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C.A.No. 5946-5947 OF 1997
ITEM NO.102

Court No.10

SECTION XVIA

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

CIVIL APPEAL NOS.5946-5947 OF 1997@@
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STATE OF J & K

Appellant (s)

VERSUS

RAIS AHMED GAZI & ORS.

Respondent (s)

Date : 04/02/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. Anis Suhrawardy, Adv.

For Respondent (s) Ms. Shabnam Lone, Adv.
Mr. M.N. Shroff, Adv.

UPON hearing counsel the Court made the following

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Mr. Anis Suhrawardy, learned counsel for the appellant-State argued the matter for about 10 minutes. Thereafter, Ms. Sabnam Lone, learned counsel for respondents argued for about half an hour.

The appeals are dismissed in terms of the signed order. No costs.

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(A.S. Bisht)
Court Master

(Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.5946-5947 OF 1997@@
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STATE OF J & K

.... Appellant

:versus:

RAIS AHMED GAZI & ORS.

.... Respondents

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The learned counsel for the appellant-State submitted that Civil Appeal No.5947/1997 does not survive for consideration for the reason that Syeedan Shafi expired during the pendency of the proceedings. The learned counsel for the respondents pointed out that he had expired even before filing the SLP. The learned counsel for the appellant-State submitted that the arrears of emoluments that were due to him have been paid to his legal representative. Thus, on both the grounds the appeal does not survive. Hence, Civil Appeal No.5947/1997 stands dismissed.

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As far as Civil Appeal 59946/1997 is concerned, in the impugned order, the High Court gave liberty to the appellants to proceed afresh against the respondents, if so advised. We are told during the course of hearing that no further action was taken against the respondent Rais Ahmed Gazi. Learned counsel for the respondents also pointed to the letter No.PDC/125355 dated 10.6.97. In the said letter it is stated thus:

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"As reported by the Chief Engineer, CI&D Wing Srinagar vide his above quoted No. Shri Rais Ahmed Gazi has joined on 7.4.1997 in Civil Invest. Division, Srinagar.

The Chief Engineer, Civil Investt. & Divn., vide his letter No.1046-47 dated 6.6.97 has given his opinion that no further enquiry by the Department seems necessary and services of the appellants (Sh. Rais Ahmed) need to be allowed to continue and have suggested to release the arrears for the period the incumbent remained under termination."

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The learned counsel for the appellant-State also submitted that no fresh action is taken against Rais Ahmed Gazi even though liberty was given by the High Court in the impugned order. Civil Appeal Nos.7474-75/1997, which were simlar were also dismissed by this Court. These being the facts Civil Appeal No.5946/1997, is also dismissed. No costs.

We make it clear that the respondent Rais Ahmed Gazi shall be entitled to all the benefits that are available to him by virtue of his reinstatement.

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(SHIVARAJ V. PATIL)@@

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(ARIJIT PASAYAT)@@

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NEW DELHI;

February 04, 2003.