
(1994) 09 SC CK 0113
In the Supreme Court Of India
Case No : Civil Appeals Nos. Of 1994

Director, ESI Scheme, Orissa and Another	APPELLANT
Vs	
Dr Sabita Mohanty (Smt)	RESPONDENT

Date of Decision : 02-09-1994

Acts Referred:

Citation : (1995) 71 FLR 968 : (1995) 2 LLJ 766 : (1995) 2 SCC 369 Supp

Hon'ble Judges : M. N. Venkatachaliah, C.J.; J. S. Verma, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

M.N. Venkatachaliah, J.—We have heard learned Counsel on both sides. Special leave granted.

2. The contention of the appellants is that the tribunal did not even notify the appellants of the proceedings and granted relief to the respondent against the appellants without even so much as an opportunity of being heard to the appellants. This grievance seems to have support from the records of the proceedings. In the course of its order, the tribunal says at para 2:

The grievance of the petitioner being simple, no useful purpose shall be served by admitting this application and calling for a counter from the opposite parties. Pendency of this litigation for unlimited time would deprive her further from the salary which is due and admissible to her.

3. We are afraid, this perception of the tribunal as to the ends of justice and their expeditious attainment prevailing over the delays inherent in what the tribunal assumes to be a dispensable formality of the filing of a counter and hearing of the other side is wholly erroneous and entirely unsupportable. Indeed, these words of Lord Wright in *General Medical Council v. Spackman* (1943) 2 All ER 337 are worth recalling:

If the principles of natural justice are violated in respect of any decision, it is

indeed immaterial whether the same decision would have been arrived at in the absence of the departure from the essential principles of justice. The decision must be declared to be no decision.

4. The appellants are justified in their grievance that the Tribunal went off the mark in its perception of the procedural imperatives in this case. We have no hesitation in holding that the reasoning of the tribunal in justification of the denial to the appellants of an opportunity of being heard is unsupportable.

5. Accordingly, the appeals are allowed; the orders under appeal set aside and the matters remitted to the Tribunal for a fresh disposal in accordance with law after affording an opportunity to the appellants of being heard. In order that further delays in the proceedings are obviated, both the parties are directed to appear before the Tribunal on September 19, 1994, on which date the tribunal shall list and call the matter.

6. Let a copy of this order go to the Tribunal immediately.