

Topic: Doctrine Of Pleasure Under Article 309

Name of the case: UOI v. SP Sharma, (2014) 6 SCC 351

Bench: Justice B.S. Chauhan, Justice J. Chelameswar and Justice M.Y. Eqbal

Fact of the Case: The present appeals arise out of the order passed way back in 1980 terminating the services of the respondents herein which was brought invoking the 'Doctrine of Pleasure' as enshrined under Article 310 of the Constitution of India coupled with the power to be exercised and under Section 18 of the Army Act. Initially, the order of dismissal was passed on 1980, which were assailed in writ petitions that were dismissed by High Court.

Judgment: The Supreme Court observed that in a Constitutional set up, when an office is held during the 'pleasure of the President', it means that the officer can be removed by the authority on whose pleasure he holds the office, without assigning any reason. The authority is not obliged to assign any reason or disclose any cause for the removal.

Article 309 of the Constitution empowers the appropriate legislature or executive to make any law, rules or regulations with regard to the condition of service without impinging upon the overriding power recognised under Article 310. Article 309 is expressly made subject to the provisions of Article 318. Thus, The Army act, 1950 cannot in any way override the constitutional provisions contained in Article 309.