2025 INSC 250

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2025
(@SPECIAL LEAVE PETITION (C) NOS.24258-24259/2019)

CHIEF MANAGER OF RAJASTHAN STATE ROAD TRANSPORT CORPORATION **APPELLANT(s)**

VERSUS

HANEEF KHAN **RESPONDENT(s)**

D.B. CIVIL REVIEW PETITION NO.263/2019

O R D E R

The application for amendment is allowed. Permission is granted to assail the order dated 11.07.2022 passed in D.B. Civil Review Petition No.263/2019.

Leave granted.

2. We have heard learned counsel for the appellant-Corporation and learned counsel for the respondent at length.

3. During the course of submission, while narrating the facts of the case in detail, learned counsel for the appellant submitted that initially, the High Court while disposing of the D.B. Special Appeal Writ No.310/2018 connected with D.B. Special Appeal Writ No.819/2018, the latter filed by the appellant herein by judgment dated 12.02.2019 had ordered that only 50% of the back wages (half the back wages) by way of actual monetary benefit along with continuity of service for the intervening period from 04.10.2001 to 30.11.2010 with interest at 9% per annum may be awarded to the respondent herein, within a time-frame of three months which was also indicated for compliance. Consequently, the appeal filed by

the appellant herein was dismissed by the High court. However, respondent herein had preferred D.B. Civil Review Petition No.263/2019 seeking full back wages for the aforesaid period. By order dated 11.07.2022, the said Review Petition was allowed and the Division Bench directed that the respondent herein was entitled to full wages in respect of the intervening period under the order of termination dated 04.10.2001 i.e. the intervening period from 04.10.2001 dated 30.11.2010.

4. Learned counsel for the appellant submitted that the appellant has a good case on merits and in fact the order rejecting the permission under Section 33(2)(b) of the Industrial Disputes Act, 1947 by the Labour Court and subsequently, the same being sustained by the High Court are contrary to law. Alternatively, she submitted that in the event, this Court is not inclined to interfere in the matter on merits, at least, the order of the Division Bench dated 12.02.2019 may be given effect to and the order passed in the Review Petition dated 11.07.2022 may be set aside.

5. Learned counsel for the respondent however contended that there is no merit in this appeal; that the High Court was justified in allowing the Review Petition and granting full back wages and hence, the appeal may be dismissed.

6. We have considered the arguments advanced at the bar in light of the fact that this appeal has had a checkered history and we note that on the Labour Court rejecting the permission sought for by the appellant herein, there was deemed continuation of employment of the respondent and therefore, the

High Court has rightly observed that in the absence of any other intervening factor, the appellant was entitled to back wages on the premise that there was continuity in service of the respondent herein.

7. In our view, the High Court was justified in granting only 50% of the back wages by its initial order dated 12.02.2019. However, in the Review Petition the said order has been modified to grant full back wages which we find is not just and proper having regard to the facts and circumstances of this case and particularly having regard to the fact that for nearly ten years the respondent herein, without performing any of his duties, cannot at the same time seek full back wages.

8. We therefore set aside the order passed in the Review Petition dated 11.07.2022 and allow the appeal in that regard and sustain the order passed by the Division Bench dated 12.02.2019 in D.B. Special Appeal Writ No.310/2018 connected with D.B. Special Appeal Writ No.819/2018.

9. Since the respondent has in the interregnum attained the age of superannuation, the appellant-Corporation shall comply with the directions of the High Court in D.B. Special Appeal Writ No.310/2018 dated 12.02.2019 and grant all monetary benefits that the respondent is entitled to owing to his superannuation, if any, within a period of one month from today.

These appeals are allowed in part in the aforesaid terms.

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

……,J.
(B.V. NAGARATHNA)

……,J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
FEBRUARY 13, 2025

ITEM NO.20 COURT NO.7 SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).24258-24259/2019
[Arising out of impugned final judgment and order dated 12-02-2019 in DBSAW No. 310/2018 12-02-2019 C/W DBSAW No. 819/2018 passed by the High Court of Judicature for Rajasthan at Jaipur]

CHIEF MANAGER OF RAJASTHAN STATE ROAD
TRANSPORT CORPORATION Petitioner(s)

VERSUS

HANEEF KHAN Respondent(s)

(IA No. 109306/2022 - APPLICATION FOR PERMISSION
IA No. 109320/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 13-02-2025 This matter was called on for hearing today.

CORAM :
HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) : Mr. Ritu Bhardwaj, Adv.
Mr. Anil Kumar Gautam, AOR

For Respondent(s) Mr. M. M. Kashyap, AOR
Mr. M.M.kashyap, Adv.
Ms. Poonam Seth, Adv.
Mr. Ilin Saraswat, Adv.
Ms. Mona, Adv.
Ms. Ilma Saifi, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The application for amendment is allowed.

Leave granted.

These appeals are allowed in part in terms of the signed non-reportable order which is placed on the file.

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

(RADHA SHARMA) (DIVYA BABBAR)
ASTT. REGISTRAR-cum-PS COURT MASTER (NSH)