

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8754 OF 2017  
SPECIAL LEAVE PETITION (C) NO. 12852 OF 2014

NAGAR NIGAM, KANPUR NAGAR & ORS. Appellant(s)

VERSUS

DR. (SMT.) BRIJBALA TEWARI & ANR. Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.
  
2. This is a case where the first respondent was terminated from service in the year 1997 after a regular service of around 10 years and adhoc service of around 14 years.
  
3. The termination was held to be bad for want of consultation with the Public Service Commission, as mandated under the service rules. Though the learned counsel appearing for the appellants has made a persuasive attempt that the issue is covered in their favour, we are afraid, the contention cannot be appreciated for the reason that this is a case where the service rules have specifically provided for a mandatory consultation. Admittedly, that

consultation has not taken place. Therefore, all the decisions canvassed by the learned counsel may not be of any avail in the facts of the present case.

4. The High Court has upheld the order passed by the Administrative Tribunal dated 01.04.2011. The operative portion of the order reads as follows :-

*"In view of the observations made above, the Claim Petition is allowed. The impugned order of punishment of dismissal from service dated 07.02.1997 contained as Annexure No. 1 to the Claim Petition, is hereby set aside with all consequential service benefits except back wages for which the department is at liberty to take decision as per rules. Since the Petitioner has attained the age of superannuation on 31.08.2004, therefore, as a result of setting aside of the impugned order of punishment, the Petitioner would also be entitled for the retiral benefits as per rules."*

5. In the peculiar facts of the case, we make it clear that Respondent No. 1 shall be entitled only to the retiral benefits in terms of the rules, treating her service from the date of termination to the date of superannuation as notional. In other words, that period will be counted only for the purpose of pension and pensionary benefits. There will not be

any actual backwages for the said period. The benefits, as above, shall be computed and disbursed within a period of three months from today.

6. With the above observations and directions, this appeal is disposed of.

There shall be no order as to costs.

.....J.  
[ KURIAN JOSEPH ]

.....J.  
[ R. BANUMATHI ]

New Delhi;  
July 10, 2017.