

SUPREME COURT OF INDIA

Before :- S.B. Majmudar and Jagannadha Rao, JJ.

Civil Appeal No. 6074 with 6075 of 1998 (Arising out of SLP(C) No. 14573 with 21651 of 1997). D/d. 4.12.1998

Syed Zaheer Hussain - Appellant

Versus

Union of India - Respondents

JUDGMENT

S.B. Majmudar J. - Leave granted.

2. By consent of learned counsel for both parties, these appeals are taken up for final disposal.

3. The short question is whether the appellant who was working as Sorting Assistant under the Respondents' organisation could have been dismissed from service only because he was alleged to be unauthorisedly absent from 9.1.1985 to 15.1.1985. When he tried to resume his duties thereafter, he was placed under suspension on 16.1.1985 and after a departmental enquiry, was dismissed from service. He went to the Tribunal. The Tribunal took the view that the punishment meted out to the appellant was grossly disproportionate but could not interfere in exercise of its jurisdiction. That is how the appellant is before us on grant of special leave.

4. In our view, in the facts and circumstances of the case, the punishment of dismissal from services is too harsh and on the contrary it is required to be substituted by appropriate lesser punishment. Learned counsel for the respondents after instructions has stated that appropriate lesser punishment may be awarded by this Court. It will be acceptable to the respondents. In our view, ends of justice will be served if we set aside the order of dismissal of the appellant and instead direct reinstatement of the appellant in service with continuity and with all other benefits save and except withdrawing 50 per cent of backwages from the date of dismissal i.e. 11-10-1998 till today. In our view, this punishment which will involve substantial monetary loss to the appellant will meet the ends of justice and will be sufficient corrective measure for the appellant. The request of learned counsel for the respondents that two future increments may also be withheld without cumulative effect does not appear to us to be justified on the peculiar facts and circumstances of the case. In our view, the aforesaid monetary loss to the appellant will meet the ends of justice so that he may be careful in future. It is ordered accordingly. At the request of learned counsel for the respondents eight weeks' time is granted to the respondents to comply with the present order and to reinstate the appellant with continuity in service and with all other benefits. We make it clear that from today onwards the appellant will be entitled to full salary. Both the appeals are

allowed accordingly. The orders of the Tribunal dated 4.11.1996 and 13.2.1997 are set aside. O.A. No. 714 of 1993 filed by the appellant in the Tribunal shall stand allowed in aforesaid terms. In the facts and circumstances of the case, there will be no order as to costs.

Appeals allowed.