

Satish Chandra Verma vs Union Of India on 19 September, 2022

Bench: K.M. Joseph, Hrishikesh Roy

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6775 OF 2022
(Arising out of SLP (C)No. 15913 of 2022)

SATISH CHANDRA VERMA

Appellant

VERSUS

UNION OF INDIA & ORS.

Respondent

O R D E R

Leave granted.

By the impugned order, the High Court has allowed the application seeking leave to implement the final order passed by the disciplinary authority. A FEW FACTS The appellant, who was a member of the Indian Police Services, to cut the long history short, was served with charges, which was challenged by him in Writ Petition (C) No. 10539 of 2021. There were interim orders passed in the said case in favour of the appellant. Thereafter, the High SNEHA Court, by order dated 30.08.2022, permitted the respondents to pass final order in the disciplinary proceedings making CA No. 6775/2022 (@ SLP (C)No. 15913/2022) it clear, however, that till the next date of hearing, final order if prejudicial shall not be implemented without the leave of the Court and the writ petition itself stood listed on 24th January, 2023. This, in fact, is the order which is the subject matter of SLP (C)No. 15878 of 2022 which we have closed today as infructuous. It is based on the same that the leave was sought to implement the order passed by the disciplinary authority. The order passed by the disciplinary authority dismissing the appellant from service with immediate effect came to be passed on 30.08.2022 which we notice to be the very same day on which the order was passed in W.P. (C)No. 10539 of 2021 and subject matter of SLP (C)No. 15878 of 2022. But the said order, though with immediate effect, was not to be implemented without the leave of the Court.

It is by order dated 07.09.2022 that the Court has passed the order which is the subject matter of the present civil appeal. In the impugned order, in paragraphs 8, 9 and 11, we may notice the

following:

“8. Subject proceedings are proceedings impugning the chargesheet issued to the petitioner. As noticed herein above, the entire disciplinary proceedings have concluded and resulted in an order of dismissal.

9. In that view of the matter, without prejudice to the challenge to the charge-sheet in the subject proceedings, respondents are permitted to implement the order. However, it is directed that the order shall not be implemented till 19.09.2022, to enable the petitioner to avail of his remedies in accordance with law against the order of dismissal.

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11. List on 24.01.2023, the date already fixed.” We have heard Mr. Kapil Sibal, learned senior counsel appearing on behalf of the appellant and the learned Solicitor General appearing on behalf of the respondents.

Learned senior counsel for the appellant contend that the Court may protect the appellant. There was no need for such a hurry to pass the order on 30.08.2022 dismissing the appellant. He contends that under the rules, the disciplinary proceedings having been instituted while the appellant was in service, it could have been carried to its logical conclusion even after his retirement. He would submit that the appellant must secure justice. He would submit that even in the writ petition laying a challenge to the article of charges, without amending the writ petition or seeking to lay a challenge against the order of dismissal, the appellant is entitled to relief.

Per contra, learned Solicitor General, would point out that, as of today, there is an order of dismissal of the appellant. He joins issue with respect to the impact of retirement of a Government Servant even if proceedings have been instituted prior to the retirement. He submits that there was no hurry in issuing the order dated 30.08.2022. He would further submit that there is no challenge to the order of dismissal as things stand. This is in response to the request of the appellant that the appellant may be CA No. 6775/2022 (@ SLP (C)No. 15913/2022) protected from the order passed by the disciplinary authority in question. He would submit that it is not as if there is a challenge to the order of the disciplinary authority in the writ petition as what is in challenge is the charges. He next drew our attention to paragraph 9 of the order which we have adverted to hereinbefore. In other words, it is pointed out that the High Court has safeguarded the interest of the appellant but that may not obviate the need to challenge the order of dismissal if the appellant feels so advised.

We are of the view that, in the facts of this case, the interest of justice would require that the order passed by the respondent dismissing the appellant which the High Court while permitting to be implemented has directed that it shall not be implemented till today, should continue to be not implemented for a period of one week from today.

We make it clear that the order of dismissal of the appellant shall not be implemented for a period of one week from today. In the meantime, it is for the appellant to take steps for amending the pending writ petition (W.P. (C)No. 10539 of 2021) to lodge a challenge against the order of dismissal. It is for the High Court to consider the question as to whether the order of stay of implementation of the order of the disciplinary authority is to be continued beyond the period of one week which we have ordered.

CA No. 6775/2022 (@ SLP (C)No. 15913/2022) We make it clear that we have not expressed any view regarding the merits of the contentions of the parties. It will be open to the parties to prosecute the respective contentions before the High Court. With such liberty, the appeal is disposed of.

....., J.

[K.M. JOSEPH], J.

[HRISHIKESH ROY] New Delhi;

September 19, 2022.

CA No. 6775/2022 (@ SLP (C)No. 15913/2022) ITEM NO.45 COURT NO.6 SECTION XIV S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Petition(s) for Special Leave to Appeal (C) No. 15878/2022 (Arising out of impugned final judgment and order dated 30-08-2022 in WP(C) No. 10539/2021 passed by the High Court of Delhi at New Delhi) SATISH CHANDRA VERMA Petitioner(s) VERSUS UNION OF INDIA & ORS. Respondent(s) (FOR ADMISSION and I.R. and IA No.132467/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT) WITH SLP(C) No. 15913/2022 (XIV) (With IA No.133754/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT) Date : 19-09-2022 These petitions were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH HON'BLE MR. JUSTICE HRISHIKESH ROY
For Petitioner(s) Mr. Kapil Sibal, Sr. Adv.

Mr. I. H. Syed, Sr. Adv.

Mr. Divyesh Pratap Singh, AOR Mr. Sarim Naved, Adv.

Dr. Ram Kishor Choudhary, Adv. Mr. Amit Kumar Chourasia, Adv. Mr. Avinash Kumar Bharti, Adv. Mr. Kamrah Javed, Adv.

Mr. Imroz Alam, Adv.

Mr. Ajay Prabu, Adv.

For Respondent(s) Mr. Tushar Mehta, SG.

Mr. Arun Bhardwaj, Sr. Adv.

Mr. Abhishek Sharma, Adv.

Mr. Ronak Karanpuria, Adv.

Ms. Gauraan, Adv.

CA No. 6775/2022 (@ SLP (C)No. 15913/2022) Ms. Manisha Lavkumar, Sr. Adv. Ms. Deepanwita Priyanka, Adv. Mr. Ronak Karanpuria, AOR UPON hearing the counsel the Court made the following O R D E R After having perused the order and having heard the learned senior counsel for the petitioner and the learned Solicitor General, we are of the view that nothing survives for consideration by this Court. The matter is closed as infructuous.

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending application stands disposed of.

(NIDHI AHUJA)
AR - cum - PS

(RENU KAPOOR)
ASSISTANT REGISTRAR

[Signed order is placed on the file.]