

**Court No. - 5**

**Case :-** SPECIAL APPEAL No. - 249 of 2012

**Appellant :-** Baikunth Nath Dubey

**Respondent :-** Director Of Finance Indian Railway Construction Co.Ltd.& Ors

**Counsel for Appellant :-** Shyamdhara Pandey

**Counsel for Respondent :-** Vivek Singh, Jyoti Prakash Mishra, Vikas Budhwar

**Hon'ble Pradeep Kumar Singh Baghel, J.**

**Hon'ble Salil Kumar Rai, J.**

We are satisfied that the writ petition which has been dismissed in limine raises some arguable points. Moreover, the impugned order does not give any reason for dismissing the writ petition. The appellant's services were terminated. A reference was made to the labour court and the Tribunal has answered the reference in favour of the appellant by an award dated 31.10.2002. Aggrieved by the said order, the employer filed a Writ Petition No. 9762 of 2003 which was dismissed on 4.8.2005. Dissatisfied with the order of this Court, the respondent-appellant IRCON International Ltd. preferred a special leave petition before the Supreme Court which was converted in Civil Appeal No. (s). 5781 of 2007. The appeal was dismissed by the Supreme Court on 1.9.2011. The appellant is aggrieved by his pay fixation and he has raised some other grievance but the writ petition has been dismissed in limine.

We are satisfied that the writ petition deserves to be heard on merit.

Accordingly, the order of the learned Single Judge is set-aside. The matter is restored to its original number before the appropriate Court.

Sri Vikas Budhwar, learned counsel for the respondents prays for and is granted four weeks' time to file counter affidavit in the writ petition.

The appellant shall have two weeks' thereafter to file rejoinder affidavit, if any.

List after expiry of the aforesaid period.

**Order Date :-** 17.11.2018

Satyam