

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 5123 OF 2001

STATE OF PUNJAB & ORS.

Appellant (s)

VERSUS

ANJANA

Respondent(s)

(With office report)

WITH
SLP(C) NO. 12252 of 2001 - With prayer for interim relief

Date: 11/10/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s) Mr. Ajay Pal, Adv.
 Mrs. Preeti Singh, Adv.
 Mr. Nikhil Jain, Adv.
 Mr. Rajeev Sharma, Adv.
 Mr. Arun K. Sinha, Adv.

For Respondent(s) Mr. Anant V. Palli, Adv.
 Mrs. Rekha Palli, Adv.

UPON hearing counsel the Court made the following
ORDER

The Civil Appeal is dismissed.
The Special Leave Petition is disposed of.

(S. Thapar)

PS to Registrar

The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

(Vijay Dhawan)

Court Master

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5123 OF 2001

STATE OF PUNJAB & ORS.

APPELLANTS (S)

VERSUS

ANJANA

RESPONDENT (S)

ORDER

This appeal is filed by the State of Punjab against the Order of the Punjab & Haryana High Court dated 30.10.2000 in Regular Second Appeal whereby the learned Judge has held that there was no justification for the authorities to deny the appointment issued in favour of the respondent-plaintiff on account of the fact that she did not join her duty at Srihargobindpur on 9.7.1990. It was also held by the learned Judge that it was not the fault of the respondent as there was no post available at Srihargobindpur, therefore, she could not join on the place of appointment, rather the fault lies with the appellant. When it was brought to their notice they did not amend the order. Consequently, she had to file a suit. That suit was allowed and decree was passed in her favour, which was affirmed by the learned Single Judge vide its order dated 30.10.2000.

We have heard learned counsel for the parties. There is concurrent finding of Court below and there is no reason to set aside the same. The appellant knowing fully well that there was no vacancy available, they did not amend the order & respondent was forced to file the Suit. We are, therefore, of the opinion that the view taken by the learned Single Judge is correct and there is no ground to interfere.

The appeal is dismissed.

SPECIAL LEAVE PETITION (CIVIL) NO. 12252 OF 2001

This Special Leave Petition is directed against the Order dated 13.3.2001 passed by the High Court of Punjab & Haryana at Chandigarh, whereby the learned Single Judge upheld the Order of the First Appellate Court in which the First Appellate Court has stated that she is entitled to full back wages for the period right from the date she was to join. Since, she could not join because of the non-availability of the post at the place of posting, therefore, she is entitled to full back wages for the entire period. Against this Order of learned Single Judge, the present Special Leave Petition was filed.

It appears that the respondent was ready and willing to join, but since there was no post at Srihargobindpur she could not join and appointment could not be availed by her. A decree was passed and a direction was given for

re-instatement. Consequently, she was entitled for full back wages.

Learned counsel for the State of Punjab submits that payment of full back wages to the respondent will burden the exchequer as the payment relates back to 17 long years during which period the respondent has not at all worked and discharged her duties. This is correct but the fault lies with the State of Punjab.

Be that as it may, in the peculiar facts and circumstances of this case, we do not think it proper to permit her to have full back wages without having worked for the above period. Consequently, we reduce the payment of full back wages to 50% from July, 1990 till she is re-instated.

The Special Leave Petition is disposed of with the aforesaid modification.

.....J
(A.K. Mathur)

New Delhi,
October 11, 2007.

.....J
(Markandey Katju)