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C.A.No. 1852 OF 2002

ITEM NO. 103

COURT NO.10

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1852 OF 2002

KRISHI UPAJ MANDI SAMITI .. APPELLANT
VERSUS

RAGHUVEER SINGH .. RESPONDENT

DATE: 10/09/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For appellant (s)Mr. S.K. Gambhir, Sr.Adv.
Mr. T.N. Singh, Adv.

For respondent (s)Mrs. K. Sarada Devi, Adv.

Upon hearing counsel the Court made the following

O R D E R

Mr. S.K. Gambhir, learned Senior counsel for the appellant started his arguments at 12.55 p.m.
and concluded at 2.40 p.m.

The appeal is dismissed in terms of the signed order. No costs.

Sarita(Shelly Sengupta)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1852 OF 2002

KRISHI UPAJ MANDI SAMITI ... APPELLANT

VERSUS

RAGHUVEER SINGH ... RESPONDENT

O R D E R

This appeal is directed against the order passed by the High Court dismissing the writ petition filed by the appellant. In an industrial dispute raised, an Award was passed on 17.6.1994 directing the appellant to reinstate the respondent herein into service and to pay all arrears of salary and an amount of Rs.240/- as cost of proceedings. This Award was passed by the Labo

ur Court when the appellant did not continue to appear in the proceedings. The appellant made an application on 22.9.94 to set aside this ex-parte Award before the Labour Court. The Labour Court, by the order dated 4.11.99, rejected the application recording reasons and stating that no case was made out for setting aside the ex-parte Award. In that, it is pointed out that on 2.6.94 there was a representation on behalf of

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the appellant and the order sheet is also signed by the parties on that day; that being the position, the appellant ought to have been aware of the next date of hearing. The appellant filed a writ petition before the High Court challenging the ex-parte Award dated 17.6.94 as well as the order dated 4.11.99. The High Court dismissed the writ petition holding that under Rule 25A of the M.P. Industrial Disputes Rules, 1957 after the Award was passed, it was pronounced in open court, that itself amounted to publication of the Award and it became enforceable under Section 17-A of the Industrial Disputes Act, 1947. When the application for setting aside the ex-parte Award was not maintainable, the challenge to the ex-parte Award could be made by filing writ petition within a reasonable time. That having not been done, the High Court found that the challenge to the ex-parte Award was belated. Even otherwise, the High Court did not find it appropriate to interfere with the Award passed by the Labour Court as well as the order rejecting the application to set aside the ex-parte order made in the discretion. We do not find any good ground to interfere with the impugned order, having considered the submissions made by the learned Senior counsel for the appellant.

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The learned counsel for the appellant submitted that the Labour Court was not at all justified in awarding full backwages to the respondent when the matter was pending for a long time. He cited following decisions in support of this submission: (i) U.P. State Road Transport Corporation vs. Muniruddin [(1990) 4 SCC 464]; (ii) Ras Behari vs. Haryana Agricultural University Through Vice Chancellor, Hissar & Ors. [(1987) 2 SC C 543]; (iii) Haryana Urban Development Authority vs. Devi Dayal [(2002) 3 SCC 473]; and (iv) Hindustan Motors Ltd. vs. Tapan Kumar Bhattacharya & Anr. [(2002) 6 SCC 41].

The decisions are on facts of those cases, but, here is the case where no rebuttal evidence whatsoever was placed to support the contention or the case of the appellant. In the absence of rebuttal evidence, the evidence that was placed on record by the respondent was accepted by the Labour Court and rightly so in our opinion. It was contended that during the long period of seven years between 1987 to 1994 the respondent must have been employed elsewhere and full payment was not justified. We are not in a position to accept this submission, also when the appellant who has clearly stated in his deposition that he was unemployed during that period and had no other means.

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This being the position, we do not find any merit in the appeal. Consequently, it is dismissed. No costs.

.....J.

(SHIVARAJ V. PATIL)

.....J.

New Delhi, (D.M. DHARMADHIKARI)
September 10, 2003.