

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. 7615-16 OF 2014
(@ SPECIAL LEAVE PETITION (C) Nos. 13275-13276 of 2010)

DEPUTY MANAGING DIRECTOR

...APPELLANT(S)

)
STATE BANK OF INDIA & ORS.

VERSUS

B.L.SADHU & ORS.

...RESPONDENT(S)

S)

O R D E R

Heard learned counsel for the parties.

Leave granted.

The Respondent No.1 was charge-sheeted and punished by an order of compulsory retirement dated 04.07.1994. He challenged the order of punishment before the High Court. The learned Single Judge of the High Court held in favour of the respondent on the ground that the provision of the Rules under which the power was exercised was wrongly quoted. The appellants moved the Division Bench of the

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Madhu Bala
Date: 2014.08.16
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High Court by a Letters Patent Appeal. The

Reason:

Division Bench, by the impugned order dated 02.12.2009, took the view that quoting a wrong

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provision of the Rules, so long as power was

available, would not vitiate the impugned

punishment. However, taking into account the fact that Respondent No.1 was not paid either any salary or subsistence allowance during the period when the departmental proceeding was continuing, the Division Bench of the High Court came to the conclusion that the respondent was unable to defend himself in the inquiry due to financial constraints. The interference made by the learned Single Judge with the order of punishment, therefore, was maintained, though for different reasons.

In view of the above ground on which the Division Bench had decided the appeal against the appellant-bank, it will be necessary to note a few additional facts.

Though there is a dispute between the parties as to whether the Respondent No.1 had failed to comply with the order of transfer to Leh what is not in controversy is the fact

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that the Respondent No.1 did not receive any salary for a considerable period, including the period during which he was facing the departmental inquiry. In fact, the respondent had filed a writ petition before the High Court for a direction for payment of salary in the year, 1992, which was subsequently withdrawn by him in 1993. What is also not disputed is the fact that even though according to the appellant-bank, the Respondent No.1 did not comply with the transfer order, no charge-sheet in this regard was drawn up against him, nor was he put under suspension. The entitlement of the respondent

to salary or subsistence allowance until his punishment by order dated 04.07.1994 therefore remained in a state of animated suspension. If the respondent had flouted any order of transfer, he ought to have been proceeded against in which event he would have been entitled to at least subsistence allowance. At

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the same time, if the respondent had filed a writ petition for salary he ought to have pursued the same.

Be that as it may what is clear from the above is the fact that the respondent did not get any salary or subsistence allowance for a considerable period, including the period during which the departmental proceedings against him was continuing. If that be so, it will be difficult to find fault with the ultimate conclusion which has been recorded by the Division Bench of the High court notwithstanding the fact that the same may not have been pleaded in the grounds of challenge/appeal.

We will, therefore, have no occasion to interfere with the order of the High Court. Insofar as the consequential relief is concerned it has been brought to our notice that the respondent has completed his tenure of service by efflux of time. In fact this had

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happened way back in the year 2002. In such circumstances, while declining to interfere with the order of the High Court, which will naturally have the effect of reinstating the

respondent in service, we direct that the respondent be paid 25% of his back wages until the date of his retirement in the year, 2002. This will be from such date that the respondent has remained without salary. As we have been told that the respondent is already receiving pension, no order for any further consequential relief needs to be passed in the present proceeding. The back wages in terms of the present order will be paid by the appellants-bank within a period eight weeks from the date of receipt of a copy of this order after adjustment of such amount as may have been paid to the respondent in terms of the order(s) passed by the High Court from time to time.

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The civil appeals are, accordingly, disposed of in the above terms.

.....J.
[RANJAN GOGOI]

NEW DELHI
4TH AUGUST, 2014

.....J.
[M.Y. EQBAL]

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ITEM NO.202

COURT NO.11

SECTION XVIA

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

Petition(s) for Special Leave to Appeal (C) No(s). 13275-13276/2010

(Arising out of impugned final judgment and order dated 02/12/2009 in LPA No. 507/2000 and Civil Appeal No. 122-A/01 passed by the High Court Of J & K At Jammu)

DY.M.D. S.B.I & ORS.

Petitioner(s)

VERSUS

B.L.SADHU & ORS.
(For final disposal)

Respondent(s)

Date : 04/08/2014 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE M.Y. EQBAL

For Petitioner(s) Mr. Vikas Singh, Sr. Adv.
Ms. Priyanka Das, Adv.
Mr. Anmol Chandan, Adv.
Ms. Lekha Vishwanath, Adv.
Mr. Sanjay Kapur, Adv.

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

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

Heard learned counsel for the parties.
Leave granted.

The civil appeals, are, disposed of in terms of
the signed order.

(MADHU BALA)
COURT MASTER
(Signed order is placed on the file)

(SNEH LATA SHARMA)
COURT MASTER