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SLP(C)No. 17935 OF 2000

ITEM No.39

Court No. 1

SECTION XVII  
A/N MATTER

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.17935/2000

(From the judgement and order dated 27/06/2000 in LPA 61/00  
of The HIGH COURT OF PATNA AT RANCHI)

GOURI SANKAR GHOSH HAZRA

Petitioner (s)

VERSUS

HINDUSTAN COPPER LTD. & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 08/05/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL  
HON'BLE MRS. JUSTICE RUMA PAL  
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Vijay Kumar, Adv.

For Respondent (s) Ms. Nandini Mukherjee, Adv.  
Mr. Deba Prasad Mukherjee, Adv.

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

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Special leave granted.

For the reasons record in the signed order, the  
appeal is allowed, the decision of the High Court is set  
aside and the order dated 19th September, 1995 passed by  
the respondents is quashed. The respondents shall release  
the benefits due to the appellant under the Voluntary  
Retirement Scheme, 1993 within a period of three months  
from today.

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Kalyani. (S.L. GOYAL) @@  
AA  
COURT MASTER@@  
A AA

(Signed Order is placed on the file.)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@  
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(Arising out of S.L.P. (C) No. 17935/2000)

Gourishankar Ghosh Hazra ..... Appellant

Versus

Hindustan Copper Ltd. & Ors. .... Respondents

O R D E R@@  
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Special leave granted.

The respondents had floated a scheme in 1993 for voluntary retirement of its officers. The appellant had made an application for voluntary retirement which was accepted on 6th September, 1995. It seems that the appellant had applied for employment with another public sector undertaking namely, Uranium Corporation of India. After being relieved, the appellant took up the new assignment.

It was thereafter that on 19th September, 1995 the respondents passed an order cancelling the voluntary retirement on the ground that the appellant had not disclosed at the time when he had applied for voluntary retirement that he was seeking employment with an other public sector undertaking.

The appellant sought to challenge the said order

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dated 19.9.1995. The High Court dismissed the writ petition by observing that there was a scheme of the Union of India which had stated that those who wanted to take voluntary retirement should not join service of an other public sector undertaking after getting the benefits of the Voluntary Retirement Scheme. Hence this appeal.

It has been brought to our notice that in 1992 a clarification was departmentally given in respect of an earlier Voluntary Retirement Scheme whereby the Government had clarified that:-

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"The management of PSE which is operating the V.R. Scheme should exercise its own managerial discretion and prudence while deciding cases of the V.R.in respect of the employees who are younger in age and are still fit for rendering useful service. If they know that an employee has applied for a job in other PSE's OM dated 14.12.82, 25.1.88 and 23.6.88 should be invoked by the

lending organisation and cash equivalent of gratuity, Earned Leave, Half Pay Leave standing to his credit, balance in the contributory Provident Fund should be transferred to the borrowing organisation and the benefit of VR Scheme should not be conceded. Each PSE, therefore, has to distinguish such cases themselves."

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...3/-

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It is clear that there was as such no embargo on an employee of a public sector undertaking being reemployed by another public sector undertaking. Besides that was only an internal communication between the Government and the public sector undertakings. As far as the appellant is concerned, the Voluntary Retirement Scheme of 1993 which has been placed on record does not contain any such condition. In other words, the appellant was never told that he could not seek voluntary retirement and join another public sector undertaking. There was no bar under the Scheme to the course of action adopted by the appellant. In our opinion, the decision of the High Court was not correct. The voluntary retirement having accepted on 6th September, 1995 the said decision could not thereafter have been rescinded by the respondents.

For the aforesaid reasons, this appeal is allowed, the decision of the High Court is set aside and the order dated 19th September, 1995 passed by the respondents is quashed. The respondents shall release

....4/-

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the benefits due to the appellant under the Voluntary Retirement Scheme, 1993 within a period of three months from today.

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.....J  
(B.N. KIRPAL)

.....J  
(RUMA PAL)

New Delhi,  
May 08, 2001.

.....J~  
(BRIJESH KUMAR)