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SLP(C)No. 4245 OF 2004
ITEM No.23
SECTION XI

Court No. 7

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.4245/2004

(From the judgment and order dated 01/12/2003 in SA 777/2003
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

CHIEF GENERAL MANAGER, S.B.I. & ORS.

Petitioner (s)

VERSUS

DURGESH KUMAR TIWARI

Respondent (s)

(With Appln(s). for exemption from filing O.T. and permission to
place addl. documents on record and with prayer for interim relief
and office report)

Date : 15/03/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Petitioner (s)Mr. Harish N. Salve, Sr.Adv.
Mr. Mukul Rohtagi, ASG
Mr. Sanjay Kapur,Adv.
Ms. Shubhra Kapur, Adv.
Mr. Sanjeev Kumar, Adv.

For Respondent (s)
Mr. Javed Mahmud Rao,Adv.
Mr. Khurshed Alam, Adv.

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

Leave granted.

The appeal is allowed in terms of the Signed Order.

(SUKHBIR PAUL KAUR) (MADHU SAXENA)
COURT MASTERCOURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO...../2004
(Arising out of SLP(C)No4245/2004)

CHIEF GENERAL MANGER, S.B.I.& ORS.

APPELLANT (S)

VERSUS

DURGESH KUMAR TIWARI

RESPONDENT

(S)

O R D E R

Leave granted.

The question in this appeal relates to the appointment of the respondent No.1 on compassionate grounds. The respondent's father died while in service in January, 1997.

According to the appellants, at the time of his death the deceased left behind his wife, two daughters and one son (viz. the respondent before us). Both the daughters are married. It is also contended that the deceased's heirs had received the benefits due to them and that such benefits were adequate for the respondent and his mother to live reasonably/comfortably. It is urged that it could not be said that the respondent was living in such penurious circumstances which would require his appointment on compassionate grounds. Reliance has been placed on the unreported decision of this Court dated 5th January, 2004 in Civil Appeal No.126 of 2004 titled as The General Manager (D & P.B.) & Ors. Vs. Kunti Tiwary & Anr. to contend that unless the family members of the deceased fulfil the criteria as per the Office Memorandum issued by the State Bank of India, there was no question of any employment being given on compassionate grounds.

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The respondent in this case had filed a writ petition complaining of the rejection of his application for employment on compassionate grounds. The writ petition was allowed and the matter was remanded to the concerned authorities for redeciding the respondent's representation. The appellant through its Chief General Manager considered the matter and by a reasoned order again rejected the application for compassionate appointment made by the respondent. A break up of the various financial benefits which, according to the appellant, were made available to the family members of the deceased, were considered by the Chief General Manager in taking his decision. This decision was again challenged by a writ petition by the respondent. The learned Single Judge allowed the writ petition by arriving at a figure different from the figures mentioned by the Chief General Manager in his order. The learned Single Judge also proceeded on the basis that the deceased had three daughters of which two were married and one "had attained marriageable age". In the circumstances, the learned Single Judge held that the resources which the family possessed, could not be adjudged to be sufficient "to keep the pot boiling".

The appellants preferred an appeal before the Division Bench. It was pointed out to the Division Bench that the learned Single Judge had proceeded on erroneous factual bases. The Division Bench, however, dismissed the appeal merely holding that there was no ground for interference in the Judgment made by the learned Single Judge.

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The discrepancies especially with regard to the quantum of the pension and the size of the family stated to be committed by the learned Single Judge have been pointed out to us by the learned Counsel appearing today. These were the facts which the High Court should have considered and dealt with after hearing the parties. Therefore, this appeal is allowed, the impugned judgment is set aside and the matter is remitted to the High Court for redeciding the issues raised on merits.

.....J.
[RUMA PAL]

.....J.
[P. VENKATARAMA REDDI]

New Delhi,
March 15, 2004.