

b,

C.A.No. 5058 OF 1997

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R
~ ITEM NO.109 COURT NO. 7 SECTION IV

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. 5058/1997

Cement Corpn. of India Ltd. .. Appellant (s)

Vs.

Raghubir Singh & Anr. .. Respondent(s)

(With office report)

DATE : 1.3.2001 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE SHIVARAJ V PATIL

For Appellant (s) : Mr. S.V. Deshpande, Adv.

For Respondent (s) : Mr. Brijender Chahar, Adv.
Mr. Vinay Garg, Adv.

UPON hearing counsel the Court made the following

O R D E R

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

The appeal is partly allowed in terms of the signed order.

.SP1
Charanjit [Om Prakash]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5058/1997@@
CCCCCCCCCCCCCCCCCCCCCCCC

Cement Corpn. of India Ltd. .. Appellant

Vs.

Raghubir Singh & Anr. .. Respondents

O_R_D_E_R@@
AAAAAAAAA

The respondent No. 1 (hereinafter referred to as the respondent)was an employee in the establishment of the appellant. He became its employee on its being taken over on 23.6.1981. The appellant notified to its employees who had become its employees, on the erstwhile company being taken over, to produce proof of their age in two notices issued on 5.12.1981 and 11.2.1982. However, the appellant did not make any claim as to what is his correct date of birth and which is in the record of the appellant is 1.7.1932 and therefore he was retired from service on 30.6.1990 on attaining the age of 50 years. The respondent thereafter raised an industrial dispute two years later before the Labour Court and he placed proof before the Labour Court to show that his date of birth is 2.2.1936 and therefore he should have been retired only on 1.2.1994. The Labour Court recorded a finding that the date

-2-

of birth of the respondent is 2.2.1936. This finding of fact has been affirmed by the learned single Judge and by the Division Bench of the High Court as well. It is against this order that this appeal has been filed by special leave.

The fact that the date of birth of the respondent is 2.2.1936 cannot be seriously disputed in view of the certificate issued by the Registrar of births and deaths. Therefore this finding of fact recorded by the labour Court and affirmed by the High Court cannot be assailed. However, in this regard respondent had made a claim before the Labour Court two years after his retirement and it is not proper for the Labour Court to have granted the back wages for the period between 30.6.1990 to 1.2.1994 and that it could have only granted the back wages from the date of filing of the petition before the Labour Court. The Labour Court ought not to have granted interest either, particularly, when the respondent had not worked for that period and was making a belated claim. In the circumstances grant of interest also is not appropriate. The respondent would be entitled only to back wages for a period of two years from 1.2.1992 till 30.1.1994. He will not be entitled to any interest. The amount due to him shall be paid by the appellant within three months from today. If such

a payment is not made he will be entitled to interest @ 18% per annum. The appeal is partly allowed as stated above.

.SP1

.....J@@
AAAAAAAAAAAAAAAAAAAA
(S. RAJENDRA BABU)@@
AAAAAAAAAAAAAAAAAAAA

.....J@@
AAAAAAAAAAAAAAAAAAAA
(SHIVARAJ V PATIL)@@
AAAAAAAAAAAAAAAAAAAA

New Delhi,@@
AAAAAAAAAAAA
March 1, 2001 @@
AAAAAAAAAAAAAAAA