

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6858 OF 2014
(Arising out of SLP (C) No. 21688 of 2013)

R A PANDEY

APPELLANT

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

O R D E R

Leave granted.

This appeal has been preferred by the appellant against the judgment and order dated 4th March, 2013 passed by the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Writ Petition No. 1855 (S/B) of 2000. By the impugned judgment and order, the High Court modified the order dated 28 th August, 2000 passed by the Central Administrative Tribunal, Lucknow Bench in O.A. No.879/1993. Relevant portion of the impugned judgment reads as follows:

"6. In the present case admittedly, the Claimant-Respondent had moved an application for voluntary retirement w.e.f. 31.8.1993, hence, it was incumbent upon the Petitioner to consider the claimant's application dated 27.8.1993 keeping in view the fact that by that master and servant relationship persists. Application for withdrawal should have been allowed by the Petitioner. The judgment and order passed by the learned tribunal seems to be based on well appreciation of law on the issue involved.

7. However, so far as, question of salary is concerned, since, the Claimant-Respondent had not discharged duty, he seems to be not entitled for payment of arrears of salary for the period when Respondent had not discharged duties.

8. Shri Ram Lagan Mishra learned counsel for the

Respondent submits that claimant was restored in service in pursuance the judgment of tribunal and

continued in service up to till the age of superannuation i.e. on 30.11.2007.

1

9. The impugned order dated 28.8.2000 is liable to be modified and is modified to the extent that the claimant-respondent is not entitled for arrears of salary for the period when he was not in job but for all other purposes, the claimant respondent shall deem to be in service and post retiral dues shall be assessed in accordance to rules. Tribunal's order stands modified accordingly."

Signature Not Verified
Digitally signed by
Rajni Mukhi

Date: 2014.08.14

17:06:03 IST

Reason:

The learned counsel for the appellant submits that in view of the impugned judgment, the appellant was disallowed the backwages and also that the period during which he was not in job will not be considered for determining the pension and other retiral

benefits. But such submission is misconceived, in view of the fact that the High Court by impugned judgment held that the claimant-respondent i.e. appellant herein shall be deemed to be in service and post retiral dues shall be assessed in accordance with the rules.

Therefore, the appellant shall be deemed to be in service during the said period, for the purpose of counting the period in service, fixation of pay after adding increment, if any, and for the purpose of determination of pension and other retiral benefits. He will not be entitled for arrears of salary for the period he was out of service.

In view of the observations made above, no interference is called for in the impugned order.

The appeal stands disposed of.

.....J.
[SUDHANSU JYOTI MUKHOPADHAYA]

.....J.
[S.A.BOBDE]

NEW DELHI
JULY 25, 2014

2

ITEM NO.49 COURT NO.5 SECTION XI

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

Petition for Special Leave to Appeal (C) No. 21688 of 2013

(Arising out of final judgment and order dated 04.03.2013 passed by the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in WP No. 1855 (S/B) of 2000)

R A PANDEY

Appellant(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

Date : 25/07/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. Mohinder Singh, ASG
Mr. J.S. Attri, Sr. Adv.
Mrs. Shobha Dixit, Sr. Adv.
Mr. M.P.Gupta, Adv.
Mr. Pradeep Misra ,Adv.

For Respondent(s) Mr. Mohan Prasad Gupta, Adv.
Mr. D. S. Mahra ,Adv.

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

Leave granted.
The appeal stands disposed of in terms of the Signed
Order.

[RAJNI MUKHI]
SR. P.A.

[USHA SHARMA]
COURT MASTER

(Signed Order is placed on the file)