

S.K. SALDI

v.

THE GENERAL MANAGER, U.P. STATE SUGAR  
CORPORATION LTD. AND ANR.

FEBRUARY 6, 1997

[K. RAMASWAMY AND S. SAGHIR AHMAD, JJ.]

*Service Law:*

*Appellant appointed in Straw Board Mills—Transferred on deputation to Sugar Mills—Reversion sought to parent Department—Refusal—Suit filed by appellant—Civil Judge directed reinstatement and thereafter transferred him to parent Department—Said order challenged by Mill—High Court held that appellant was not entitled to be reinstated as enquiry was pending against him—This order was not challenged by appellant and it became final—Thereafter appellant filed revision which was dismissed by High Court—Appeal preferred before Supreme Court—Held the appellant had not impleaded his employer in the suit—He suo motu impleaded the Mill in SLP but subsequently deleted it—Main order was also allowed to become final—Held in these circumstances there was no manifest error of law warranting interference.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3170 of 1981.

From the Judgment and Order dated 21.4.80 of the Allahabad High Court in C.M. Application No. Nil of 1979 in C.R. No. 1136 of 1979.

Pramod Swarup for the Appellant.

Pradeep Misra for the Respondents.

The following Order of the Court was delivered :

This appeal by special leave arises from the order of the Allahabad High Court, made on April 21, 1980 in Miscellaneous Application in Civil Revision No. 1136/79.

The appellant has to get over several insurmountable difficulties in his way. On his own showing, the appellant claims to have been appointed

A in M/s. Meerut Straw Board Mills, Meerut, which was claimed to be a subsidiary of Jaswant Sugar Mills. It is claimed by the appellant that he was transferred on deputation to S.B. Sugar Mills; as a consequence, he was entitled to go back to his parent Department. However, since he was not relieved, he filed a civil suit, viz., Case No. 26/48, before the Civil Judge, Bijnor. The Civil Judge, by his order dated March 29, 1979, directed the B  
S.B. Sugar Mill, Bijnor to formally reinstate him and thereafter transfer him to the parent Department. The said order came to be challenged by the Mill in the revision in the High Court. The High Court held that he was not entitled to be reinstated. Since an enquiry was pending against him, the Court at the most would have directed to conduct an enquiry followed C  
by action to be taken according to the result of the enquiry. That order was not challenged and it became final. Thereafter, the appellant filed a revision petition before the High Court which came to be dismissed. Thus, this appeal by special leave.

D Shri Pramod Swarup, learned counsel for the appellant, contends that when the appellant was initially appointed in the Meerut Straw board and was transferred to the Mill on deputation, he was entitled to be repatriated when the Mill was not inclined to retain his services and, therefore, the direction issued by the Civil Court is valid in law and the High Court was not justified in reversing that order. As stated earlier, the E  
appellant had to cross several insurmountable hurdles, namely, in the suit the appellant had not impleaded his employer M/s. Jaswant Sugar Mills with whom he claimed to have been appointed. He *suo motu* impleaded the sugar Mill in the SLP filed in this Court and subsequently, it was deleted. Under these circumstances, the sugar Mill against whom the relief sought for was not a party to the suit. Therefore, the suit was liable to be F  
dismissed for non-joinder of necessary and proper party. The second difficulty in the way of the appellant was that the main order was allowed to become final and he did not challenge the same. Under these circumstances, the review order could not have more force than the original order. Therefore, we do not find any manifest error of law warranting G  
interference.

The appeal is accordingly dismissed, but in the circumstances, without costs. The interim order passed by this Court stands dissolved.