

[2009] 8 S.C.R. 109

BHANKRA BYAS MANAGING BOARD

v.

SURESH AND ANR.

(Civil Appeal No. 3237 of 2009)

MAY 5, 2009

[TARUN CHATTERJEE AND H.L. DATTU, JJ.]

Interim Order :

High Court while admitting the second appeal, granting final relief by directing the department to give compassionate appointment to the applicant – Held: High Court was not justified in granting such an interim order at the admission stage – Interim order of High Court set aside – Second appeal directed to be decided expeditiously in accordance with law.

Respondent No. 1 applied for compassionate appointment claiming himself to be adopted son of the deceased employee. He filed a suit for declaration that he was the legal heir of the deceased employee. The suit was decreed against the appellant and the decree was affirmed by the first appellant court. By an interim order in the second appeal, the High Court directed the appellant to appoint respondent No. 1. Aggrieved the department file the appeal.

Allowing the appeal, the Court

HELD: The High Court, while admitting the appeal preferred by the appellant has granted final relief to respondent No. 1 by directing the appellant to give compassionate appointment to him. The High Court was not justified in granting such interim order at the admission stage. It is an admitted position that the

- A second appeal was admitted for final disposal. Accordingly, the interim order granted by the High Court is set aside. The High Court is directed to decide the pending second appeal expeditiously in accordance with law after giving proper hearing to the parties. [Para 2 and 3] [110-E-G; 111-A-C]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3237 of 2009.

- From the Judgment & Order dated 3.4.2008 of the High Court of Punjab & Haryana at Chandigarh in Regular Second Appeal No. 2865 of 2007 (O&M).

Dhruv Mehta, Yashraj Singh Deora, Mohit Abraham, T.S. Sabarish and K.L. Mehta & Co. for the Appellant.

- Dipak Kumar Jena, Minakshi Ghose Jena, Humayun Sahu and Sushil Thakur for the Respondents.

The Judgment of the Court was delivered by

- TRAUN CHATTERJEE, J.** 1. Leave granted.

2. This appeal is preferred against an interim order dated 3rd of April, 2008 passed by the High Court of Punjab and Haryana at Chandigarh in Regular Second Appeal No. 2865 of 2007 whereby the High Court, while admitting the appeal preferred by the appellant, has granted final relief to the respondent No. 1 by directing the appellant to give compassionate appointment to him. In our view, the High Court was not justified in granting such interim order at the admission stage. It is an admitted position that the second appeal was admitted for final disposal. A suit was filed by the respondent No.1 for declaration that he was a legal heir of the deceased employee of the appellant being his adopted son. The said suit, however, was decreed and affirmed by the first appellate court against which the appellant has filed the second appeal in the High Court which is pending. Although a decree has been

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passed against the appellant, but in the interim stage of the second appeal, the appellant could not be directed to appoint the respondent No.1, if on the statement of the respondent No.1 he was ready to forego the past benefit if he was taken in service. Accordingly, the interim order granted by the High Court is set aside. The High Court is directed to decide the pending second appeal within six months from the date of supply of a copy of this order to it.

3. We make it clear that we have not gone into the merits of the second appeal which shall be decided by the High Court in accordance with law after giving proper hearing to the parties.

4. The appeal is accordingly disposed of. There will be no order as to costs.

R.P.

Appeal disposed of.