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C.A.No. 2869 OF 2001  
ITEM No.116

Court No. 8

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 2869 of 2001

Eastern Coalfields Ltd.

...

Appellant (s)

VERSUS

Amaresh Roy & Ors.

...

Respondent (s)

(With office report)

Date : 19.8.2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT  
HON'BLE MR. JUSTICE D.M.DHARMADHIKARI

For Appellant (s) Mr.Shriniwas R.Khalap, Adv.  
Mr.E.Venu Kumar, Adv.  
Mr. Harshad V. Hameed, Adv.  
Mr. Anip Sachthey, Adv.

For Respondent (s)Mr. Jitendra Sharma, Sr. Adv.  
Ms.Anuradha Chakrabarty, Adv.  
Mr. P.N.Jha, Adv.

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

The civil appeal is disposed of in terms of the signed order placed on the file.

(Shashi Sareen)  
Court Master

(Vijay Dhawan)  
Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2869 OF 2001

EASTERN COALFIELDS LTD.

...

Appellant (s)

Versus

AMARESH ROY & ORS.

...

Respondent(s)

O R D E R

Heard learned counsel for the parties.

By Order dated 31.7.2000 notice was issued confined to the question as to whether it is open to the employer to proceed afresh against the employee on the same set of facts. The learned Single Judge as well as the Division Bench of the Calcutta High Court held that the proceedings suffered from non-compliance with the requirements of Rule 29.3 of the CIL Conduct, Discipline and Appeal Rules, 1978 (in short the Rules). According to learned Single Judge the non observance of Rule 29.3 was in violation of the principles of natural justice. Mainly on that score the order passed against the respondent employee was quashed by the learned Single Judge and upheld by the Division Bench. We have heard learned counsel for the parties. While learned counsel for the appellant submits that normally in such type of cases liberty is granted permitting the employer to proceed against the concerned employee after meeting the requirements of the principles of natural justice or the rules requiring observance of certain procedure. In the absence of specific permission in that regard by the learned Single Judge or the Division Bench, there may have been future difficulties. In response Mr. Jitendra Kumar Sharma, learned Senior Counsel submitted that there will be no useful purpose served by permitting the employer to proceed afresh against the respondent after a decade of the initiation of the proceedings. According to him the finding arrived at in the inquiry was given approval by the higher authorities. Even if a fresh inquiry is conducted that would be an empty formality. It was pointed out that there was no order of stay injunctioning the respondent employee from joining the employer. But High Court's order have not yet been given effect to, by which restoration of service of the respondent-employee was directed. In our considered view it would be proper to permit the employer to proceed afresh against the employee, if so advised, on the same set of facts from the stage of requirement of compliance with the provisions of rule 29.3 and such other procedure as may be prescribed. Since the matter is pending since long it would be appropriate if proceedings be finalised within a period of six months. But, that would not permit the appellant-employer not to give effect to the order of the learned Single Judge as confirmed by the Division Bench regarding reinstatement. We make it clear that we have not expressed on the merits of the case. With the above observations the appeal is disposed of.

.....J.

(ARIJIT PASAYAT)

.....J.

(D.M.DHARMADHIKARI)

New Delhi,  
August 19, 2004.