

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.3138-3139 OF 2010

THE BOARD OF TRUSTEES PORT OF MUMBAI ... APPELLANT(S)

VS.

RAMKRISHNA SHIVRAM GADEKAR ... RESPONDENT(S)

O R D E R

We have heard learned senior counsel for the appellant.

We may note that the charges against the respondent were serious of being complicit as the driver in a robbery being effected from a container of dock containing bails of raw silk, The disciplinary proceedings were initiated on a set of two charges: (a) abeting in theft and (b) of violation of absolute integrity and devotion to duty. The enquiry officer found against the respondent on both accounts and proposed a penalty of dismissal from service which was effected from 16<sup>th</sup> July, 1991. Parallelly, criminal proceedings in respect of incident were going on and the respondent was acquitted in terms of the judgment of the Court dated 12<sup>th</sup> September, 1997 owing to various technical and procedural lacunaes in the investigation and the trial. As a result of this, the respondent sought to take benefit by seeking a review of the order of dismissal which was rejected.

The dispute arising from the aforesaid was referred by the Central Government to the Industrial Tribunal, Mumbai. The Tribunal found the charge of abetment of theft made out but not the second charge. The Tribunal reinstated the respondent but without payment of back wages vide order dated 30<sup>th</sup> March, 2000. The further endeavours of the appellant by filing a Writ Petition before the High Court and a counter petition by the respondent resulted in the reinstatement of the respondent being set aside and the Writ Petition filed by the appellant being allowed. This judgment of the learned Single Judge was however reversed by the Division Bench in Letters Patent Appeal.

The appellant approached this Court and in terms of the order dated 05.04.2010, stay was directed against the order insofar as the directions for payment of back wages was concerned but the order for reinstatement was not stayed.

Learned senior counsel for the appellant Mr. Parag P.Tripathi submits that the respondent was consequently reinstated and has even since retired.

None has put in appearance for the respondent today, even though a counter affidavit was filed at the initial stage.

We have heard learned senior counsel for the appellant and perused the record. We are of the view that the allegations were serious but we are faced with the position today where the respondent has worked for this period of time in view of the interim order of this Court and has retired. Thus, the ends of justice can be served by disposing of these appeals in terms of the

interim directions already passed on 5<sup>th</sup> April, 2010 and thus the respondent will be deprived of the directions for payment of back wages but since he has worked in pursuance to the order for reinstatement and has been paid his salary, the pay cannot be claimed back by the appellant or any other retiral benefits as may be admissible to the respondent.

The appeals are accordingly disposed of leaving the parties to bear their own costs.

.....J.  
(SANJAY KISHAN KAUL)

.....J.  
(AJAY RASTOGI

.....J.  
(ANIRUDDHA BOSE)

New Delhi,  
July 23, 2020.

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(s). 3138-3139/2010

THE BOARD OF TRUSTEES PORT OF MUMBAI

Appellant(s)

VERSUS

RAMKRISHNA SHIVRAM GADEKAR

Respondent(s)

Date : 23-07-2020 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE AJAY RASTOGI

HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Appellant(s) Mr. Parag P.Tripathi, Sr. Adv.  
Mr. Buddy A.Ranganadhan, Adv.  
Mr. A. V. Rangam, AOR

For Respondent(s) Mr. Anil Kumar, AOR

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

Heard learned senior counsel for the appellant.

The appeals are disposed of in terms of the signed  
order.Pending application, if any, shall also stand  
disposed of.(ANITA MALHOTRA)  
COURT MASTER(ANITA RANI AHUJA)  
ASSISTANT REGISTRAR

(Signed order is placed on the file.)