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C.A.No. 1932 OF 1998

ITEM NO.103

COURT NO. 9

SECTION XV

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

CIVIL APPEAL NO. 1932 OF 1998

K.S.R.T.C. .. APPELLANT

VERSUS

R.G. RAMCHANDRAPPA & ANR. .. RESPONDENTS  
(With office report)

DATE: 09/03/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For appellant (s)Mr. K.R. Nagaraja, Adv.  
Mr. A.P. Jain, Adv.  
Ms. E.R. Sumathy, Adv.  
Ms. Savita Aggarwal, Adv.  
Mr. K.L. Sridhar, Adv.

For respondent (s)Ms. Hetu Arora, Adv.  
Mr. Naveen R. Nath, Adv.  
Mr. Sanjay Sharawat, Adv.  
for Mr. S.R. Bhat, Adv.

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

Mr. K.R. Nagaraja, learned counsel for the appellant made his submissions for 15 minutes. The n, Ms. Hetu Arora, learned counsel for the respondents made her submissions for 15 minutes. The appeal is allowed with no order as to costs in terms of the signed order.

Sarita (Shelly Sengupta)  
Court Master

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1932 OF 1998

K.S.R.T.C. APPELLANT

VERSUS

R.G. RAMCHANDRAPPA & ANR. RESPONDENTS

O R D E R

The respondent No.1 was working as a conductor with the appellant-Corporation. On account of certain misconduct and irregularities, charges were framed and after holding a domestic enquiry he was dismissed from service. An industrial dispute was raised before the Labour Court by respondent No.1. In the Labour Court it was found that the domestic enquiry held was defective and an opportunity was given to the Management to lead evidence in order to justify the order of dismissal. Accordingly, further evidence was led by the parties. The Labour Court found that the charges were proved and the order of dismissal was justified. In that view, no relief was granted by the Labour Court whatsoever to respondent No.1.

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He filed a writ petition before the High Court challenging the Award of the Labour Court. The learned Single Judge, however, while upholding the order of dismissal, granted backwages to respondent No.1 for the period from 25.8.1982 to 14.8.1989. The appellant-Corporation filed a writ appeal before the High Court assailing the order passed by the learned Single Judge granting backwages to respondent No.1. The Division Bench of the High Court by the impugned order, finding no merit in the writ appeal, dismissed it. Hence, this appeal.

The learned counsel urged that the controversy raised is covered by the Constitution Bench decision of this Court in P.H. Kalyani vs. M/s. Air France, Calcutta [ (1964) 2 SCR 104 ] and also in Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. vs. Ram Gopal Sharma & Ors. [ (2002) 2 SCC 244 ]. The learned counsel further brought to our notice a recent judgment of this Court rendered by three learned Judges of this Court in C.A.No.1729/1998 and submitted that this being the position in law, the appeal may be allowed.

Per contra, the learned counsel for respondent No.1 drew our attention to the penultimate paragraph of judgment in C.A.No.1729/1998 afore-mentioned to make some

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distinction on the ground that the domestic enquiry held was not fair and principles of natural justice were violated. This argument cannot be accepted having regard to the fact that after considering the evidence lead by both the parties, order of dismissal of respondent No.1 from service is held justified. Once it is held that the dismissal order was justified, that relates back to the date of dismissal of a workman from service. This position is clear from the two judgments of the Constitution Bench afore-mentioned and it is further made clear by a Bench of three learned judges in C.A.No.1729/1998.

Under these circumstances, this appeal is entitled to succeed. The impugned order passed by the learned Single judge as affirmed by the Division Bench of the High Court is set aside. The appeal is allowed accordingly. No order as to costs.

.....J.

[ SHIVARAJ V. PATIL ]

.....J.

New Delhi, [ D.M. DHARMADHIKARI ]  
March 9, 2004.