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SLP(C)No. 7557 OF 2001

ITEM No.204

Court No. 3

SECTION XV
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.7557/2001
(From the judgement and order dated 01/11/2000 in LPA 374/00
of The HIGH COURT OF JUDICATURE, JABALPUR, BENCH AT INDORE)

GOPAL SEN

Petitioner (s)

VERSUS

MADHYA PRADESH STATE ROADWAYS CORPN.

Respondent (s)

(With prayer for interim relief and office report)
(For Final Disposal)

Date : 14/09/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s) Mr. V B Saharya, Adv. for
M/s Saharya & Co., Advs.

For Respondent (s) Mr. Ashish Wad, Adv.
Ms. J S Wad and Ms. Niharika Bahl, Advs.
for M/s. J.S. Wad & Co., Advs.

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

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Special leave granted.

This appeal is allowed, the impugned order dated 1st
November, 2000 of the Division Bench is set aside and the
High Court is directed to hear the letters patent appeal on
merits.

(D.P. WALIA)
COURT MASTER

(S.L. GOYAL)
COURT MASTER

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6392 OF 2001@@
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[arising out of SLP(C) No. 7557/2001]

Gopal Sen ..Appellant(s)

vs.

Madhya Pradesh State Roadways Corporation ..Respondent(s)

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Special leave granted.

In the instant case, order of the Labour Court reinstating the appellant as a conductor was challenged in appeal. That appeal of the respondent was allowed whereupon a writ petition was filed. According to the averment in the writ petition, the same was filed under Articles 226 and 227 of the Constitution and one of the prayers made was for issuance of a writ of mandamus to the respondent to reinstate the appellant with all consequential benefits.

The writ petition was dismissed by the learned Single Judge. Against the same, a letters patent appeal was filed which was dismissed by the Division Bench on the ground that the order of the Single Judge was passed on a petition under Article 227 and, therefore, an appeal was not maintainable.

As has already been noticed hereinabove, the petition which was filed was under Articles 226 and 227 of the Constitution. One of the prayers contained in the petition was the one contemplated by Article 226. This being so, the learned Single Judge was in error in regarding the petition2/-

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filed as being only under Article 227. Inasmuch as the petition which was filed was also under Article 226, a letters patent appeal against the decision of the Single Judge was maintainable.

We, accordingly, allow this appeal, set aside the impugned order dated 1st November, 2000 of the Division Bench and direct the High Court to hear the letters patent appeal on merits.

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.....J.
(B.N. KIRPAL)

.....J.
(ASHOK BHAN)

New Delhi;
September 14, 2001.