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SLP(C)No. 10632 OF 2001

ITEM No.31

Court No. 1

SECTION XV
A/N MATTER

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.10632/2001

(From the judgement and order dated 13/03/2001 in RSA 3320/96
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SWARAJ TRACTORS DIVISION, PUNJAB

Petitioner (s)

VERSUS

RAGHBIR SINGH

Respondent (s)

(With prayer for interim relief)

Date : 05/08/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Mr. S.N. Bhandari, Sr. Adv.
Mr. Kailash Gahlot, Adv.
Mr. K.L. Sastry, Adv.
Mr. S.B. Upadhyay, Adv.

For Respondent (s) Mr. Satinder S. Gulati, Adv.
Ms. Kamaldeep Gulati, Adv.
Mr. C K Sasi, Adv.

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

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Learned counsel for the parties made their
submissions from 11.20 to 11.50 A.M.
Special leave granted.
The appeal is allowed in terms of the signed order.

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Kalyani. (S.L. GOYAL)@@
AA
COURT MASTER @@
A AA

(Signed Order is placed on the file.)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2002@@
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(arising out of SLP(C) NO. 10632 of 2001)

Swaraj Tractors Division, Punjab ... Appellant

vs.

Raghubir Singh ... Respondent

O R D E R@@
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Special leave granted.

In the instant case, as per the judgment of the High Court, the respondent who was a workman with the appellant absented himself from duty with effect from 27th March, 1991. On 30th March, 1991, FIR No. 28 was registered against him under Section 302 IPC. The respondent was arrested on 12th April, 1991. After his detention, a letter dated 25th April, 1991 was sent under registered AD post by the appellant to the respondent informing him that he was absent from duty without leave or intimation since 27th March, 1991. It was stated there that this amounted to misconduct and he should show cause why disciplinary action should not be taken against him. Not having received any reply, another letter dated 18th May, 1991 was sent informing him that it had been decided to conduct a domestic inquiry and the name of the Enquiry Officer who was appointed was communicated in this letter.

During the course of inquiry, letters dated 24th May, 1991 and 25th June, 1991 were sent to the respondent at his residential address. The respondent did not participate in ...2/-

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the inquiry proceedings though the letters/notices were received by his wife who wrote a letter dated 12th June, 1991 to the Inquiry Officer to the effect that the respondent was in custody and no correspondence had been received by them and that the respondent could not participate in the proceedings.

The Inquiry Officer gave a report and pursuant thereto by order dated 4th September, 1991 his services were terminated on the ground that he was absent without leave or intimation.

The said order of termination was challenged by the respondent by filing a civil suit which was decreed on 19th April, 1995. The ground for holding the order of termination illegal was that there had been denial of principles of natural justice and the respondent was not allowed to participate in the inquiry proceedings. This order has been upheld by the lower appellate court and the High Court.

We have heard the counsel for the parties at length. It is not in dispute that after the respondent had been apprehended pursuant to the FIR which had been lodged, he did not apply for leave. It is also admitted that a regular

inquiry was conducted and notices in respect thereof were sent
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and were received by the wife of the respondent. The said service would be valid in view of provisions of Order V Rule 15, CPC. It was not correct for the courts below to come to the conclusion that principles of natural justice were violated. Admittedly, wife of the respondent received the notices and there was nothing to prevent her from participating in the inquiry proceedings or for the respondent to appoint some person to represent him. Furthermore, even at this stage, there is nothing on record to show that the respondent made any attempt to communicate with the appellant seeking leave of absence. It is, therefore, quite evident that the report of the Inquiry Officer that the respondent had been absent without leave was factually correct and as per the Standing Orders this tantamounted to a misconduct. According to the respondent, he was, first apprehended on 30th March, 1991 but till the order of dismissal was passed he had not joined duty nor was there any application for grant of leave. In our opinion, therefore, the courts below could not have come to the conclusion that the principles of natural justice had been violated.

We, therefore, allow this appeal and set aside the orders of the courts below, but in view of the fact that the respondent had put in twelve years of service we direct the
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appellant to pay to the respondent within four weeks from today an ex-gratia amount of Rs. 3,00,000/-.

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.....CJ.

.....J
(K.G. BALAKRISHNAN)

.....J
(ARIJIT PASAYAT)

New Delhi;
August 5, 2002.