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SLP(C)No. 10961 OF 2001

ITEM No.52

Court No. 3

SECTION XI
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.10961/2001
(From the judgement and order dated 25/05/2001 in WP 2403/90
of the High Court of Judicature at Allahabad, Lucknow Bench
at Lucknow)

BANK OF INDIA & ORS.

Petitioner (s)

VERSUS

SUDARSH AWASTHI

Respondent (s)

(With prayer for interim relief)

Date : 10/09/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE S.N. VARIAVA

For Petitioner (s) Mr. Mukul Rohtagi, ASG
Ms. Nina Gupta, Mr. Uday Gupta, Ms. Arpita
Mahajan, Ms. Praneeta Sharma and
Mr. Vineet Kumar, Advs.

For Respondent (s) Mr. Gaurav K Banerjee, Adv.
Ms. Malvika Trivedi, Mr. Prashant Kumar,
Mr. R C Verma, Ms. Sangeeta Sharma, Ms. Kiran
Kapoor and Mr. Mukesh Verma, Advs.

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

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Special leave granted.

The appeal is disposed of in terms of the signed
order.

(D.P. WALIA)
Court Master

(S.L. GOYAL)
Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
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[arising out of S.L.P.(C) No.10961 of 2001]

Bank of India & Ors. ..Appellant(s)

vs.

Sudarsh Awasthi ..Respondent(s)

O R D E R@@
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Special leave granted.

Two charges of misconduct were alleged by the appellants against the respondent. The first charge was unauthorised absence from duty since 4th February, 1989 and the second charge related to non-joining of duty by the respondent upon his transfer to Farrukhabad Gramin Bank.

Both the charges were held to be proved and with regard to the first charge order of removal was passed and with regard to the second charge also a similar order was passed.

On challenge being made, the High Court came to the conclusion that the respondent could not be posted in Farrukhabad Gramin Bank on deputation because his consent had not been taken. This part of the judgment of the High Court is unexceptionable and, therefore, merits no interference.

The High Court, however, did not deal with the first charge, namely, unauthorised absence of the respondent before his transfer to Gramin Bank but after 4th February, 1989.

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Without going into the merits of the question and keeping in view the fact that there is no denial of the fact that from 4th February, 1989 till the order of transfer to Gramin Bank, and in fact till today, the respondent has not been attending to his duties we feel that some punishment with regard to the first charge was called for.

After taking into consideration the facts on record and with the consent of the parties, we feel that the ends of justice would be met by directing the reinstatement of the respondent but without any back wages and he should be given the post which he was holding under the appellant as on 4th February, 1989. Ordered accordingly. It will be appropriate, in our opinion, that the respondent is posted at a place other than Lucknow.

The appeal is disposed of in the aforesaid terms.

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.....J.
(B.N. KIRPAL)

.....J.
(N. SANTOSH HEGDE)

.....J.
(S.N. VARIAVA)

New Delhi;
September 10, 2001.