

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9106 OF 2010  
(arising out of SLP (C) No. 22597/2009)

STATE OF U.P. & ANR.  
VERSUS  
UDAI KARAN ARIYA

.....APPELLANTS  
.....RESPONDENT

W I T H

CIVIL APPEAL NO. 9107 OF 2010  
(arising out of SLP (C) No. 32894/2009)

O R D E R

1. Delay condoned.
2. Leave granted.
3. The two appeals arise from basically the same set of facts. Hence, the order passed in one would govern the second appeal as well. For the sake of convenience, we are dealing with the facts of the civil appeal arising from SLP (C) No. 22597/2009.
4. The respondent was a member of the Provincial Armed Constabulary, Uttar Pradesh. For having taken part in a revolt in the force along with several others, he was dismissed from service by an order dated November 14, 1973. Further, being an accused in the alleged offences committed in the revolt, he was also prosecuted under Section 302 along with a number of ancillary Sections of the Penal Code. He was convicted by the trial court but was later acquitted in appeal by the Allahabad High Court. After acquittal in the Criminal case, the respondent moved the High Court in Writ Petition No. 23184/1993 seeking reinstatement in service.
5. The case of the respondent was heard along with another Writ Petition filed by one K.M. Pandey and a learned Single Judge of the High Court allowed both the Writ Petitions by a brief order dated February 14, 2000. The Single Judge quashed the order of the respondent's removal from service passed on November 14, 1973, and directed for his reinstatement in service with full benefits with retrospective effect.
6. Against the order passed by the learned Single Judge, the State preferred an intra-court appeal (Special Appeal No. 599/2000). A Division Bench of the High Court dismissed the appeal by order dated September 4, 2008, leaving undisturbed the order passed by the Single Judge.
7. The State has now brought this matter before this Court.
8. Mr. S.R. Singh, senior counsel appearing for the State of Uttar Pradesh confined his submissions only in regard to the grant of back-wages and on this issue he appears to be on firm grounds.
9. It is noted above that having taken part in the revolt in the PAC, a number of constables were removed from service and were subjected to criminal prosecution. After their acquittal by the High Court, cases of individuals involved in the revolt have been coming to this Court from time to time. In one such case (Civil Appeal No. 405 of 2007: State of U.P. & Ors. v. Satish Chandra Chaturvedi), this Court applying the principle of 'No pay - No work' held that in the facts and circumstances of the case, there was no

justification for the grant of back-wages. In a more recent case (Civil Appeal No. 2816 of 2007: State of U.P. & Anr. v. Mahindra Nath Tiwari), this Court took the same view in the order passed on December 17, 2009. It needs to be noted here that in the case of Mahindra Nath Tiwari, even though the High Court had not granted any back-wages, this Court stressed and clarified that in the facts and circumstances of the case, the concerned employee would not be entitled to back-wages at all.

10. We see no reason why the same principle may not be applied to the case of the respondents in these two appeals.

11. We, accordingly, allow the appeals to the extent that the respondents would not be entitled to any back-wages. We are informed that by now the respondents have attained the age of superannuation. In pursuance of the High Court's order, therefore, they would be entitled to their terminal dues and post-retirement benefits taking into account the period between 1973 till the date of their retirement as spent on service.

.....J  
(AFTAB ALAM)

.....J  
(R.M. LODHA)

NEW DELHI,  
SEPTEMBER 10, 2010  
ITEM NO.33

COURT NO.12

SECTION XI

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).22597/2009

(From the judgement and order dated 04/09/2008 in SA No. 599/2000 of the HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P.& ANR. Petitioner(s)  
VERSUS  
UDAI KARAN ARIYA Respondent(s)

(With appln(s) for c/delay in filing SLP, prayer for interim relief and office report)

WITH  
SLP(C) NO. 32894 of 2009  
(With appln for c/delay in filing the SLP and office report)

Date: 10/09/2010 These Petitions were called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE AFTAB ALAM  
HON'BLE MR. JUSTICE R.M. LODHA

For Petitioner(s)  
Mr. S.R. Singh, Sr. Adv.  
Mr. Ashutosh Sharma, Adv.  
Mr. Manoj K. Dwivedi, Adv.  
Mr. G.V. Rao, Adv.

For Respondent(s)  
Mr. Pramod Kumar Yadav, Adv.  
Mr. S.P. Sharma, Adv.

Mr. Rameshwar Prasad Goyal, Adv.

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

Delay condoned.  
Leave granted.  
The Civil Appeals are allowed.

(N.S.K. Kamesh)  
Court Master

(S.S.R. Krishna)  
Court Master

(signed order is placed on the file)