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M.D. UNIVERSITY, ROHTAK
v.
AJIT SINGH NANDAL AND ANR.

SEPTEMBER 12, 2007

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[TARUN CHATTERJEE AND P. SATHASIVAM, JJ.]

Service Law:

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Post held by an employee declared by University Notification as vacant—Suit for declaration and mandatory injunction claiming the notification to be null and void—Suit dismissed by trial court but decreed by first appellate court holding that declaration of post as vacant amounted to removal of the employee from service and as no inquiry in compliance with relevant rules was held, imposition of major penalty could not be sustained—

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Second appeal of University dismissed. Held: There is no reason to entertain the instant appeal as no case has been made out to interfere with the judgment passed in regular second appeal—Constitution of India—Article 136.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4200 of 2007.

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From the Judgment and Order dated 12.1.2006 of the High Court of Punjab and Haryana at Chandigarh in Regular Second Appeal No. 1735 of 2005.

S. Janani and Nidhesh Gupta for the Appellant.

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Ramesh K. Haritash, D.K. Thakur, Kailash Chand and Prashant Bhushan for the Respondents.

The following Order of the Court was delivered :

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ORDER

1. Leave granted.

2. This appeal by special leave is filed against the judgment and decree dated 12th January, 2006 passed by the Punjab and Haryana High Court at

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Chandigarh in Regular Second appeal No. 1735 of 2005 whereby the High Court had dismissed the regular second appeal filed by M.D. University, Rohtak - appellant herein - and affirmed the judgment of the Appellate Court against which the said second appeal was filed by the appellant. A

3. The facts giving rise to this appeal may briefly be stated as under. B

4. A suit was filed by Ajit Singh Nandal for declaration and mandatory injunction claiming that the notification dated 29th July, 1997 by which the post held by him was declared vacant with effect from 15th January, 1996 was illegal and null and void. On contest, the suit was dismissed by the trial court and an appeal preferred by the respondent- Ajit Singh Nandal- before the appellate court was allowed, *inter alia*, on the findings that Ajit Singh Nandal was permitted to resume his duty on 11th October 1996 by the Registrar of M.D. University without imposing any condition, namely, requirement as to taking prior sanction of the Vice Chancellor, M.D. University and as the declaration of the post held by Ajit Singh Nandal as vacant amounted to his removal from service and also that since no enquiry in compliance with Clause 2(B) of Part II of the Rules was held, the imposition of the aforesaid major penalty could not be sustained. On the aforesaid findings the regular second appeal filed by M.D. University, Rohtak before the High Court was dismissed by the impugned judgment. This appeal in respect of which leave has already been granted has arisen from the aforesaid judgment of the High Court dismissing the regular second appeal. C
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5. Having heard the learned counsel for the parties and after considering the materials on record, we do not find any reason to entertain this appeal as the appellant has failed to satisfy us that the grounds on which the regular second appeal was dismissed could at all be said to be non sustainable. Accordingly, we dismiss the appeal and affirm the judgment of the High Court passed in the second appeal. There will be no order as to costs. It will now be open to the respondent to proceed with the execution case instituted by him to execute the decree in accordance with law. F

R.P.

Appeal dismissed. G