

CASE NO.:
Appeal (civil) 392 1997

PETITIONER:
MANAGEMENT OF ADDISONS PAINTS AND CHEMICALS LTD.

Vs.

RESPONDENT:
WORKMEN, REPRESENTED BY THE SECRETARY (A.P. & C.) ASSISTANTS

DATE OF JUDGMENT: 12/12/2000

BENCH:
S.R.Babu, S.N.Hegde

JUDGMENT:

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J U D G M E N T

S. N. VARIAVA, J.

These Appeals are against a Judgment dated 6th March, 1996. The parties will be referred to in the capacity in Civil Appeal No. 410 of 1997. Briefly stated the facts are as follows: The Appellant is the Union who is representing the cause of a workman by name Nagarajan. The said Nagarajan was appointed as a Trainee Chemist in the Respondent Company on 25th May, 1962. On 15th February, 1973 Nagarajan and others were appointed as Junior Management Assistants on a consolidated pay. They were then put on a service contract for 5 years. On 17th January, 1977 Nagarajan was transferred as Technical Representative to Chennai. In 1986 the Junior Management Assistants raised a dispute which was referred to the Industrial Tribunal. By an Award dated 29th December, 1986 it was held that the Junior Management Assistants were workmen under the Industrial Disputes Act. It was, however, held that the Sales Representative would not be a workman. On 25th July, 1988 Nagarajan was transferred as a Sales Representative. The said Nagarajan refused to accept the transfer and raised an industrial dispute challenging his transfer to a non-workman category. This dispute was referred to the Industrial Tribunal on 22nd December, 1989. The Tribunal rejected this demand on 7th February, 1992. The Writ Petition which was filed was dismissed on 23rd April, 1994. A Appeal was filed against the dismissal of the Writ Petition. In that Appeal, on 16th February, 1996, the Management gave an undertaking that Nagarajan would be treated as a technical staff and given benefits as a workman. We are informed that pursuant to this undertaking Nagarajan has joined duty. The Appeal came to be dismissed by the impugned Judgment dated 6th March, 1996. However, the Appellate Court directed the Respondent Company to pay 25% back wages, provided Nagarajan immediately join the duty. Against this Judgment the Union has filed Civil Appeal No. 410 of 1997 and the Respondent Company has filed Civil Appeal No. 392 of 1997. We have heard the parties,

read the impugned Judgment as well as the Judgment of the Single Judge and the Award of the Tribunal. In our view, there is no infirmity either in the Award or in the Judgment of the Single Judge or in the Judgment of the Division Bench. The employee Nagarajan had refused to accept the transfer order and refused to report for duty after his transfer. We see no substance in the contention that he was entitled not to join. In our view the dispute could have been raised and agitated even after joining. There was no justification for not reporting for duty. In spite of Nagarajan not having worked he has been awarded 25% of back wages. This was within the discretion of the Court and we see no reason to interfere. At the request of the Appellants in C.A. No. 392 of 1997, they are granted time of eight weeks from today to pay 25% of the back wages. Accordingly, both the Appeals stand dismissed. There will be no Order as to costs.