

PETITIONER:
SARITA THAKUR

Vs.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT 17/09/1993

BENCH:

ACT:

HEADNOTE:

JUDGMENT:
ORDER

1. Special leave granted.
2. Heard. These two appeals are filed by the appellants, namely, the Committee of Management, Jai Sita Ram Kisan Intermediate College, Jhijnjhana, District Muzaffarnagar and the Manager, Jai Sita Ram Kisan Intermediate College, against the judgment and order of the High Court of Allahabad in Civil Miscellaneous Writ Petition No. 10946, which was partly allowed, and Writ Petition No. 8929 of 1981, which was dismissed.
3. The High Court arrived at its conclusion on an interpretation of Regulation 26 of Chapter III of the Regulations framed under the U.P. Intermediate Education Act. The said regulation reads thus:

"26. (1) The services of a permanent employee may be terminated by giving him three months' notice or three months' pay in lieu thereof on the ground of the abolition of the post which the employee is holding. The abolition may be due to one of the following reasons:

- (a) Retrenchment decided upon for reasons of financial stringency.
- (b) Abolition of subject.
- (c) Abolition of section or class.

(2) For the purpose of computing the period of notice mentioned in clause (1) or for determining the amount to be paid in lieu thereof the period of summer vacation shall be excluded."

4. The High Court held that the order terminating the services of the first respondent (before us), passed by the appellants, was invalid because it was not in accordance with the said regulation. The High Court ordered:

"As held by the Deputy Director of Education, Meerut, it will be open to the Management of the College to terminate the services of the petitioner afresh by giving him three months' notice or three months' pay in lieu thereof. Till such a notice or pay in lieu thereof is given, the petitioner is

+ Arising out of SLP (Civil) Nos. 16836-37 of 1991

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entitled to continue in service and he is also

entitled for payment of salary. The payment of arrears of salary shall be made within three months from the date of presentation of a certified copy of this order before the Committee of Management of the College and the District Inspector of Schools, Muzaffarnagar. In case the notice of three months or pay of three months in lieu thereof has not yet been given, petitioner will be paid the salary as and when it falls due regularly till such notice or pay is given to him."

5. We have heard learned counsel for all the parties at length. We are unable to agree with the contentions raised on behalf of the appellants. We are of the view that the impugned judgment of the High Court is correct and does not warrant any interference.

6. As set out by the High Court, we direct the appellants to give to the first respondent forthwith a notice of termination of his services in accordance with the said regulation. Regarding payment of arrears of salary, we direct the appellants to pay to the first respondent a consolidated sum of Rs 2,00,000 (Rupees Two lakhs) within a period of six months from today. Mr Satish Chandra, learned counsel for the first respondent, fairly agrees and accepts the said sum in full and final satisfaction of past arrears of salary till the date of payment. The said payment of Rs 2,00,000 shall be staggered between the period July 1972 till the date of payment for the purpose of income tax and the first respondent shall be entitled to the appropriate relief.

7. The order of the High Court is modified to the above extent and the appeals are disposed of accordingly. No costs.

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ORDER

1. Delay condoned.

2. Special leave granted.

3. Heard counsel on both sides. While the tribunal has not allowed back wages by its order dated 24-7-1991 but directed reinstatement of the appellant in service, it appears that the Union of India took its own time to reinstate her

+ Arising out of SLP (C) No. 10473 of 1993

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even though the Union's petition for special leave was dismissed. The learned counsel for the appellant contends that the tribunal ought to have awarded back wages but we do not propose to entertain that contention. However, his contention that it was obligatory on the Union to reinstate the appellant within a reasonable time after the tribunal's order of 24-7-1991 is well-founded. We see no reason why the Union of India failed to carry out the terms of the tribunal's order even after the special leave petition was rejected. We can understand that the Union of India would take some reasonable time for reinstating the petitioner in pursuance of the tribunal's order but we are not able to understand why it failed to do so till almost the end of 1992. We are, therefore, of the opinion that the appellant is entitled to back wages from August, 1991 till actual reinstatement.

4. In the result we allow this appeal to the aforesaid limited extent and direct that the appellant will be paid back wages from 1-8-1991 till actual reinstatement within three months from today. The appeal will stand disposed of accordingly with no order as to costs.

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JUDIS