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SLP(C)No.11565-11566/2000

ITEM No.207

Court No. 7

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.11565-11566/2000

(From the judgement and order dated 02/08/1999 in CMWP 4919/85  
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

R.K. NIGAM

Petitioner (s)

VERSUS

M/S. SWADESHI COTTON MILLS & ANR.

Respondent (s)

( With Appln(s). for c/delay in filing SLP )  
( For Final Disposal )  
( With Office Report )

Date : 19/01/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Petitioner (s) Mr. Bharat Sangal,Adv.

For Respondent (s) Mr. B.S. Banthia,Adv.

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

.....L.....I.....J  
.SP2

Leave granted.  
Appeals are allowed in terms of the signed order.

.SP1

(Meenu Sethi)  
Court Master

( R.K. Kumar )  
Court Master

Signed order is placed on the file

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.790-791/2001@@  
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(arising out of SLP(C) No. 11565-11566/2000)

Shri R.K. Nigam .. Appellant

Vs.

M/s Swadeshi Cotton Mills& Anr. .. Respondents

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.....L.....I.....J  
.SP2

Leave granted.

An award was made by the Labour Court in a dispute which was referred under Section 4 of the U.P. Industrial Disputes Act, 1947 for adjudication. The grievance of the appellant in that reference is that his services had been terminated wrongly and he is entitled to reinstatement with consequential reliefs. The Labour Court ultimately came to the conclusion as follows:

.....L.....J  
.SP1

" Hence in this dispute I am of the opinion that the worker be reinstated in service on old terms and conditions of the service within one month from the date of the publication of this judgment. No amount shall be payable to him for the period in between. Because he has committed irregularity by not sending it through his departmental incharge. For this it is sufficient not to give the amount of the period in between."

.SP2  
.....L.....I.....J

The Labour Court in substance passed an award directing reinstatement of the appellant on the old terms

and conditions within a period of one month from the date of the publication of the award but no back wages shall be paid to him. Against that award a Writ petition was filed before the High Court by the respondents. The High Court upheld the award made by the Labour Court reinstating the appellant. However, it was made clear that he would be entitled to his regular salary from the date of reinstatement i.e. 1.9.1999 and he would not be entitled to regular salary for the intervening period.

Pursuant to this order it is stated that the respondents reinstated the appellant in service. It is also brought to our notice that during the pendency of the proceedings an interim order was passed by the High Court on 11.4.1985 and certain payments have been made pursuant to that order.

Shri Bharat Sangal, learned counsel for the appellant submitted that the Labour Court had made the award denying back wages and further denial of the back wages during the pendency of the proceedings before the

High Court was not justified at all when pursuant to the interim order granted by the High Court the appellant became entitled to certain wages in terms of Section 17-B

of the Industrial Disputes Act, 1947, would be an interim arrangement, as he was prevented from resuming the work in terms of the award made by the Labour Court. In those circumstances it was not proper for the High Court to deny wages accruing to the appellant from the date of the award of the Labour Court.

Learned counsel for the respondent submitted that the appellant had not challenged the award made by the Labour Court and a Review petition had been filed against the order made by the High Court. In that Review petition he had not claimed any back wages, therefore, it was not just and proper to grant the wages claimed by him from the date of the award made by the Labour Court.

The Labour Court considered the various aspects of the matter and came to the conclusion that the appellant is entitled to reinstatement but denied back wages, making it clear that the wages were payable only from the date he resumed office in terms of the award made by the Labour Court. That order is just and proper and that should have been given full effect to by the High Court. So far as the objection raised by the learned Counsel for the respondents that there is no challenge to the award made by the Labour Court is concerned the appellant had

no grievance against the award made by the Labour Court and the question of challenging the same would not arise. It is pointed out to us that in the Review petition the only claim made by the appellant is for grant of relief in respect of seniority, gratuity and other payments and not in respect of wages payable from the date he resumed office or he was directed to resume office in the award made by the Labour Court. So far as the claim regarding seniority and other benefits are concerned the same would emanate from the order of reinstatement itself, therefore, claiming that relief in the Review petition does not arise. That aspect has not been touched upon by the High Court. The only part of the order of the High Court in respect of which he had grievance was denying wages in terms of the award made by the Labour Court and that ought not to have been modified.

We find no substance in the contention advanced on behalf of the respondents and allow these appeals. We therefore set aside the order of the High Court to the extent it denied back wages contrary to the award of the Labour Court. Payment of wages will now have to be computed and paid from one month after the award before which the appellant should have been reinstated. Payment

if any that may have been made by the respondents in terms of the interim orders made by the High Court will have to be necessarily deducted and the balance amount of wages have to be paid to the appellant within three months from today. There will be no order as to costs.

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( S. RAJENDRA BABU )@@  
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.....J@@  
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(K.G. BALAKRISHNAN)@@  
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New Delhi,@@  
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January 19, 2001.