Deliberately, he was allowed to continue as a casual typist.

11. The law is well settled that there has to be equality before the law. the workman is entitled for equal pay for equal work. Equal pay for equal work is not expressly declared by the Constitution as a fundamental right but in view of Directive Principles of State Policy, as contained in Article 39(d) of the Constitution of India, "*Equal pay for equal work"* has assumed the status of fundamental right in service jurisprudence having regard to the Constitutional mandate of equality in Articles 14 and 16 of the Constitution of India. It ensures a welfare socialistic pattern of a State providing

equal opportunity to all and equal pay for equal work for similarly placed employees of the State. It has elaborately been dealt with in the case of ***Grih Kalyan Kendra Workers' Union V. Union of India*** reported in ***(1991) 1 SCC 619.***

12. Considering other aspects of the matter, it is also well settled that the orders of the Tribunal can only be interfered if there is gross illegality and the order is perverse and without jurisdiction. Nothing has been argued nor brought on record to show that the order passed by the Tribunal is without jurisdiction and is full of illegality and is perverse. This Court, sitting under Article 226 and 227 of the Constitution of India can only interfere if the aforesaid elements are attracted. In absence of the same, no interference is warranted.

13. In view of facts and circumstances, discussed hereinabove, this Court is in full agreement with the Award passed by the learned Tribunal. I do not find any infirmity or any illegality in the impugned Award. No interference is warranted by this Court in the impugned Award. Resultantly, the writ petition merits dismissal. Since the workman has already superannuated from his service on and from 23.01.2018 on attaining his age of 60 years, he is entitled to all the benefits in terms of the Award dated 08.05.2009, announced on 27.05.2009, passed by Presiding Officer, Central Government Industrial Tribunal No. 1, Dhanbad, passed in Reference Case No. 76 of 1997 i.e. full back wages after regularization of his services as a Hindi Typist since 13.12.1991 and pay protection from 08.05.1984.

14. The writ petition stands dismissed with aforesaid observations and directions.

15. In the result, I.A. No. 6421 of 2013 also stands disposed of.

(**Dr. S.N. Pathak, J.**)

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