

CASE NO.:
Appeal (civil) 3036 of 2008

PETITIONER:
K. BIR MANGAL SINGH

RESPONDENT:
STATE OF ARUNACHAL PRADESH & ORS

DATE OF JUDGMENT: 29/04/2008

BENCH:
TARUN CHATTERJEE & HARJIT SINGH BEDI

JUDGMENT:
JUDGMENT

O R D E R

CIVIL APPEAL NO.3036 OF 2008
(Arising out of SLP(C)No.13026 of 2006)

Leave granted.

This appeal is filed against the final judgment and order dt.06.04.2006 of the Division Bench of the High Court of Guwahati in Writ Appeal No.614 of 2005 allowing the Writ Appeal filed by the respondents and rejecting the plea of the appellant to set aside the order of termination which was passed in the year 1991 along with the order passed on 14.05.2001. The learned Single Judge while allowing the Writ Petition made the following observations :

"8. In view of the aforesaid discussions, this case is disposed of with a direction that the respondent authority shall take steps immediately to provide an appropriate relief to the petitioner like Mr.Santosh Kumar Rao as provided in the order dated 14.5.2001. Since the petitioner is not in service as Junior Engineer as on date and there is also no interim order passed by this Court in this case, the petitioner will not be entitled for any back wages. The aforesaid direction shall be completed within a period of two months from the date of receipt of a certified copy of this order to be submitted by the petitioner."

Feeling aggrieved by the said order, the respondent filed a Writ Appeal before the Division Bench of the High Court. In the said appeal, the Division Bench of the High Court had not gone practically into the merits of the Writ Petition but allowed the Writ Appeal on the ground that since the appellant had not challenged the order of termination which was passed in the year 1991, the appellant was not entitled to claim any relief. Feeling aggrieved, the appellant had filed the present appeal by way of Special Leave Petition.

Mr.P.K.Goswami, learned senior counsel appearing on behalf of the appellant contended that the Division Bench without looking into the prayers made in the Writ Appeal and the reliefs claimed therein, had allowed the appeal of the respondent on the ground that the Writ Petition was filed by the appellant after 11 years of the order of termination.

After hearing learned counsel for the parties and after going into the impugned order of the Division Bench as well as the learned Single Judge of the High Court, we are of the view

that the Division Bench had failed to consider that the Writ Petition which was filed by the appellant was not only challenging the order of termination of 1991 but also the order dt.14.05.2001.

The learned Single Judge relying upon the order dt.14.05.2001 had given the same relief as was given to one Mr.Santosh Kumar Rao. It is true that the order of termination was not set aside by the learned Single Judge. However, it is also an admitted position that before the learned Single Judge the question of limitation was not even raised by the parties.

In that view of the matter, we are of the view that the impugned order should be set aside and the matter may be sent back to the Division Bench of the High Court to decide the same on merits and in accordance with law. Accordingly, the impugned order of the High Court is set aside. The appeal is allowed to the extent indicated above. The Division Bench of the High Court is requested to decide the appeal on merits preferably within three months from the date of communication of this Order.

There shall be no order as to costs.