State Of U.P. And Ors. vs Raj Pal Singh on 20 February, 2001

Equivalent citations: 2002(4)AWC2946(SC), (2002) 1 SCT 205, AIRONLINE 2001 SC 470, (2001) 4 SERVLR 637, (2002) 4 ALL WC 2946, (2010) 4 SCALE 485, 2010 (5) SCC 783

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Bench: B.N. Agrawal

ORDER

G.B. Pattanaik and B.N. Agrawal, JJ.

1. This appeal is directed against the judgment of the High Court of Allahabad interfering with an order of punishment inflicted upon the respondent in a disciplinary proceeding. Admittedly, the respondent was an Assistant Warder and the allegation against him was that he along with four other Assistant Warders beat one Shivdan Singh, and even though the senior officers dissuaded them, they never listened to that. These allegations were proved in a departmental proceeding and the disciplinary authority passed the order of dismissal so far as the present respondent is concerned, though in respect of some others, he passed the order of stoppage of five increments. The respondent assailed the legality of the order by approaching the Public Service Tribunal. The Tribunal having refused to interfere, he approached the High Court. The High Court came to the conclusion that the charges and the delinquency being same and identical, and all the employees having been served with a set of charges out of the same incident, there was no justifiable reason to pass different orders of punishment, and, therefore, the order of dismissal cannot be sustained. The High Court consequently set aside the order of dismissal and directed stoppage of five increments in case of the respondent as was the order in case of some other Assistant Warders. The High Court further directed that the delinquent respondent would be paid only 50% of backwages. It is this order of the High Court which is the subject-matter of challenge in this appeal. It is contended on behalf of the appellants that once the charges have been held to be established, it was not appropriate for the High Court to interfere with the quantum of punishment and judged from this standpoint, the order of the High Court cannot be sustained. In support of the said contention, reliance is placed on the decision of this Court in B. C. Chaturvedi v. U.O.I, and Ors. and Secretary to Government, Home Department and Ors. v. Srivaikundathan, JT 1998 (8) SC 470. Though, on principle, the ratio in aforesaid cases would ordinarily apply, but in the case in hand, the High Court appears to have considered the nature of charges leveled against the 5 employees who stood charged on account of the incident that happened on the same day and then the High Court came to the conclusion that since the gravity of charges was the same, it was not open for the disciplinary authority to impose different punishments for different delinquents. The reasonings given by the High Court cannot be faulted with since the State is not able to indicate as to any difference in the delinquency of these employees. It is undoubtedly open for the disciplinary authority to deal with the delinquency and once charges are established, to award appropriate punishment. But when the

charges are same and identical in relation to one and the same incident, then to deal with the delinquents differently in the award of punishment, would be discriminatory. In this view of the matter, we see no infirmity with the impugned order requiring our interference under Article 136 of the Constitution. Though the High Court by the impugned judgment has directed that the delinquent would be paid 50% of the backwages, but having regard to the nature of charges against the respondent, we are not inclined to allow any backwage from the period of dismissal till the date of reinstatement. We are told that he has been reinstated on 5.11.1997. We make it clear that respondent will not be entitled to any backwage from the date of dismissal till 5.11.1997.

2. The appeal is disposed of accordingly.