

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

RECORD OF PROCEEDINGS

CIVIL APPEAL Nos.382-385/2001@@  
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P.Harishchandra Reddy & Ors. Appellant (s)  
VERSUS

N.I.R.D. & Ors. Respondent(s)  
(With Office Report)

Date : 30.01.2002 This appeal was called on for hearing today.@@  
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CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIK  
HON'BLE MR. JUSTICE S.N. PHUKAN  
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Appellant (s) Mr. M.N. Rao,Sr.Adv.  
M/s.K.Maruthi Rao,K.Radha and  
D.Mahesh Babu,Advs.

For Respondent (s) Mr. K. Ram Kumar,Adv.

UPON hearing counsel the Court made the following

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Mr. M.N. Rao, Sr.Adv. for the appellants started his arguments at 2.50 p.m. and concluded at 3.30 p.m. Then, Mr. K.Ram Kumar,Adv.for the respondents replied for five minutes.

Arguments concluded.

The Civil Appeals are disposed of in terms of signed order.

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(Y.P.Dhamija) (S. Malkani) @@  
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Court Master Court Master@@

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Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOs.382-385/2001@@  
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P.H.Reddy & Ors. ...Appellants

Vs.

N.I.R.D. & Ors. ...Respondents

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These appeals are directed against a judgment of the Division Bench of Andhra Pradesh High Court. When the matter was listed before a Bench of 2-learned Judges of this Court, the Bench felt that there is some inconsistency between the two earlier judgments of this Court, Director General of@@  
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Posts and Ors. Vs. B.Ravindran & Anr. (1997) 1 SCC 641 and@@  
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Director General, ESI Corporation Vs. M.P.John & Ors.@@  
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(1999) 1 SCC 663. The Court referred the matter to 3-Judges@@  
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Bench, and that is how the matter is before us. The disputes centres round the question as to the fixation of pay of an employee on retirement from Defence Services and re-employed in a Civil Post. As it appears from the records of these appeals on retirement from Army, the appellants were re-employed in the National Institute of Rural Development. On re-employment, their pay had been fixed at a particular sum. But in the year 1992 by order dated 28.8.1992 on the basis of the relevant Government Circulars applicable for fixation of the pay, the pay was re-fixed by the appropriate authority, and direction was issued for recovery of excess

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amount already paid to these appellants. Assailing the same, the appellants had moved the High Court in a Writ Petition, but the Writ Petition was not entertained on the ground of availability of an alternative remedy, and the appellants were directed to approach the appellate authority. In accordance with the said direction of the High Court, the appellants re-approached the appellate authority, but the appellate authority affirmed the order of the original authority dated 28.8.1992, and therefore the appellants were compelled to file the fresh Writ Petition in the High Court. A learned Single Judge by order dated 13.6.1995 disposed of the Writ Petition quashing the order of re-fixation of salary. The employer being aggrieved by the aforesaid order of the learned Single Judge approached the Division Bench in appeal. The Division Bench set aside the order of the learned Single Judge and allowed the appeal, and hence the present appeals on grant of special leave.

Mr. Rao, the learned senior counsel appearing for the appellants contended that this Court having held in the case of Director General of Posts Vs. B.Ravindran (1997) 1 SCC 641 that the fixation of the salary on re-employment

