

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). 1116/2020

(Arising out of impugned final judgment and order dated 26-04-2019 in WA No. 409/2018 passed by the High Court Of M.P At Gwalior)

SAMRAT ASHOK TECHNOLOGICAL INSTITUTE

PETITIONER(S)

VERSUS

RADHA RAMAN SHARMA

RESPONDENT(S)

(IA No. 198483/2019 - EXEMPTION FROM FILING O.T., IA No. 198484/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 12-12-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s)

Mr. Jayant Nath, Sr. Adv.
Mr. Prabuddha Singh Gour, Adv.
Ms. Ishita M. Puranik, Adv.
Mr. Sukhamrit Singh, Adv.
Mr. Praveen Swarup, AOR

For Respondent(s)

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

1. Despite service, none has appeared on behalf of the respondent since 06th September, 2023, nor has any Power of Attorney been filed on his behalf.
2. The petitioner-Institute is aggrieved by the judgment dated 26th April, 2019, passed by the High Court of Madhya Pradesh, Gwalior Bench in a

Writ Appeal¹ preferred by it against an order dated 08th February, 2018 passed by the learned Single Judge in a Writ Petition² filed by the respondent-employee, which was allowed and the petitioner was directed to reinstate him with the benefit of notional pay fixation of increments. By the impugned judgment, the Division Bench has modified the directions issued by the learned Single Judge. Upholding the direction of reinstatement without backwages, the Division Bench has directed that no benefit of notional pay fixation of increments be granted to the respondent.

3. On the last date of hearing, noticing the absence of the respondent, this Court had directed the petitioner to file an affidavit clarifying *inter alia* as to whether the respondent has filed any proceedings for seeking execution of the impugned judgment and whether he has even approached the petitioner for seeking reinstatement in service. The said order was passed in the light of the submissions made by learned Senior Counsel appearing for the petitioner that the respondent has not approached the petitioner for seeking implementation of the impugned judgment, nor has any legal proceedings been initiated by him by filing contempt proceedings against the petitioner.

4. Pursuant to the aforesaid order, an affidavit has been filed by the petitioner on 04th December, 2023, stating *inter alia* that the respondent had only submitted a written representation on 24th May, 2019 for seeking

1 Writ Appeal No. 409/2018

2 Writ Petition No. 1935/2005(S)

reinstatement, within a few months from the date of passing of the impugned judgment. The petitioner had filed the present petition wherein an interim order was granted in its favour on 24th January, 2020, staying the operation of the impugned judgment. Thereafter, the respondent has not appeared before this Court, nor has he approached the petitioner for any relief. It is further stated by learned counsel for the petitioner that the respondent is a man of means and owns several immovable properties, details whereof have been furnished along with an application moved by the petitioner (IA No. 224460/2023) and it is perhaps for that reason that he is not interested in contesting the present case and he has not approached the petitioner for joining service after submitting a representation on 24th May, 2019. It is further submitted on behalf of the petitioner that the petitioner is running in losses. To substantiate the said submission, the balance sheets of the petitioner as on 31st March, 2019, have been submitted.

5. In view of the fact that the respondent has not entered appearance despite service, nor has he taken any steps to initiate contempt proceedings against the petitioner after the impugned judgment came to be passed, it appears that he is not interested in following up the relief that was granted in his favour in terms of the impugned judgment. We may also note that even if the respondent is reinstated, there would be only 2–3 years left for him before superannuating. Accordingly, while declining to

interfere with the impugned judgment, it is directed that the petitioner shall not be visited by an adverse consequences if the respondent seeks compliance of the impugned judgment in the light of complete inaction on his part from the date of passing of the impugned judgment and particularly after 24th May, 2019. However, in the event the respondent does wake up to seek enforcement of the impugned judgment, the petitioner would be entitled to seek appropriate relief in accordance with law, including moving an application for revival of the present petition.

6. The petition for Special Leave to Appeal is disposed of on the above terms along with pending applications.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)