

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.4882/1999 @@
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M.P. Electricity Board

Appellant(s)

VERSUS

Shree Baboo

Respondent (s)

(With prayer for I.R. & O.R.)

Date : 16.01.2001 This appeal was called on for hearing today.@@
AA

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. S.K.Agnihotri,Adv.
Ms.Madhur Dadlani,Adv.

For the Respondent(s) Mr. V.A. Mohta,Sr.Adv.
Mr. M.K. Choudhary,Adv.
Mr. S.K.Verma,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....J.

.SP2
The Appeal is dismissed.

.SP1
(Y.P.Dhamija) (S. Malkani)@@
AA
COURT MASTER COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4882/1999 @@
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M.P.Electricity Board ..Appellant

Vs.

Shree BabooRespondent

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....J.
.SP2

The M.P.Electricity Board is in appeal against the impugned judgement of the High Court of M.P. setting aside an order of compulsory retirement passed under Rule 42 of the M.P. Civil Services Pension Rules, which is in pari-materia with Rule 56(J) of the Fundamental Rules. On the basis of the entries in the annual confidential character roll, the screening committee having come to the conclusion that it would be in the public interest to compulsorily retire the respondent from public service, the Board has finally passed the order. The said order having been assailed, the High Court has come to the conclusion that the materials on the basis of which the aforesaid conclusion arrived at would not satisfy the test of public interest inasmuch as the only remark was the so-called absence from the Headquarters on some occasion without prior permission and spending more on the telephone bill than the monetary limit prescribed for such telephone call. The explanation of respondent was that

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most of the calls though had been made from the residence were official in nature as the Superintendent Engineer of different places had been contacted for official work, and therefore it cannot be said to be violation of the rules. The very service record and the annual character roll for the year 1991-92 that was placed before us record his integrity to be sound and yet the screening committee came to the conclusion that his integrity is also not beyond doubt. There is absolutely not an iota of materials to support the aforesaid conclusion of the screening committee and a conclusion not based on any materials is obviously justiciable and could be interferred with by a Court of law. This being the position, and in the facts and circumstances of the case, we are satisfied that the High Court rightly interferred with the order of compulsorily retirement and we see no infirmity with the said order so as to be interferred with by this Court in exercise of power under Article 136 of the Constitution. We therefore dismiss this appeal.

Be it stated that because of the order of stay obtained from this Court, the order of compulsory retirement that was passed by the Board has been given effect to notwithstanding the impugned judgment of the M.P. High Court, and the respondent is drawing therefore the pensionary benefits for this period. The order of retirement was in the

year 1992 and the High Court set aside the order on

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14.7.1994. The respondent has yet about 3 years to reach his superannuation. In the aforesaid premises, we direct that the Board should give a posting to the respondent within one month from today. For the period from 1992 till today the respondent would not be entitled to any additional remuneration though he would be entitled to continuity of service. From today, the date of judgment he will be entitled to remuneration as a Superintendent Engineer. If he is entitled to further promotion or benefit that may also be given to him. The amount which the respondent has drawn may not be called upon to refund since he would have been entitled to much more what he has drawn.

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.....J.
(G.B.PATTANAİK)@@
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New Delhi,
January 16, 2001

.....J.@@
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(B.N. AGRAWAL)@@
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