

REPORTABLE

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3237 OF 2009

[Arising out of SLP©No.12837 OF 2008]

Bhankra Byas Managing Board ...Appellant

VERSUS

Suresh & Anr. ..Respondents

J U D G M E N T

TARUN CHATTERJEE, J.

1. Leave granted.
2. This appeal is preferred against an interim order dated 3rd of April, 2008 passed by the High Court of Punjab and Haryana at Chandigarh in Regular Second Appeal No.2865 of 2007 whereby the High Court, while admitting the appeal preferred by the appellant, has granted final relief to the

respondent No.1 by directing the appellant to give compassionate appointment to him. In our view, the High Court was not justified in granting such interim order at the admission stage. It is an admitted position that the second appeal was admitted for final disposal. A suit was filed by the respondent No.1 for declaration that he was a legal heir of the deceased employee of the appellant being his adopted son. The said suit, however, was decreed and affirmed by the first appellate court against which the appellant has filed the second appeal in the High Court which is pending. Although a decree has been passed against the appellant, but in the interim stage of the second appeal, the appellant could not be directed to appoint the respondent No.1, if on the statement of the respondent No.1 he was ready to forego the past benefit if he was taken in service. Accordingly, the interim order granted by

the High Court is set aside. The High Court is directed to decide the pending second appeal within six months from the date of supply of a copy of this order to it.

3. We make it clear that we have not gone into the merits of the second appeal which shall be decided by the High Court in accordance with law after giving proper hearing to the parties.

4. The appeal is accordingly disposed of. There will be no order as to costs.

.....J.
[TARUN CHATTERJEE]

New Delhi;
May 05, 2009.

JUDGMENT
.....J.
[H.L.DATTU]