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ITEM NO. 101 COURT NO. 7 SECTION XV  
( PH )

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. 1754/1999

Exe. Engineer, O & M Divn. .. Appellant (s)  
Karnataka Elec. Board .

Vs.

C. Guddappa & Anr. .. Respondent(s)

( With appln. for amendment of cause title and production of records ) With I.A. No. 3 - Appln. for production of Additional documents

DATE : 9.11.2000 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MR. JUSTICE S.N. VARIAVA

For Appellant (s) : Mr. S.K. Kulkarni, Adv.  
Ms. Sangeeta Kumar, Adv.

For Respondent (s) : Mr. R. Jagannath Goulay, Adv.  
Mr. P Narasimhan, Adv.

UPON hearing counsel the Court made the following

O R D E R

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.SP2

Application for amendment of cause title is allowed.

Subject to modification, this appeal shall stand dismissed in terms of the signed order.

.SP1  
Charanjit [ Meena Trikha ]  
Court Master

[ Signed order is placed on the file ]

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1754/1999@@  
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Exe. Engineer, O & M Divn. .. Appellant  
Karnatka Elec. Board

Vs.

C. Guddappa & Anr. .. Respondent

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.SP2

The application for amendment of cause title is allowed.

In this appeal, the appellant is questioning the correctness of an order made by the High Court affirming the award of the Tribunal directing his reinstatement with back wages.

The contention putforth on behalf of the appellant is that the respondent workman ( hereinafter referred to as the respondent ) had not worked for 240 days or more and therefore the provisions of Section 25 F of the Industrial Disputes Act were not attracted and the Labour Court as well as the High Court fell into error in this regard. On an earlier occasion a proceeding had been initiated by the respondent under the Workmen's Compensation Act in which he had made a claim that he had worked in the appellant-board for a year and a half before the date of the accident, while the contention raised

before the Labour Court is to the effect that he had worked for about three years. The material produced by the appellant before the Labour Court in the shape of documents Ex. M-1 to M-6 indicated that he had worked only for 250 days. On consideration of this material the Labour Court came to the conclusion that it would be probable he had worked for more than 240 days. This finding of fact recorded by Labour Court has been affirmed in the High Court by the learned single Judge in Writ Petition as well as by the Division Bench on further appeal. In that view of the matter we do not think we can upset that part of the finding though Mr. S.K. Kulkarni, learned counsel for the Board very vehemently urged that the conclusion reached by the High Court and the Labour Court is plainly perverse. All that has happened is that the Tribunal as well as the High Court after taking note of various factors arising in this case have judged the probability in coming to the conclusion they did. Thus, the finding above stated is justified.

However, we are surprised in this case that the respondent should been given full back wages. There is hardly any consideration by any of the Courts as to how the respondent is entitled to full back wages. The respondent's service stood terminated w.e.f. 1.5.73 wheareas the dispute in regard to the same was referred to the Tribunal in the year 1981 and thereafter an award came to be passed in the year 1986. When there has been a long delay between the date of the

termination and the Reference being made, the Tribunal ought

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to have considered whether the respondent was entitled to full back wages or not. The delay in approaching the authorities or the delay in making reference at his instance or otherwise beyond his control should have been examined by the Tribunal. In the absence of the same we must infer that there is total non-application of mind on this aspect of the matter. In the circumstances we think it appropriate to deny the back wages to the respondent except to the extent as has been already paid to him pursuant to an interim order made by the High Court during the pendency of the proceeding before it. Subject to aforesaid modification, this appeal shall stand dismissed.

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.....J@@  
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[ S. RAJENDRA BABU ]@@  
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.....J@@  
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[ S.N. VARIAVA ] @@  
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New Delhi,@@  
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November 9, 2000@@  
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