

C.A.No. 7192 OF 2000

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ITEM NO. 106 COURT NO. 5 SECTION IV

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. 7192/2000

Haryana Warehousing Corporation .. Appellant (s) & Anr.

Vs.

Pushpa Devi .. Respondent(s)

DATE : 12.2.2002 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Appellant (s) : Mr. Balaji Srinivasan, Adv. Mr. Mahabir Singh, Adv.

For Respondent (s) : Mr. Rajiv Garg, Adv. Mr. Aman Hingorani, Adv. Ms. Priya Hingorani, Adv. for M/s Hingorani & Associates.

UPON hearing counsel the Court made the following

O R D E R

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Mr. Balaji Srinivasan and Mr. Rajiv Garg, learned counsel argued from 11.50 a.m. till 12.15 a.m.

The appeal is dismissed in terms of the signed order.

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Charanjit

[ Om Prakash ] Court Master

[ Signed order is placed on the file }

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7192/2000@@  
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Haryana Warehousing Corporation .. Appellants  
& Anr.

Vs.

Pushpa Devi .. Respondent

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Appellant No. 1 is calling in question an order made by the High Court in a Writ Petition holding that the respondent is entitled to the monetary benefits of the retrospective promotion given to her. This order is challenged on the basis of three decisions of this Court in Paluru Ramkrishnaiah & Ors. Vs. Union of India - 1989 (2) SCC 541, Virender Kumar, General Manager, Northern Railways, New Delhi Vs. Avinash Chandra Chadha & Ors.- 1990 (3) SCC 472 and State of Haryana & Ors. Vs. O.P. Gupta & Ors. - 1996 (7) SCC 533.

The question of payment of back wages always would depend upon the facts and circumstances arising in each case and no hard and fast rule can be laid down. In moulding appropriate relief to be given to a party, the Court would apply its mind to the circumstances arising in the case and pass an appropriate order.

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In the three decisions referred to above, there were certain special features in each one of them. In Paluru Ramkrishnaiah's case, the situation was that there was serious dispute as to the seniority and the same had not been settled for a long time. In those circumstances this Court stated that it was not appropriate to grant back wages. In Virender Kumar's case, this Court noticed that the payment of emoluments for higher post with retrospective effect on account of deemed promotion on earlier date was based on quota and rota rule which in itself is inequitable and in those circumstances, the payment of back wages was denied. In O.P. Gupta's case, again this Court took note of the fact that there is serious dispute as to the seniority and several seniority lists had been prepared in the case and no one knew as to what the exact position arising therefrom was. But, that is not the position in this case at all.

In the present case, on the representation made by the parties, the Board itself had finalised as to the manner in which the seniority list had to be prepared in its meeting held on 5.12.1991. If that is so, no impediment could have been there in providing an

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appropriate seniority list and giving deemed promotion to the officials, particularly, for the period from 17.5.1996 to 24.8.1998 which is long after the finalisation of the seniority list. Moreover, when on an earlier occasion respondent had been reverted and that order was challenged and after the Court passed an order setting aside that order, appellant No. 1 passed an order promoting the respondent w.e.f. 16.5.1996 with full consequential benefits. Having understood the order in that manner and having given effect to the same, we do not think it is open to the appellant to shy away from that position subsequently. Therefore, the High Court was fully justified in granting the relief of arrears of salary sought for by the respondent.

The appeal is, therefore, dismissed.

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[ S. RAJENDRA BABU ]@@  
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[ P. VENKATARAMA REDDI ]@@  
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New Delhi,@@  
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Februrary 12, 2002@@  
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