

Rajasthan S.R.T.C. and Another

Vs

Ladulal Mali

Civil Appeal No. 3614 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

05.02.1996

ORDER

1. Leave granted.

2. We have heard the learned counsel for the parties. This appeal by special leave arises from the order dated 18-3-1994 made by the learned Single Judge in Revision Petition No. 604 of 1993. The appellants had terminated the service of the respondent on 7-12-1983. On appeal, it was confirmed. When a suit was filed, the District Munsif by decree dated 12-11-1990, declared that the order of termination as well as the order of the appellate authority were illegal, void and against the principle of natural justice. The respondent had filed Execution Petition No. 2 of 1991 for reinstatement. The executing court dismissed the execution application on 4-12-1992 holding that suit of the plaintiff against the respondent is for declaration. Therefore, he is not entitled to the back wages. On a revision filed, the High Court relying upon the decision of the High Court in Rajasthan SRTC v. Sohan Lal (SBCR No. 623 of 1993, decided on 26-10-1993) set aside the order of the executing court and directed payment of the back wages. Thus this appeal by special leave.

3. It is not in dispute that the decree does not contain payment of back wages. Only declaratory relief had been granted. Shri Gaur, the learned counsel appearing for the respondent, contended that when the batch was disposed of by this Court on 16-12-1994, this Court had directed payment of 40% of the back wages. The respondent is accordingly entitled to the same relief. We find from the order of this Court that there is no such indication. It would appear that in some cases, there was a declaration to grant consequential monetary reliefs. In the batch when this Court had disposed of the matters obviously the relief of back wages related to those cases. Consequently, this Court limited payment of back wages to the extent of 40%. It is settled law that executing court cannot go behind the decree. In view of the fact that the decree contained only a declaratory relief without any consequential payment of monetary benefits, the executing court was right in refusing to grant the relief. The High Court was, therefore, clearly in error in directing payment of back wages.

4. The appeal is accordingly allowed. No costs.