

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 196 OF 2022
(Arising out of SLP (C) No. 1255 of 2021)

THE STATE OF UTTAR PRADESH AND ORS.

Appellant(s)

VERSUS

RAJA BABU GAUTAM (DEAD) THR. LRS.

Respondent(s)

O R D E R

1. Leave granted.

2. We have heard Mr. Pradeep Misra, learned counsel appearing on behalf of the appellant-State of U.P. and Mr. Shail Kumar Dwivedi, learned counsel appearing for the respondent(s).

3. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 16.11.2019 passed by the High Court of Judicature at Allahabad, Lucknow Bench in Special Appeal Defective No. 285/2019 by which the High Court has dismissed the said Appeal and confirmed the judgment and order passed by the learned Single Judge directing the appellants to pay back wages for the period between 1981-1997, the appellant has preferred the present Appeal.

4. Having heard the learned counsel for the respective parties and in the facts and circumstances of the case, more particularly, considering the fact that, for whatever reason, the respondent did not work at all for the period between

1981-1997 and even the first charge-sheet was issued in the year 1993 in which one of the charge was that the respondent did not join the transferred place, we are of the opinion that on the principle of "No work - no pay", the respondent shall not be entitled to any back wages. However, at the same time, considering the fact that the respondent was reinstated in service in the year 1997, pursuant to the interim order/order passed by the High Court, and he was continued till 2001 till he attained the age of superannuation, the period between 1981-1997 to be considered for continuity in service i.e. for all purposes like rise in the pay-scale etc. which shall be considered notionally which shall be calculated for the purpose of pensionary benefits/family pension.

5. In view of the above and for the reasons stated above, the present Appeal succeeds in part. The impugned judgment and order passed by the High Court is modified and it is held that the respondent shall not be entitled to any actual back wages for the period between 1981-1997 till he was reinstated in service. However, the said period shall be considered for the purpose of continuity in service and for all other purposes and whatever the benefits including the increments, rise in the pay-scale etc. shall be considered notionally which may be considered/counted for the purpose of pensionary benefits/family pension. Now the pensionary benefits/family

pension shall be re-calculated/calculated and the difference/balance to be paid with 7.5% interest to the respondent within a period of six weeks from today.

6. The present Appeal is allowed to the aforesaid extent. No costs.

..... J.
(M.R. SHAH)

..... J.
(B.V. NAGARATHNA)

New Delhi;
January 06, 2022.

ITEM NO.34 Court 12 (Video Conferencing) SECTION XI

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

Special Leave Petition (C) No.1255/2021

THE STATE OF UTTAR PRADESH & ORS. Appellant(s)

VERSUS

RAJA BABU GAUTAM (DEAD) Respondent(s)

(IA No. 124620/2020 - EXEMPTION FROM FILING O.T.)

Date : 06-01-2022 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Appellant(s) Mr. Pradeep Misra, AOR
Mr. Yogendra Pal Singh, Adv.
Mr. Suraj Singh, Adv.
Mr. Bhuwan Chandra, Adv.
Mr. Manoj Kr Sharma, Adv.

For Respondent(s) Mr. Shail Kumar Dwivedi, AOR
Mr. Arvind Kumar, Adv.
Ms. Vibha Dwivedi, Adv.v
Ms. Siddharth Krishna Dwivedi, Adv.
Ms. Nidhi Dwivedi, Adv.

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

Leave granted.

The present Appeal is allowed to extent as indicated in
the signed order.

Pending applications, if any, stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(Signed order is placed on the file)

(MALEKAR NAGARAJ)
COURT MASTER (NSH)