

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). 1315 OF 2006

STATE OF GUJARAT & ORS.

Appellant (s)

VERSUS

DINESHBHAI SOMABAI LATA

Respondent(s)

(With appln(s) for permission to file additional documents)

Date: 03/02/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE A.K. PATNAIK

For Appellant(s)

Ms. Hemantika Wahi,Adv.  
Ms. Jesal,Adv.

For Respondent(s)

Ms. Harvinder Chowdhury,Adv.  
Mr. Nishesh Sharma,Adv.  
Mr. Ramesh Chand,Adv.  
Mr. S.C. Patel,Adv.

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

In terms of the signed order, the appeal is dismissed making it clear that respondent will not be entitled to any back wages, when he is taken back to duty and sent back to training.

(O.P. Sharma)  
Court Master

(M.S. Negi)  
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(s). 1315 OF 2006

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VERSUS

DINESHBHAI SOMABAI LATA

Respondent(s)

O R D E R

The respondent was selected and appointed as an

Armed Constable, vide order dated 17.3.1999 and placed on probation for a period of two years. In terms of the appointment order he was sent for training. During training he remained absent between 4.5.1999 and 15.5.1999 due to illness. On 16.5.1999, he reported back to duty with a medical certificate. The respondent was, however, discharged from service on 26.5.1999. The writ petition filed by the respondent challenging the discharge was dismissed by the learned Single Judge on 30.11.2004, on the ground of delay and laches. The appeal filed by the respondent was allowed by the Division Bench with a direction for reinstatement with continuity of service but without any back wages, by the impugned order dated 8.12.2004. The said order is challenged in this appeal.

2. We find that order dated 26.5.1999 was not a discharge simplicitor but stigmatic. The order states that during a short tenure of one month he was absconding

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from 4.5.1999 to 15.5.1999 and remained absent without reason and was dis-obedient towards his senior officers, and therefore, he was being discharged from his service. Such an order could not have been passed without giving due opportunity to the respondent to show cause. It also ignores the fact that he was sick and reported to duty as soon as he recovered with a medical certificate.

3. The Division Bench of the High Court was therefore justified in granting the relief of reinstatement. In regard to the delay in approaching the court for relief, it had been satisfactorily explained by the respondent and the Division Bench has accepted the said explanation and denied back wages in view of the delay in approaching the court. In these circumstances, we are of the view that the order of the Division Bench of the High Court does not

call for interference.

4. We, accordingly, dismiss this appeal making it clear that respondent will not be entitled to any back wages, when he is taken back to duty and sent back to training.

.....J.  
( R.V. RAVEENDRAN )

.....J.  
( A.K. PATNAIK )

NEW DELHI,

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FEBRUARY 3, 2011.