

ITEM NO.30

COURT NO.11

SECTION XI

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

Petition(s) for Special Leave to Appeal (C) No(s).1360/2019

(Arising out of impugned final judgment and order dated 25-10-2018 in SPLAD No.265/2018 passed by the High Court of Judicature at Allahabad)

INDIAN TELEPHONE INDUSTRIES LTD.

Petitioner(s)

VERSUS

RAMA KANT SRIVASTAVA & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.7385/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 7385/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 1814/2019 (XI)

(IA No. 9557/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 4379/2019 (XI)

(IA No. 10667/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 26-09-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Ms. Aishwarya Bhati, A.S.G.
Mr. Gautam Narayan, AOR

Ms. Asmita Singh, Adv.
Mr. Harshit Goel, Adv.
Mr. Siddhant Singh, Adv.

For Respondent(s) M/S. Gorkela Law Office, AOR

Mr. Rajat Sharma, Adv.
Mr. Rakesh Tiwari, Adv.
Mr. Dr Sanjay Gupta, Adv.
Mr. Subhasish Bhowmick, AOR

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

These special leave petitions arise out of the orders passed by the High Court. There was delay on the part of the petitioners in releasing the amounts payable to the retired employees on account of encashment of privilege leave. Therefore, the respondents invoked jurisdiction of the High Court under Article 226 of the Constitution of India. The learned Single Judge of the High Court while allowing the writ petitions filed by the respondents directed the petitioners to pay interest on the amount payable by way of privilege leave encashment at the rate of 8.65 per cent.

The order of the learned Single Judge was challenged by the petitioners by filing a Special Appeal before the Division Bench of the High Court. The High Court directed the petitioners to justify their conduct of delay in making payment of leave encashment benefit. Therefore, the petitioners were directed to file an affidavit. The Division Bench found thereafter affidavit of the petitioners to be very vague and not in terms of the order passed earlier by the Division Bench. For that reason and for the reason that there was no explanation for the delay in preferring the Special Appeal, the impugned order dismissing the Special Appeal has been passed.

Ms. Aishwarya Bhati, learned Additional Solicitor General has invited our attention to the additional affidavit filed on behalf of the petitioners which shows severe financial constraints faced by the petitioners.

In the present case, it is not in dispute that the interest amount has been paid to the respondents in terms of the impugned order of the learned Single Judge.

After having perused the impugned order of the Division Bench and after perusing the affidavit which is referred in the order, we find that on facts, the Division Bench was right that the affidavit was not satisfactory.

There are two reasons which persuade us not to interfere in these special leave petitions. The first is that the Division Bench of the High Court has not confirmed the order of the learned Single Judge on the merits but on the ground that notwithstanding the grant of opportunity to explain the delay in releasing the amount of leave encashment, the petitioners could not satisfactorily explain the delay. There is one more factor. As indicated earlier, the impugned order has been complied with.

Therefore, in view of the peculiar facts, we decline to entertain these special leave petitions. We, however, make it clear that this order shall not be construed to mean that we have affirmed the view taken by the learned Single Judge. If an occasion arises to deal with similar challenge, the petitioners can contest the proceedings on all available grounds including the grounds which are set out in the additional affidavit filed in this Court on 04th July, 2023.

Subject to what is observed above, these special leave petitions are dismissed.

Pending application(s), if any, shall stand disposed of.

(SAPNA BISHT)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)