



A departmental enquiry was conducted against him in 1999 on the charge of remaining absent from duty. His service was terminated on 19.7.2000. On appeal, the order of punishment was set aside but the appellate authority directed that the period of suspension may be treated as leave of the kind due. This was despite the fact that the respondent had not been suspended before termination of his service by way of punishment.

Respondent filed Civil Suit No.17 of 2004 for grant of a declaration that he is entitled to all service benefits for the period during which he was kept out of service. By judgment dated 29.4.2006, the trial Court dismissed the suit. However, the appeal filed by the respondent was allowed by the lower appellate Court, which held that if the respondent had not been suspended, the appellate authority had no jurisdiction to treat the so-called period of suspension as leave of the kind due. The learned Single Judge of the High Court held that once the period of absence is regularised by granting leave of the kind due, the said period has to be treated as part of service for all purposes.

3

In our view, the High Court did not commit any error by declining to entertain the petitioners' challenge to the judgment and decree of the lower appellate Court.

The special leave petition is accordingly dismissed on the ground of delay and also on merits.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master