

ITEM NO.6

COURT NO.9

SECTION XV

[NMD Case}

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 (Civil) No(s).19746/2004

(From the judgement and order dated 29/10/2003 in WA No. 1711/2003 of
The

HIGH COURT OF A.P AT HYDERABAD)

DEPOT MANAGER, A.P.S.R.T.C.

Petitioner(s)

VERSUS

K.V. NATH

Respondent(s)

(With prayer for interim relief and office report)

(For final disposal)

Date: 29/03/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Petitioner(s)

Mr. R.Santhana Krishnan, Adv.

Ms. K. Radha Rani, Adv.

Mr. Praveen K. Pandey, Adv.

Mr. P. Vijaya Kumar, Adv.

Mr. C. Tulasi Krishna, Adv.

Mr. D. Mahesh Babu, Adv.

For Respondent(s)

Mr. R.V. Kameshwaran, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

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The Respondent was a driver in A.P.S.R.T.C. He was charge sheeted and was dismissed from the service. He approached the Labour Court. The Labour Court set aside the order of dismissal and directed reinstatement without back-wages. Aggrieved against this order, after elapse of five years, the Respondent filed a Writ Petition before the High Court challenging the denial of back-wages. Learned Single Judge dismissed the Writ Petition. The Respondent filed the Letters Patent Appeal and the Division bench allowed him full back-wages. Aggrieved against this order, the present special leave petition has been filed by A.P.S.R.T.C.

Learned counsel for the Respondent submits that entire back-

wages have already been paid to the Respondent and he has already spent

it. We would have certainly interfered in the matter had the payment of

back-wages not been paid to the Respondent. It is correct that the

Respondent approached the High Court after elapse of five years and

learned Single Judge rightly declined him back-wages. The Division

Bench, however, directed back-wages without considering the fact that

the Respondent had approached the High Court after elapse of five years.

No useful purpose will be served in the matter when the Respondent has

already spent the entire back-wages paid to him. It will be very difficult

to set aside the order and ask for recovery of back-wages from the salary

of poor driver. We are, therefore, of the opinion that the proposition of

law which has been laid down by the Division Bench is not correct that in

every case back-wages should be paid as a matter of course. But looking

to the peculiar facts and circumstances of this case, we are not inclined to

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interfere in this petition. The special leave petition is, accordingly,

dismissed. However, we keep the question of law open. No order as to

costs.

(K.K. Chawla)

Court Master

(Radha R. Bhatia)

Court Master