

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.2698 of 2010  
(Arising out of S.L.P. (C) No.30872 of 2008)

MANAGER, K.V.S.S. MANDAWAR & ANR.

Appellant(s)

VERSUS

MUKESH KUMAR SHARMA

Respondent(s)

Date : 25/03/2010 This Appeal was called on for judgement today.

For Appellant(s) Mr. Sarad Kumar Singhania, Adv.

For Respondent (s) Ms. Mridula Ray Bharadwaj, Adv.

Hon'ble Mr. Justice K.S. Radhakrishnan  
pronounced the judgement of the Bench comprising  
Hon'ble Mr. Justice R.V. Raveendran and His  
Lordship.

Leave granted.

The appeal is allowed in-part.

[ Alka Dudeja ]  
A.R.-cum-P.S.

[ Neeru Bala Vij ]  
Court Master

[Signed non-reportable judgement is placed on the file]

Non-Reportable

IN THE SUPREME COURT OF  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2698 OF 2010  
(Arising out of Special Leave Petition (Civil) No.30872 of 2008)

Manager, K.V.S.S. Mandawar & Anr.

...Appellant(s)

Versus

Mukesh Kumar Sharma

...Respondent(s)

J U D G M E N T

K. S. RADHAKRISHNAN, J.

Leave granted.

2. Notice was issued on the special leave petition on  
the limited question of award of full back-wages on  
reinstatement. Labour Court, Bharatpur vide its award dated

3.4.1996 ordered reinstatement with full back wages when the service of the respondent was terminated without enquiry and without assigning any reasons. The writ petition filed by the appellant was dismissed on 11.5.1999 which was ultimately affirmed by the Division Bench of the High Court of Rajasthan vide its judgment dated 4.3.2008. The said order is challenged in this appeal. Respondent workman then filed an application under Section 33(C)(2) of the Industrial Disputes Act 1947 before the Labour Court Bharatpur as LCC 1/2005 for computation of monetary benefits. The Labour Court passed an order dated 3.9.2008 awarding a total amount of Rs.5,16,032.01 towards back wages. Though the respondent

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was reinstated in service on 9.6.2005, there is serious dispute between the parties as to whether, the respondent was gainfully re-employed during the period he was out of service. Further it was also stated that the appellant Co-operative Society is not financially sound to meet the claim of full back wages.

3. Considering the entire facts and circumstances of the case and after hearing counsel on either side we feel it would be appropriate to restrict the back-wages to 50% for the period 18.1.1990 (date of termination) to the date of reinstatement. The appellant Society is directed to pay the amount as ordered within a period of three months from today. The appeal is allowed in part accordingly.

.....J.  
(R.V. Raveendran)

.....J.  
(K.S. Radhakrishnan)

New Delhi  
March 25, 2010