

(1994) 05 SC CK 0070

In the Supreme Court Of India

Case No : Civil Appeal No. 4339 Of 1994

Steel Authority of India Ltd.

APPELLANT

Vs

Presiding Officer and Another

RESPONDENT

Date of Decision : 05-05-1994

Acts Referred:

Citation : (1996) 2 LLJ 720 : (1995) 4 SCC 109 Supp

Hon'ble Judges : Yogeshwar Dayal, J;A. M. Ahmadii, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

A.M. Ahmadi, J.—Special leave granted.

2. Heard counsel on both sides.

3. We find that there is considerable force in the grievance of the appellant that the appellant has been made to pay for the lethargy of the respondent-employee. The facts reveal that to avoid being apprehended by the police the respondent left and then remained absent without leave whereupon his services were terminated by an order dated August 23, 1980. Thereafter, the respondent-employee did not do anything in the matter till he moved for conciliation on February 5, 1991 i.e. after a decade. Since the dispute could not be resolved in conciliation proceedings, a reference was made on September 27, 1991 for adjudication. The Labour Court came (sic) and directed reinstatement with full back wages. Against that order the appellant approached the High Court. The appellant's writ petition was dismissed in limine. Against the said order the present appeal came to be filed. At the preliminary hearing we issued notice limited to the question of back wages, since the employee had been reinstated in service.

4. As stated above, the grievance of the appellant is that it was the employee who was to blame for not initiating proceedings till February 5, 1991, against the order of termination dated August 23, 1980 and, therefore, the Labour Court was

wrong in awarding 'full back wages'. It is further stated that at best he could have been awarded wages from February 5, 1991 when he initiated the conciliation proceedings. On the other hand counsel for the employee contends that the services of the employee were terminated without giving him any opportunity whatsoever and, therefore, the termination was ab initio void. We need not go into this aspect of the matter for the simple reason that we have not interfered with the order of reinstatement in service. But the fact remains that even if the order of termination was ab initio void there was no justification for waiting for over a decade to challenge that order. The employer cannot be asked to pay for the default of the employee in not taking action for over a decade. May be the employer was harsh in awarding the maximum punishment. We, therefore, set aside the order directing payment of full back wages and substitute it by ordering 25 per cent back wages, the 25 per cent back wages to be paid within three months from today. The appeal will stand disposed of accordingly with no order as to costs.