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SLP(C)No. 8905 OF 2001
ITEM No.41

Court No.10

SECTION XI
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.8905/2001

(From the judgement and order dated 02/11/2000 in WP 4394/95 of The
HIGH COURT OF ALLAHAAD AT LUCKNOW)

RAMESH CHANDRA

Petitioner (s)

VERSUS

HOUSING COMMNR.,U.P.HOUSING &DEV.BD.&ORS
(With prayer for interim relief)
(With Appln(s). for exemption from filing O.T.)

Respondent (s)

Date : 11/11/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Petitioner (s) Mr. Jasbir S.Malik,adv.
Ms. Bharti,adv.
Mr. S.K. Sabbarwal,Adv.

For Respondent (s) Mr. Dinesh Dwivedi,Sr.Adv.
Mr. Vishwajit Singh,Adv.
Mr. Ravi Kumar Verma,adv.
Mr. Ritesh Agrawal,adv.

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

.....L.....I.....T.....T.....T.....T.....T.J
.SP2

Heard learned counsel for the parties for some
time.

Learned counsel appearing on behalf of the
petitioner states that respondent No.2 is dead and,
therefore, his name may be deleted from the array of the
parties. We order accordingly at the risk and cost of the
petitioner.

Leave granted.

The appeal is dismissed without any order as to
costs.

.SP1

(Suman Wadhwa)
Court Master

(S. Malkani)
Court Master

Signed order is placed on the file.

.PL55

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2002@@
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(Arising out of SLP (C) No. 8905/2001)

Ramesh Chandra

...Appellant

Vs.

Housing Commnr. U.P.Housing &Dev.Bd. & Ors. ...Respondents

ORDER@@
CCCCC

.SP2

.....L.....I.....T.....T.....T.....T.....T.J

Learned counsel appearing on behalf of the petitioner states that respondent No.2 is dead and, therefore, his name may be deleted from the array of the parties. We order accordingly at the risk and cost of the petitioner.

Leave granted.

The appellant was issued a chargesheet dated 16 July, 1979 in which four charges were framed against him. In brief, all the four charges dealt with indiscipline and misbehaviour of the appellant with his superiors.

The finding of the enquiry officer was recorded in respect of each of the charges. As far as charge No.1 is concerned, it was found not proved on the ground that the superior officer against whom misconduct was alleged to have been committed had withdrawn his complaint. As far as charge No.2 is concerned, it was found to be partially

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proved to the extent that the appellant had misbehaved with the superior officer. As far as charge No.3 is concerned, the enquiry officer found that it was totally proved. As far as charge No.4 is concerned, the enquiry officer has written that the officer who had complained about the appellant was prevented from giving any evidence in support of his complaint and that a demonstration had been instigated by the appellant himself so that the enquiry could not be proceeded with. In fact, the enquiry officer, in his report, has also mentioned the misbehaviour of the appellant with the enquiry officer during the course of the enquiry proceedings. On the basis of the enquiry officer's report, the second show cause notice was issued to the appellant on 25/26.5.1982 to show cause why the appellant should not be removed from service. Ultimately, the order of removal was passed on 9.7.1982 in which it is stated that the charges have been proved and that enquiry proceedings had been properly held for the reasons stated in the order and that the appellant should be removed from service. The appellant preferred a writ application

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challenging the order of termination. This was disposed of by an order dated 29.9.1983 by noting that the appellant had a remedy of an appeal before the department and if the

appeal was filed within a period of fifteen days from the date of the High Court's order, the appeal would be decided expeditiously. The departmental appeal was filed and the appeal of the appellant appears to have been considered on 24.3.1984 at a meeting of the U.P.Housing Development Board. The recommendation of the sub-committee which had been set up by the Board for considering the appeal of the appellant, was unanimously accepted and that the reasons given by the sub-committee for rejecting the appellant's appeal were affirmed by the Board. The fact of the Board's decision terminating of the appellant's service was communicated to the appellant by an order dt.9.4.1984. This communication merely stated "Your appeal dated 3.10.1983 has been rejected by the Board after consideration". The appellant then approached the U.P.Public Service Tribunal at Lucknow. By a reasoned order dated 5.6.1989 the Tribunal went into the merits of

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the matter and found that there was no force in the application filed by the appellant which was, accordingly, rejected. The appellant filed review application before the Tribunal, which is rejected. The appellant approached the High Court under Art.226 of the Constitution. The Division Bench of the High Court found that there was no merit in the writ petition in view of the fact of the case and the writ petition was dismissed.

When this Court was approached by the appellant under Art.136 of the Constitution, notice was directed to be issued in which one of the contentions of the appellant was recorded, namely, that the appeal which had been filed by the appellant against the order of dismissal had been dismissed without giving any reasons.

After the receipt of the notice learned counsel appearing on behalf of the respondent filed documents to show that in fact the appeal before the departmental authority had been rejected with reasons. Apart from that even if there were any lacuna in the appellate order of the departmental authority, that lacuna must be taken to have

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been filled by the subsequent decision of the fact finding authority in the form of the Public Services Tribunal. In the facts of this case we are of the view that the High Court committed no error in dismissing the writ petition. The Appeal is, accordingly, dismissed without any order as to costs.

.SP1

.....J.
(RUMA PAL)

.....J.
(B.N.SRIKRISHNA)

New Delhi;
November 11, 2002.