Union Of India & Anr vs Ranchi Municipal Corpn. Ranchi & Ors on 16 February, 1996

Equivalent citations: 1996 SCC (7) 542, JT 1996 (2) 171, AIRONLINE 1996 SC 1153

Author: K. Ramaswamy

Bench: K. Ramaswamy

PETITIONER:
UNION OF INDIA & ANR.

Vs.

RESPONDENT:
RANCHI MUNICIPAL CORPN. RANCHI & ORS.

DATE OF JUDGMENT: 16/02/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
1996 SCC (7) 542 JT 1996 (2) 171
1996 SCALE (2)412

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted.

We have heard learned counsel on both sides. The respondent-Municipality had made a consolidated outstanding demand for a sum of Rs.1,01,501/ for years 1993- 94, 1994-95 on December 16, 1993 towards the service charges. The appellants challenged the validity of the demand. On reference, the Division Bench in the impugned order dated May 15, 1995 in CWJC

No.3223/94 upheld the demand of the Municipality. Thus this appeal by special leave.

The controversy is no longer res integra. This Court in Union of India v. Purna, Municipal Council & Ors. [(1992) 1 SCC 100] had held that Section 135 of the Railways Act is subject to the provisions of Article 285 of the Constitution. Therefore, the respondent-Municipality was restrained from demanding any payment by way of service charges from the Railways. Shri M.P. Jha, learned counsel appearing for the Municipality sought to rely on Clause (4) of Section 135 of the Railway Act which contemplates a contract between the Central Government and the Municipality and payment thereof on the basis of the said contract. In this case the contract now sought to be relied upon is only to relieve distress warrant pending disposal of the dispute in the High Court. Therefore, it cannot be construed that there is any contract between the Union of India and the Municipality. In view of the fact that the Municipality has no right to demand service charges from the Union of India, the demand made by the Municipality is clearly ultra vires its power. It is true that earlier W.P. No.2844/92 was filed and was dismissed by the High Court and the special leave was refused by this Court on the ground of gross delay.

It is now settled law that the summary dismissal does not constitute res judicata for deciding the controversy. Moreover, this being recurring liability which is ultra vires the power, earlier summary dismissal of the case does not operate as a res judicata.

The appeal is accordingly allowed. Writ is issued as prayed for. Whatever amount has been paid by now cannot be recovered from the Municipality, No costs.