

RAJASTHAN STATE ROAD TRANSPORT
CORPORATION AND ANR.

A

v.

LADULAL MALI

FEBRUARY 5, 1996

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[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

Service law :

Termination of service—Confirmed by appellate authority—Suit for declaration that the order was illegal—Suit decreed—Execution Petition filed for reinstatement dismissed since the suit filed was only for a declaration—On revision High Court directing payment of back-wages—On appeal held, decree contained only a declaratory relief without consequential payment of monetary benefits—Hence Executing Court was right in refusing to grant the relief.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3614 of 1996.

From the Judgment and Order dated 18.3.1994 of the Rajasthan High Court in S.B. C.R.P. No. 604 of 1993.

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Sushil K. Jain and Vipin Gogia for the Appellants.

P. Gaur for the Respondent.

The following Order of the Court was delivered :

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Leave granted.

We have heard the learned counsel for the parties. This appeal by special leave arises from the order dated March 18, 1994 made by the learned single Judge in Revision Petition No. 604 of 1993. The appellants had terminated the service of the respondent on December 7, 1983. On appeal, it was confirmed. When a suit was filed, the District Munsif by decree dated November 12, 1990, declared that the order of termination as well as the order of the appellate authority were illegal, void and against the principle of natural justice. The respondent had filed Execution peti-

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- A tion No. 2/91 for reinstatement. The executing Court dismissed the Execution Application on December 4, 1992 holding that suit of the plaintiff against the respondent is for declaration. Therefore, he is not entitled to the back-wages. On a revision filed, the High Court relying upon the decision of the High Court in *Rajasthan State Road Transport Corpn. & Ors. v. Sohan Lal*, (S.B.C.R. No. 623/93) decided on 26th October, 1993 set aside the order of the executive Court and directed payment of the back-wages. Thus this appeal by special leave.

- C It is not in dispute that the decree does not contain payment of back-wages. Only declaratory relief has been granted. Shri Gaur, the learned counsel appearing for the respondent contended that when the batch was disposed of by this Court on December 16, 1994, this Court had directed payment of 40% of the back-wages. The respondent is accordingly entitled to the same relief. We find from the order of this Court that there is no such indication. It would appear that in some cases, there was a declaration to grant consequential monetary reliefs. In the batch when this D Court had disposed of the matters obviously the relief of back-wages related to those cases. Consequently, this Court limited payment of back-wages to the extent of 40%. It is settled law that executing Court cannot go behind the decree. In view of the fact that the decree contained only a declaratory relief without any consequential payment of monetary benefits, E the executing Court was right in refusing to grant the relief. The High Court was, therefore, clearly in error in directing payment of back-wages.

The appeal is accordingly allowed. No. costs.

G.N.

Appeal allowed.