

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

C I V I L A P P E A L N O (s) . 7 0 8 9 O F 2 0 0 1

P E P S U R O A D T R A N S P O R T C O R P N .

Appellant (s)

V E R S U S

H A R T E J S I N G H

Respondent(s)

(With office report)

Date: 3 0 / 0 1 / 2 0 0 8 This Appeal was called on for hearing today.

C O R A M :

H O N ' B L E M R . J U S T I C E H . K . S E M A
H O N ' B L E M R . J U S T I C E M A R K A N D E Y K A T J U

For Appellant(s) Mr. K. K . Mohan, Adv.

For Respondent(s) Mrs. Sar ad a Devi, Adv.

UPON hearing counsel the Court made the following
O R D E R

Appeal is allowed.
No costs.

(S. Thapar)
P S to Registrar

(Anand Singh)
Court Master

The signed order is placed on the file.
I N T H E S U P R E M E C O U R T O F I N D I A

C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O . 7 0 8 9 O F 2 0 0 1

P E P S U R O A D T R A N S P O R T C O R P N .
P E L L A N T
(S)

...A P

V E R S U S

H A R T E J S I N G H
E N T (S)

...R E S P O N D

O R D E R

Respondent was employed as Conductor with Pepsu Road Transport Corporation, Patiala. Departmental proceedings were initiated against him on the ground that on several occasions between 24.5.1986 to 29.7.1986 the respondent has been punished and as many as 16 increments were stopped after holding proper Enquiry by taking lenient view. The allegation against the respondent was that while working as a conductor he allowed passenger to travel without issuing ticket and also on the ground of defalcation, stealing of money and using unparliamentary language abusing to the staff working in the booking branch and cash branch. The Corporation on 24.5.1984 passed an order against the respondent for stoppage of one annual increment with cumulative effective i.e. from 21.6.1984 on his having been found guilty of charges (1) "using unparliamentary language abusing to the staff working in booking branch and cash branch, (2) negligence in performance of his duty, and (3) an act subversive of office discipline." The respondent has not challenged the order of stoppage of increment at any point of time. Ultimately, he was dismissed from service on 31.7.1987. He challenged the order of dismissal by filing a Civil Suit No. 436 of 6.10.1989.

The trial court after hearing the parties held that the termination is illegal and the plaintiff shall be entitled to reinstatement with back wages with 12% interest from the date of termination till payment. It is noticed that there was no order for payment of increments. It is unfortunate that the Executing Court by its order dated 2.3.1998 allowed the arrears of salary with respect to increment which was due to him. It was further held that the amount of increment remained to the plaintiff is required to be paid by the appellant. By now it is well settled principle of law that the Executing Court cannot go behind the decree. As noticed, there was no order of payment of stoppage of increment.

Accordingly, we are of the view that the Executing Court has gone beyond the decree passed by the trial court and unfortunately the High Court has affirmed the said order.

Before parting with the record, we also observe that having regard to the gravity of the conduct of the respondent, the appellant should have filed a P I L against the decree passed by the trial court which has not been done.

We restrain ourselves from invoking our power under Article 1 4 2 of the Constitution of India as because it has been pointed out that the respondent has now retired. With the aforesaid reasons, this appeal is allowed. The order of the Executing Court and the High Court is set aside. No costs.

.....J
(H.K. S E M A)

N E W D E L H I ,
J A N U A R Y 3 0 , 2 0 0 8

.....J
(M A R K A N D E Y K A T J U)