

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1829 OF 2004

RAJASTHAN STATE ROAD TRANSPORT CORPN.

Appellant (s)

VERSUS

SHYAM BIHARI LAL GUPTA

Respondent(s)

(With appln(s) for accepting English translation and prayer for interim relief and office report)

Date: 31/08/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant(s)

Mr. Sushil Kumar Jain,Adv.

Mr. A.P. Dhamija,Adv.

Mr. Ram Niwas,Adv.

Mr. Sarad Singhania,Adv.

Mr. H.D. Thanvi,Adv.

For Respondent(s)

Mr. Anis Ahmed Khan,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed in terms of the signed order.

No costs.

(Neena Verma)

(Vijay

Aggarwal)

Court Master

C

Court Master

the file.

Signed Reportable order is placed on

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1829 OF 2004

Rajasthan State Road Transport Corporation and Ors.

...Appellants

Versus

Shyam Bihari Lal Gupta

...Respondent

O R D E R

ARIJIT PASAYAT, J:

Challenge in this appeal is to the judgment rendered by a 1  
learned

Single Judge of the High Court of Rajasthan, Jaipur Bench.

Factual position in a nutshell is as follows:

Challenging the order of termination passed by the appellant-

Corporation, the respondent (hereinafter referred to as 'the Employee') filed a suit for declaration that the termination is bad. The suit was decreed on 03.05.1987. It was held that the order of termination was void ab-initio and non est and that the plaintiff-respondent is in continuity of service of the Corporation. The respondent-employee filed two execution applications. The first one was for salary for the period from January, 1982 to May, 1987. The subsequent execution application was for salary from July, 1987 to March, 1988. It is only the legality of the execution proceedings for the period from April, 1988 to March, 1997 which is in dispute. According to the appellant-Corporation, there was no direction for back wages and merely because the plaintiff managed to get some amount by executing a decree for the previous period, that will not entitle him in law to get back wages for a period during which he had not worked and there was nothing in the decree so far as back wages are concerned. The plea was not accepted by the executing court and the revision petition under Section 115 of the Code of Civil Procedure, 1908 (in short 'the CPC') was also rejected by the High Court by the impugned order.

According to learned counsel for the appellant-Corporation, the decree is absolutely silent so far as the back wages are concerned. The decree in essence contains only a declaratory relief without any consequential payment for monetary benefits. That being so, the executing court and the High Court were not justified in granting the relief sought for. Learned counsel for the respondent on the other hand submitted that when the decree clearly indicated that the

termination was illegal non est, as a natural corollary, the plaintiff was entitled to the back wages.

In an almost identical case, this Court in Rajasthan State Road Transport Corporation and Anr. Vs. Ladulal Mali (1996 (8) SCC 37) held that the decree does not contain payment of back wages. Only declaratory relief of the nature granted in the present case was granted. Further, in A.P.S.R.T.C. and Anr. Vs. S. Narsagoud (2003 (2) SCC 212), in paragraph-9, this Court held as follows:

"9. We find merit in the submission so made. There is a difference between an order of reinstatement accompanied by a simple direction for continuity of service and a direction where reinstatement is accompanied by a specific direction that the employee shall be entitled to all the consequential benefits, which necessarily flow from reinstatement or accompanied by a specific direction that the employee shall be

entitled to the benefit of the increments earing during the period of absence. In our opinion, the employee after having been held guilty of unauthorized absence from duty cannot claim the benefit of increments notionally earned during the period of unauthorized absence in the absence of a specific direction in that regard and merely because he has been directed to be reinstated with the benefit of continuity in service."

Of course, the above noted case related to the question of granting increments notionally. But the principles laid down relating to specific non-mention about any monetary benefit is relevant. As was noted in the Rajasthan

State Road Transport Corporation's case (supra), there was no decree for grant of any monetary benefits.

Above being the position, the High Court's order cannot be maintained and is set aside. The appeal is, accordingly, allowed. No costs.

.....J.

( ARIJIT PASAYAT )

J.

.....

( H.K. SEMA )

New Delhi,

August 31, 2005.