

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(C) No.8253 OF 2007

SRI CHANDRA DHAR KALITA ... Petitioner(s)

Versus

THE REGIONAL DIRECTOR, ESI CORPN.&ORS. ... Respondent(s)

ORDER

1. Delay condoned.

2. The Special Leave Petition is directed against the judgment and order dated 4th September, 2006, passed by the Division Bench of the Gauhati High Court in Writ Petition No.5904 of 2002, quashing the order passed by the Tribunal and affirming the order passed by the

2

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appellate authority on 25 January, 2001.

3. By Order dated 12th September, 2000, issued by the Regional Director, Employees State Insurance Corporation, Regional Office: North Eastern Region, Bamunimaidan, Guwahati-21, being Annexure P-4, the petitioner was compulsorily retired from the service of the Corporation. Subsequently, by an order dated 25th January, 2001, being Annexure P-5, the Additional Commissioner (F&A) of the Corporation set aside the penalty of compulsorily retirement and reduced the penalty to that of reduction of pay by five stages. The petitioner was directed to be reinstated in service from the date of his re-joining. In accordance with the

aforesaid order, the basic pay of the petitioner was reduced from Rs.7075/- to Rs.6200/- in the scale of Rs.5500-175-9000. The said reduction was made effective from 2nd February, 2001, on which date the petitioner joined his duties at the Regional Office at Gauhati. It was also indicated in the said Order that the reduction of pay would be operative for a period of five years and the petitioner would not earn increments of pay during the said period. It was lastly indicated that on expiry of the penalty period, the reduction would have the effect of postponing the future increments of pay.

4. It is the said indication in the order that caused some confusion and the petitioner apprehending that the same would amount to denying him future increments of pay during his remaining tenure of service, filed O.A. No.361 of 2001 in the Central Administrative Tribunal, Gauhati Bench. The said Tribunal by its order dated 26th February, 2002, directed that on the expiry of the penalty period, the petitioner's seniority and pay to the grade would be restored. The order of the Tribunal was challenged by the respondents by filing W.P(C)No.5904 of 2002 in the High Court.

5. The High Court set aside the order of the Tribunal and restored the order of the appellate authority, which in our view merely indicates that the petitioner would not be entitled to receive normal increments in salary during the penalty period of five years and that, thereafter, the petitioner would be once again entitled

to receive normal increments in his salary during the remaining period of his service.

5

6. With such clarification, we dispose of the Special Leave Petition.

7. There will, however, be no order as to costs.

.....J.
(ALTAMAS KABIR)

.....J.
(CYRIAC JOSEPH)

New Delhi,
January 25, 2010.

6

ITEM NO.31 COURT NO.3 SECTION XIV

SUPR EME COUR T OF I ND I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8253/2007
(From the judgement and order dated 04/09/2006 in WP No.5904/2002
of The HIGH COURT OF GUWAHATI ,ASSAM)

SRI CHANDRA DHAR KALITA Petitioner(s)

VERSUS

THE REGIONAL DIRECTOR, ESI CORPN.&ORS. Respondent(s)
(With appln(s) for c/delay in filing SLP and with prayer for
interim relief and office report)

Date: 25/01/2010 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s)
Mr. Rajiv Mehta, Adv.
Mr. A.Henry, Adv.
Mr. B.Aggarwal, Adv.

For Respondent(s)
Mrs.Rekha Palli, Adv.
Mr. A.V. Palli, Adv.
Mr. Atul Sharma, Adv.

UPON hearing counsel the Court made the following
ORDER

Delay condoned.
The Special Leave Petition is disposed of in terms
of the signed order.
There will, however, be no order as to costs.

7

(Sheetal Dhingra)
Court Master
[Signed order is placed on the file]

(Juginder Kaur)
Court Master