

ITEM NO.40

COURT NO.10

SECTION

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

Diary No(s).19580/2017

(Arising out of impugned final judgment and order dated 10-03-2016 in WA No. 00613/2015 11-04-2017 in RP No.330/2016 passed by the High Court Of M.P at Indore)

MADHYA PRADESH ELECTRICITY BOARD &amp; ORS.

Petitioner(s)

VERSUS

LOKENDRA KUMAR

Respondent(s)

(FOR ADMISSION and I.R. and IA No.59635/2017-CONDONATION OF DELAY IN FILING and IA No.59642/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.59640/2017-EXEMPTION FROM FILING O.T.)

Date : 28-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Purshendra Kaurav, Sr. Adv.  
Ms. Yugandhara Pawar Jha, Adv.  
Mr. Prassana Mohan, Adv.  
Ms. Anuradha Mishra, Adv.  
Mr. Kunal Verma, AOR

For Respondent(s)

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

Delay condoned.

The respondent was appointed as Assistant Engineer in the year 1974 and as his services were not found satisfactory, his services were terminated in the year 1976. The order of reinstatement of respondent was passed way back in 1981 by the Labour Court. This order was challenged by the erstwhile Board before the Industrial Court in Revision

Petition bearing case No. 325/MPIR and Industrial court vide its order dated 21.11.1983 dismissed the revision.

The petitioner challenged both the orders before the High Court in W.P No. 1094/1984 which was dismissed vide order dated 21.3.1985. On 10.1.1994, against the order of the High Court, the petitioner filed a Letter Patent Appeal No. 40/1985 before the Division Bench of the High Court which was also dismissed with cost.

In the year 1998, the respondent filed an application under Section 91,92 and 93 of Madhya Pradesh Industrial Relations Act and the same was dismissed by the Labour court vide its order dated 22.08.2005. Another application was filed by the respondent under section 108 of M.P. Industrial Relations Act read with order 21 rule 11 CPC for claiming the retiral benefits on 24.09.2005. The respondent filed W.P. No. 5282 of 2009 before the High Court for settling the claim with respect to pension, gratuity and other retiral benefits.

Against this argument, the petitioner produced the letter of employees provident fund organisation which showed that the respondent was working gainfully at another establishment during the period between 1986 to 1997.

Against the order, both the petitioner as well as the respondent preferred an appeal before the industrial court which held that the respondent was not given any notice of joining and further held that he was gainfully employed with other employer which should have been stated by the

petitioner before the courts in the first round of proceedings and set aside the findings arrived by the Labour Court and directed to pay an amount of Rs. 25,38,715.11 to the respondent within 45 days.

Against the order, the petitioner filed a W.P. No. 7162/2014 in the High Court which on 8.5.2014 directed that the operation of the impugned order of the Industrial Court shall remain stayed till the next date of hearing. The High Court allowed the W.P. No. 5282 Of 2009 vide order dated 11.8.2015.

Aggrieved by the order, the petitioner filed Writ Appeal No. 613 of 2015 which was dismissed by the High Court in 2016. Review petition was filed by the petitioner in the High Court which was also dismissed.

Hence, the present special leave petition has been filed.

Heard the learned counsel for the parties.

The respondent was reinstated. However, with respect to salary to be paid during the period for which the workman would have remained in service but for his reinstatement. Another dispute was pending in the High Court as writ petition 7162 of 2014.

We find that the relief granted by the Single Judge by the impugned order which has been affirmed by the Division Bench is not going to effect outcome of dispute in pending W.P. No. 7162 of 2014. The question agitated can be decided independently by the High Court. However, award

of retiral dues is found to be justifiable. The order passed by the Labour Court has attained finality and applies to non joining or salary till superannuation can be adjudicated independently in pending writ. As that was not the subject matter of the writ petition in which the impugned order has been passed.

In view of the aforesaid observations, we do not find any reason to entertain this special leave petition, which is, accordingly, disposed of.

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

(B. PARVATHI)  
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)  
BRANCH OFFICER