

PETITIONER:
S.K. SALDI

Vs.

RESPONDENT:
THE GENERAL MANAGER, U.P. STATE SUGAR CORPORATION LTD. &

DATE OF JUDGMENT: 06/02/1997

BENCH:
K. RAMASWAMY

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

This appeal by special leave arises from the order of the Allahabad High Court, made on April 21, 1980 in Miscellaneous Application in Civil Revision No. 1136/79.

The appellant had to get over several insurmountable difficulties in his way. On his own showing, the appellant claims to have been appointed in M/s. Meerut Straw Board Mills, Meerut, which was claimed to be a subsidiary of Jaswant Sugar Mills. It is claimed by the appellant that he was transferred on deputation to S.B. Sugar Mills; as a consequence, he was entitled to go back to his parent Department. However, since he was not relieved, he filed a civil suit viz, Case No. 26/48, before the Civil Judge, Bijnor. The Civil Judge, by his order dated March 29, 1979, directed the S.B. Sugar Mill, Bijnor to formally reinstate him and thereafter transfer him to the parent Department. The said order came to be challenged by the Mill in the revision in the High Court. The High Court held that he was not entitled to be reinstated. Since an enquiry was pending against him, the Court at the most would have directed to conduct an enquiry followed by action to be taken according to the result of the enquiry. That order was not challenged and it became final. Thereafter, the appellant filed a revision petition before the High Court which was dismissed. Thus, this appeal by special leave.

Shri Pramod Swarup, learned counsel for the appellant, contends that when the appellant was initially appointed in the Meerut Straw Board and was transferred to the Mill on deputation, he was entitled to be repatriated when the Mill was not inclined to retain his services and, therefore, the direction issued by the Civil Court is valid in law and the High Court was not justified in reversing that order. As stated earlier, the appellant had to cross several insurmountable hurdles, namely, in the suit the appellant had not impleaded his employer M/s. Jaswant Sugar Mills with whom he claimed to have been appointed. He suo motu impleaded the sugar Mill in the SLP filed in this Court and subsequently, it was deleted. Under these circumstances, the sugar Mill against whom the relief sought for was not a

party to the suit. Therefore, the suit was liable to be dismissed for non-joinder of necessary and proper party. The second difficulty in the way of the appellant was that the main order was allowed to become final and he did not challenge the same. Under these circumstances, the review order could not have more force than the original order. Therefore, we do not find any manifest error of law warranting interference.

The appeal is accordingly dismissed, but in the circumstances, without costs. The interim order passed by this Court stands dissolved.

JUDIS