

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3798 OF 2005

U.P. STATE FOOD AND ESSENTIAL COMMODITIES

CORPORATION LTD.  
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... APPELLANT

VERSUS

KRISHNA GOPAL AND ANR.  
NTS

... RESPONDENTS

## O R D E R

This appeal is preferred by the U.P. State Food and Essential

Commodities Corporation. The challenge in this appeal is to the order dated 2.12.2004

passed by the Division Bench of the High Court affirming the order of the learned

Single Judge.

Briefly stated the facts are as follows:

The respondent was working as a Salesman on ad hoc basis in the

Corporation. He was suspended on 26.6.1992 purportedly in contemplation by

drawing up a departmental proceeding against him on the ground of unauthorised

absence from duty. The respondent tendered his resignation on 2.9.1992 on medical

ground. In the interregnum, the departmental proceedings drawn against the

respondent were also completed and the Inquiry Officer submitted the report

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suggesting minor punishment. The disciplinary authority accepted the

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recommendation of the Inquiry Officer and the respondent was reinstated in service

with a minor punishment. Thereafter, the respondent addressed a letter dated

13.10.1992 to the appellant-authority thereby withdrawing of the resignation

submitted on 2.9.1992. The competent authority, however, accepted the resignation on

28.10.1992. The appellant in their counter-affidavit did not deny the receipt of the

withdrawal letter dated 13.10.1992. If that is so the resignation accepted on 28.10.1992

can not stand the test of law as the same has been accepted after the respondent has

withdrawn the resignation. In the instant case, undisputedly the respondent has

withdrawn the resignation letter by a letter dated 13.10.1992. It appears from the

record that the appellant authority did not deny the receipt of withdrawal letter dated

13.10.1992, however, the resignation was accepted by an order dated 28.10.1992 after

the same was withdrawn.

In the facts aforesaid, we do not find any infirmity in the order of either

passed by the learned Single Judge or by the Division Bench. This appeal being devoid

of merits is accordingly dismissed.

This has left us to decide the back wages of the respondent. This Court

stayed the payment of back wages. It is also not disputed that the respondent has

remained absent unauthorisedly for which the departmental proceeding has been

initiated against him. He was placed under suspension with effect from 26.6.1992.

Finally, the respondent joined his post on 5.3.2005 pursuant to the order passed by the

Division Bench of the High Court. The respondent was also imposed a minor

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punishment preceded by the inquiry report. Taking all these facts into consideration we are of the view that the end of justice would be served if he is allowed 25% of back wages. We order accordingly. This order is passed keeping in view justice, equity and fair play.

I.A. No.3 of 2005 is rejected.

.....J.

( H.K. SEMA )

.....J.

( A.K. MATHUR )

NEW DELHI,  
JULY 25, 2006.

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ITEM NO.110

COURT NO.7

SECTION XI

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3798 OF 2005

U.P. STATE FOOD & ESSENTIAL C.C. LTD.

Appellant (s)

VERSUS

KRISHNA GOPAL

Respondent(s)

Date: 25/07/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. Anuvrat Sharma, Adv.

Mr. Sanjay Kumar Singh, Adv.

Mr. M.P. Shorawala, Adv.

For Respondent(s)

Mr. M.L. Agrawal, Adv.

Dr. (Mrs.) Vipin Gupta, Adv.

UPON hearing counsel the Court made the following

O R D E R

Taking all the facts into consideration, the end of justice would be served

if the respondent is allowed 25% of back wages. It is ordered accordingly. The

appeal is dismissed in terms of the signed order.

I.A. No.3 of 2005 is rejected.

(PAWAN KUMAR)  
SINGH)

COURT MASTER

(ANAND

COURT MASTER

(signed order is placed on the file)