

H. P. Road Transport Corporation

Vs

Balwant Singh

Civil Appeal No. 3801 of 1992

(L. M. Sharma, S. Mohan, N. Venkatachala JJ)

17.09.1992

JUDGEMENT

SHARMA, J.:-

1. Special leave is granted.

2. The service of the respondent, who was engaged as a clerk-cum-typist on daily wage by the appellant-Himachal Pradesh Road Transport Corporation, was terminated on 18-1-1978. He challenged the termination by a writ petition before the High Court. On hearing the parties, the writ application was allowed by the judgment dated 31-7-1989 setting aside the termination of service of the respondent and declaring him to be entitled to monetary relief for the period during which he had actually worked under the appellant Corporation. This judgment became final. The respondent, on 8-5-1991 filed another application in the disposed of writ petition praying for further relief. He claimed monetary compensation also for the period during which he had not actually worked for the Corporation as a result of the termination of his service. By the impugned order dated 3-12-1991 the High Court has allowed this additional relief and the same has been challenged by the Corporation in the present appeal.

3. It has been contended on behalf of the appellant that the claim of the respondent for the entire period was considered by the High Court at the time of the final disposal of the writ petition and having regard to the facts and circumstances of the case the High Court by its judgment dated 31-7-1989 rejected the same and directed payment of wages only for the period for which he had actually worked. This question, therefore stood finally disposed of against the respondent and the High Court became functus officio.

4. It is significant to note that the respondent did not make an application under Art. 136 of the Constitution before this Court challenging that part of the judgment dated 31-7-1989 with which he was aggrieved nor did he make an application for review before the High Court. The judgment, in the circumstances, became final. It was only after the lapse of a period of about two years that the respondent made the belated claim. The High Court, in the circumstances was not, in our view, justified in entertaining the claim and allowing the same. The appeal is, therefore, allowed the impugned judgment of the High Court is set aside and the aforesaid claim of the respondent is rejected. There will be no order as to costs.

5. The respondent also claimed some monetary relief for the period subsequent to 1-8-1989 on the

ground that immediately after the delivery of the judgment in the writ case he was entitled to the same. The Corporation has denied the claim on the ground that the respondent did not promptly join his post as directed. This dispute has been left open by the High Court to be resolved later. We do not propose to say anything on this aspect.

Appeal allowed.

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