

Topic: Action Taken By Government Against His Servant In Consultation With The Commission: Mandatory Or Not [Article 320 (3) (C)]

Name of the Case: State of Uttar Pradesh v. Manbodhan Lal Srivastava, AIR 1957 SC 912

Bench: Chief Justice S.R. Das, Justice Bhuvaneshwar Sinha, Justice T.L. Venkatarama Aiyar, Justice J.L. Kapur, Justice A.K. Sarkar

Background: The Government of Uttar Pradesh reduced an officer in rank. The officer alleged that there was irregularity in the consultation of the state commission by the government.

Issue: Whether irregularity in, do not complete absence of, consideration with the State Public Service Commission would enable the officer concerned to challenge the order passed by the government?

Judgment: The Supreme Court held that Article 320(3)(c) does not confer any right on a public servant so that the absence of, or any irregularity in, consultation would not offered him a cause of action in a court of law. The main reason for this view are:

The opinion of the commission has not been made binding on the government. In the absence of such a binding character, it is difficult to see how non-compliance with this provision could have the effect of nullifying the final order passed by government. If the opinion of the commission were binding on the government, it could have been argued with some force that non-compliance with the rule for consultation would have been fatal to the validity of the order proposed to be passed against a public servant.

The constitution does not provide for contingency as to what is to happen in the event of non-compliance with this provision. It does not either expressly or impliedly provide that non-compliance will invalidate the final order of the government.

The proviso to Article 320 itself indicates that in certain cases or classes of cases, the commission need not be consulted. The President may make regulation to take away the protection of Article 320 (3) (c) in certain cases or classes of cases.

The concept was evolved with time. It was in Dinkar Case that the consultation was made mandatory.