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C.A.No.4751/1997

Item No.104

COURT No. 4

SEC.XIV

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.4751/1997@@
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U.O.I. Appellant (s)

VERSUS

S. Mohd. Daleep Respondent (s)
(With Office Report)

Date : 24.01.2001 This appeal was called on for hearing today.@@
AA

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. P.P. Malhotra,Sr.Adv.
Mr. D.S. Mahra,Adv.

For the Respondent(s) Ex-parte

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

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

The Civil Appeal is dismissed.

.SP1
(Y.P.Dhamija) (D.D. Jindal)@@
AA
COURT MASTER Court Master
Signed order is placed on the file.

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.PL56

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISIDCTION

CIVIL APPEAL NO. 4751/1997@@
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U.O.I. ...Appellant

Vs.

S. Mohd. Daleep ...Respondent

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....J.
.SP2

Union of India is in appeal against the impugned order of the Central Administrative Tribunal, Principal Bench, New Delhi. The services of the respondent stood terminated in exercise of power conferred under Rule 5 of the Civil Service (Temporary Service) Rules, 1965, inter alia, on the ground that the respondent does not belong to OBC, but produced a certificate to that effect. The Tribunal, having considered the different Notifications issued by the State of Kerala as well as the recommendations of the National Commission for Backward Class's Resolution dated 9th March, 1996, came to the conclusion that the order of termination is vitiated, and as such it quashed the said order of termination. Mr. Malhotra appearing for the Union of India contends that even though the Notification, which was given effect to with effect from 9th March, 1996, indicates the respondent to belong to OBC, but on the relevant date he applied, he was not OBC, and therefore his appointment was

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rightly terminated by the employer in exercise of power under Rule 5 of C.C.S. (Temporary Service) Rules, 1965, already referred to. The respondent, though has been served with notice, has not entered any appearance. Having considered the impugned judgment and on consideration of the contention raised by Mr. Malhotra appearing for the Union of India, we do not find any force in the same. The Notification declaring a particular caste to be OBC is issued by the State Government on the recommendation of the State Commission or the National Commission, as the case may be, and that Commission has the power to add or subtract to the original Notification in question. It is undisputed that the list pertaining to the State of Kerala, which was approved by the National Commission for Backward Classes, did accept the recommendation of the State Government, and that recommendation includes the respondent's caste to be OBC. In that view of the matter, we see no infirmity with the impugned decision of the Tribunal so as to be interfered with by this Court under Article 136 of the Constitution. In the aforesaid premises, we do not find any merit in this appeal which accordingly stands dismissed. The interim order stands vacated. Necessarily, therefore, the respondent must be held to be continuing in service. Since the respondent has not appeared in this Court, the employer is directed to

- 3 -

notify the order of this Court dismissing the Union's appeal so that the respondent can join the service. Be it stated that the respondent would be entitled to all his benefits accruing from this order.

.SP1
.....J.
(G.B. PATTANAİK)

New Delhi,
January 24, 2001

.....J.
(B.N. AGRAWAL)