

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.371 OF 2016

(Arising out of S.L.P.(Civil) No.17347/2010)

Eastern Coalfields Ltd. .. Appellant(s)

Versus

Misri Yadav & Ors. .. Respondent(s)

J U D G M E N TKURIAN J.

Leave granted.

(2) Heard learned Counsel for the parties.

(3) Disciplinary proceedings were initiated against respondent No.1 culminating in his dismissal from service as per order dated 10th April, 1982. The Industrial Tribunal while holding that the punishment of reduction of two increments will be sufficient for the misconduct, directed reinstatement of the workman with 50% back wages from the date of his dismissal till his reinstatement. This order was challenged by the appellant before the High Court. The learned Single Judge of the High Court upheld the order and dismissed the Writ Petition No.13256 of 2006 vide order dated 7th December, 2006. In appeal, the Division Bench of the High Court took the view that the direction for

reinstatement was in order whereas the Tribunal had no jurisdiction to substitute the punishment of dismissal with the stoppage of two increments and therefore the appellant was given liberty to pass fresh orders on any punishment other than dismissal.

(4) When the matter came before this Court on 12th July, 2010, an interim order was passed to the following effect; "There shall be stay of back wages subject to the condition that the workman is re-instated within two weeks from today."

(5) We are informed that the workman had since been reinstated and he has crossed the age of superannuation. Therefore, what survives in this appeal is only the issue with regard to the continuity of service and back wages. Having heard Mr. Anip Sachthey, learned counsel appearing for the appellant and Ms. Shivali Sinha learned counsel for the respondent appointed by the Supreme Court Legal Services Committee to represent the Respondent No.1, we are of the view that the interest of justice would be served in case Respondent No.1 is granted continuity of service from the date of dismissal, that is 10th April, 1982, for all purposes except backwages between 10th April, 1982 and 12th July, 2010 and the workman is granted 50% of the backwages from 20.11.1988 (the date of order of the Tribunal) to 12.07.2010 with a further clarification that in case the workman had been granted wages under Section 17-B of the

Industrial Disputes Act, 1947 during that period, he will not be paid further back wages. Ordered accordingly. We further make it clear that this order is passed limiting to the facts of this case only and it will not be treated as a precedent.

(6) The appeal is disposed of with no order as to costs.

.....J.
[KURIAN JOSEPH]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI,
JANUARY 19, 2016.



JUDGMENT