

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2007

(ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 24325 OF 2005)

UTTARANCHAL FOREST DEV. CORPN. & ORS.APPELLANTS

VERSUS

HARISH CHANDRA UNIYAL

....RESPONDENT

O R D E R

Leave granted.

This appeal is directed against the impugned order dated 21.4.2005 passed by the learned Single Judge of the Uttaranchal High Court whereby the learned Single Judge allowed the writ petition of the petitioner/respondent herein and set aside the findings of the Labour Court holding that Section 25-N of the Industrial Disputes Act was not attracted but only Section 6-N was attracted and the orders of the retrenchment of the respondent were also quashed and the he was put back on duty. Aggrieved against the said order, present appeal has been filed by Uttaranchal Forest Development Corporation.

Notice of this appeal was issued to the respondent but none has appeared to oppose this appeal despite service.

Learned counsel for the appellants has invited our attention to the decisions of this Court in Uttaranchal Forest Development Corpn. & Another Vs. Jabar Singh and others 2006(13) SCALE 556

and specially paras 44-46 and U.P. Jal Nigam & Anr. Vs. Jaswant Singh & Another 2006(12) SCALE 347, para 6. Learned counsel has submitted that the respondent had directly approached the High Court under Article 226 of the Constitution of India after a period of 10 years and despite that delay the High Court granted relief to the respondent as aforesaid. Learned counsel further submitted that in view of the aforesaid two decisions of this Court, it is more than clear that such a belated petition should not have been directly entertained by the High Court and that too under Article 226 of the Constitution of India.

The submissions of learned counsel appears to be justified.

In view of the law laid down by this Court, the learned Single Judge at this distance of time and directly under Article 226 of the Constitution of India should not have entertained the writ petition when the respondent/petitioner had a remedy available under the Industrial Disputes Act. Consequently, we set-aside the impugned order of the High Court and allow this appeal & dismiss the writ petition. There shall be no order as to costs.

.....J.

.....
[A.K. MATHUR]

.....J.

.....
[DALVEER BHANDARI]

NEW DELHI

MAY 1, 2007

ITEM NO.2

COURT NO.6

SECTION XV

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(s).24325/2005

(From the judgement and order dated 21/04/2005 in WP No. 443/2005 of The HIGH COURT OF UTTARANCHAL AT NAINITAL)

UTTARANCHAL FOREST DEV. CORPN. & ORS.

Petitioner(s)

VERSUS

HARISH CHANDRA UNIYAL

Respondent(s)

(With prayer for interim relief and office report)

[FOR FINAL DISPOSAL]

Date: 01/05/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s)

Mr. Santosh Kumar, Adv.

Mr. Devesh Singh, Adv.

Dr. Kailash Chand, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Appeal is allowed in terms of signed order with no order as

to costs.

(Pardeep Kumar)

Court Master

(Radha R. Bhatia)

Court Master

[SIGNED ORDER IS PLACED ON THE FILE]