

Municipal Committee, Bahadurgarh vs Krishnan Behari And Ors on 19 February, 1996

Equivalent citations: 1996 AIR 1249, 1996 SCC (2) 714, AIR 1996 SUPREME COURT 1249, 1996 AIR SCW 1309, 1996 LAB. I. C. 1056, (1996) 2 EASTCRIC 7, (1996) 73 FACLR 1429, (1996) 2 LAB LN 881, (1996) 2 MAD LJ 136, (1996) 2 PAT LJR 9(1), (1996) 2 SCT 508, 1996 (2) SCC 714, 1996 SCC (L&S) 539, (1996) 5 SERVLR 381, 1996 UJ(SC) 1 799, (1996) 3 UPLBEC 1684, (1996) 1 LJR 740, (1996) 2 SCR 827 (SC), 1996 ALL CJ 1 672, (1996) 33 ATC 238, (1996) 1 ALLCRILR 902, (1996) 1 CURLR 667, (1996) 3 JT 96 (SC), 1995 SCC (SUPP) 4 446, (1996) 1 CRIMES 189, 1996 (3) SCC 422, 1996 ALL CJ 2 1362, 1996 SCC (CRI) 519

Author: B.P. Jeevan Reddy

Bench: B.P. Jeevan Reddy, K.S. Paripoornan

PETITIONER:

MUNICIPAL COMMITTEE, BAHADURGARH

Vs.

RESPONDENT:

KRISHNAN BEHARI AND ORS.

DATE OF JUDGMENT: 19/02/1996

BENCH:

JEEVAN REDDY, B.P. (J)

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PARIPOORNAN, K.S. (J)

CITATION:

1996 AIR 1249

1996 SCC (2) 714

JT 1996 (3) 96

1996 SCALE (2) 698

ACT:

HEADNOTE:

JUDGMENT :

O R D E R Leave granted.

The respondent was a clerk in the Municipality. He was alleged to have misappropriated a sum of Rs. 1548.78p by falsifying the accounts. He was prosecuted in a criminal case and convicted under Section 409 of the Indian Penal Code and sentenced. On appeal, the conviction was altered from Section 409 to Section 468 of the Indian Penal Code. Section 468 reads:

"Whoever commits forgery intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to 7 years and shall also be liable to fine."

In view of the said punishment, the Municipal Committee dismissed the respondent. The respondent filed an appeal before the Director of Local Bodies who, while upholding the correctness of the action, reduced the punishment to stoppage of four increments and has also directed that the period during which the respondent was out of service should be treated as extra-ordinary leave. An appeal filed by the Municipal Committee to the Commissioner was dismissed as incompetent. A writ petition filed by the Municipal Committee was also dismissed in limine by the High court.

It is obvious that the respondent has been convicted of a serious crime and it is a clear case attracting under proviso (a) to Article 311 (2) of the Constitution. In a case of such nature - indeed, in cases involving corruption there cannot be any other punishment than dismissal. Any sympathy shown in such cases is totally uncalled for and opposed to public interest. The amount misappropriated may be small or large; it is the act of misappropriation that is relevant. The Director had interfered with the punishment under a total mis-apprehension of the relevant factors to be borne in mind in such a case.

Accordingly, this appeal is allowed. Judgments of the High Court, Commissioner and the Director are set aside and the order of the Municipal Committee dismissing the respondent is restored.

No costs.