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SLP(C)No. 20628 OF 2000

ITEM No.4

Court No. 3

SECTION XVIA
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.20628/2000
(From the judgement and order dated 20/10/2000 in CIA 21/00
of The HIGH COURT OF J & K AT JAMMU)

SHER-I-KASHMIR UNIV.,SCIENCE &TECHNOLOGY

Petitioner (s)

VERSUS

BASHIR AHMAD GANAIE & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 27/09/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Petitioner (s) Mr. L. Nageswara Rao, Sr.Adv.
Mr. D.K. Singh, Adv.
Mrs. Sumita Mukherjee, Adv.

For Respondent (s) Mr. Shambhu Prasad Singh, Adv.
No.1 Mr. Ashok Mathur,Adv.

RR No.7 Mr. Raju Ramachandran, Sr. Adv.
Mr. G.M. Kawoosa, Adv.
Mr. N. Ganpathy, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....J

.SP2

Special Leave granted.
This appeal is allowed and the orders of the trial
court as well as that of the High Court are set aside, in
terms of the signed order.

.SP1

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

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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) 20628 of 2000)

Sher-e-Kashmir University of Agricultural
Sciences and Technology, Kashmir ..Appellant(s)

vs.

Dr. Bashir Ahmad Ganaie & Ors. ..Respondent(s)

O R D E R@@
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Special leave granted.
Sher-e-Kashmir University of Agricultural Sciences
and Technology which was established in 1982 was bifurcated
by an Amendment Act VII in 1998. As a consequence thereof
two Universities were established - one at the valley in
Kashmir and the other in Jammu. The question involved in
this case was whether respondent No. 1 should be assigned
to the University at Jammu or at Kashmir. According to the
appellant herein, the said respondent had already been
posted at Jammu before the bifurcation took place on 20th
September, 1999. Challenging his deployment at Jammu,
respondent No. 1 had filed a suit before the Additional
District Judge, Srinagar. By a detailed order, the
Additional District Judge directed as follows:

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"In view of the above observations
and in view of the law relied upon, it is
clear that the plaintiff/applicant has
established a very strong prima facie case.
It has been established that if the relief
sought in the interim application is not
granted, he will suffer an irreparable loss

....2/-

and balance of convenience is in his
favour. In view of these observations, the
application warrants to be granted and is
accordingly granted and the defendants 1 to
5 are directed to post the plaintiff/
applicant on a post commensurate with his
merit, qualification and seniority. They
are further directed to release the salary
of the plaintiff/applicant withheld from
November, 1999. The application is
accordingly disposed of, however, the

findings returned in this application shall have no bearing on the final outcome of the main suit. The application shall form part of the main suit."

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The challenge to the said order was unsuccessful. Hence, this appeal by special leave.

We have gone through the documents on record and are of the opinion that it will cause prejudice if any detailed order is passed by referring to various letters and appointment letters which had been issued. It appears to us that the trial court ought not to have granted any injunction. It is evident from the order of the trial court that respondent No. 1 was at that time not holding any post under the University in Kashmir as it was for that reason that defendant Nos. 1 to 5 were directed to post respondent No. 1 at an appropriate position. According to the appellant-University, the salary is being paid to respondent No. 1, but there is no post which is vacant as of today. Inasmuch as the interim injunction ought not to have been granted, this appeal is allowed and the orders

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of the trial court as well as that of the High Court are set aside. As a result thereof, respondent No. 1 will have to comply with the University's letter dated 7th July, 1999 requiring him to report at Jammu for posting orders.

Under Section 50C of the Amendment Act No.VIII of 1998, the Chancellor may, in consultation with the Pro-Chancellor, pass appropriate orders regarding allocation of employees of the erstwhile undivided University. In our view, it would be appropriate if the respective Universities make a reference to the Chancellor within one month for appropriate orders. We hope that the order passed by the Chancellor would be acceptable to all.

.SP1

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

.....J.
(N. SANTOSH HEGDE)

.....J.
(P. VENKATARAMA REDDI)

New Delhi;
September 27, 2001.