

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9737 OF 2011  
ARISING OUT OF

Petition(s) for Special Leave to Appeal (Civil) No(s).27462/2008

NATIONAL ALUMINIUM CO.LTD. & ORS.

Petitioner(s)

VERSUS

MANOJ KUMAR KHATUA

Respondent(s)

ORDER

Heard learned counsel for the parties.

Leave granted.

This appeal arises out of an order dated 5th August, 2008 passed by the High Court of Orissa at Cuttack whereby the High Court, after considering the facts and circumstances of the case, found that the departmental proceedings against the respondent for his unauthorized absence from his duties might have been initiated correctly but the High Court held that his "removal from service" on account of unauthorized absence is too harsh and disproportionate to the charges.

Therefore, the High Court has set aside the order of "removal from service" and directed that the

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respondent shall not be paid his pay for the period for which he was out of service. The High Court also directed the opposite parties to take suitable decision in this regard within a period of three months from the date of communication of its order.

Aggrieved by the aforesaid directions of the High Court, the appellant Company is before us.

Notice was issued by this Court on 27th November, 2008 and the matter has remained pending till now.

After hearing the counsel for the parties and considering the facts of this case, we are of the view that the discretion exercised by the High Court is not improper and does not call for our interference under Article 136 of the Constitution. We, therefore, dismiss the appeal.

However, we direct the appellant Company to reinstate the respondent to the post from which he was dismissed, within a period of four weeks from today. We also direct the appellant Company to pay to the respondent in terms of the High Court's order. Since the respondent has already suffered without payment of salary as he was out of service since 2003, we do not think that in the facts of this case, any further punishment is required to be on him.

We, however, direct that the respondent should  
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attend his duties regularly with effect from the date on which his reinstatement takes place.

The appeal is dismissed with the above directions.

No costs.

.....J.  
(ASOK KUMAR GANGULY)

.....J.  
(JAGDISH SINGH KHEHAR)

NEW DELHI,  
14-11-2011

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ITEM NO.203

COURT NO.9

SECTION XIA

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).27462/2008

(From the judgement and order dated 05/08/2008 in WPC No. 7581/2003  
of The HIGH COURT OF ORISSA AT CUTTACK)

NATIONAL ALUMINIUM CO.LTD. & ORS.

Petitioner(s)

VERSUS

MANOJ KUMAR KHATUA

Respondent(s)

(With prayer for interim relief and office report )  
(FOR FINAL DISPOSAL)

Date: 14/11/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY  
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s) Ms. Sunita Sharma, Adv.  
Mr. M. Paikaray, Adv.  
Mr. Ashok Kumar Gupta I, Adv.

For Respondent(s) Ms. Gouri Karuna Das Mohanti, Adv.  
Ms. Anu Gupta, Adv.  
Mr. Parkhar Sharma, Adv.  
Ms. Rani Jethmalani, Adv.

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

Heard learned counsel for the parties.

Leave granted. The appeal is dismissed in terms of  
the signed order.

(G. SUDHAKARA RAO)  
COURT MASTER

(VINOD KULVI)  
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)