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ITEM NO.43

COURT NO.2

SECTION IVB

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(s).32552/2011

(From the judgement and order dated 22/03/2011 in CWP No.4237/1993 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

HARKESH SINGH

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(With office report)

Date: 02/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s) Mr. J.P. Dhanda, Adv.

For Respondent(s) Mr.Ankit Swarup, Adv.
Ms. Naresh Bakshi, AOR

UPON hearing counsel the Court made the following

O R D E R

Having failed to convince the Division Bench of the Punjab and Haryana High Court to direct the respondents to pay him back wages for the period during which he remained out of employment, the petitioner has invoked jurisdiction of this Court under Article 136 of the Constitution.

We have heard Shri J.P.Dhanda, learned counsel for the petitioner and carefully perused the record.

While he was working as Conductor in the services of the Haryana Roadways, a departmental inquiry was initiated against the petitioner on the charge that he collected bus fare from 24 passengers without issuing tickets and, thereby, misappropriated the Government revenue. The petitioner admitted the charge and agreed to suffer the punishment. Thereafter, General Manager, Haryana Roadways, Gurgaon passed order dated 30.07.1992 and imposed a punishment of stoppage of two annual increments

without cumulative effect. That order was reviewed by the Transport Commissioner and the petitioner was dismissed from service.

The Division Bench of the High Court referred to the order passed by the Coordinate Bench in a similar matter and set aside the order of dismissal from service. However, the relief of back wages was denied to the petitioner by making the following observations:

"Undoubtedly, the petitioner shall have to be deemed to be in service all along until his superannuation and his pension and retrial benefits will have to be calculated on that basis. However, in so far as his back wages is concerned, we are afraid that no order granting any back wages can be passed in favour of the petitioner on the principle of 'no work no pay'. We, therefore, direct the respondents to pay all the retirement benefits to the petitioner by treating him to be in service until the date of his superannuation and also calculate his pension on that basis which shall be paid from the date when such pension became due."

In our considered view, the High Court did not commit any error by refusing to direct the respondents to pay wages to the petitioner for the period of unemployment because he had admitted his guilt of having carried 24 passengers without issuing tickets.

With the above observation, the special leave petition is dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master