

Amresh Shrivastava vs The State Of Madhya Pradesh on 1 April, 2025

Author: Abhay S. Oka

Bench: Abhay S. Oka

2025 INSC 417

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10590 OF 2024

AMRESH SHRIVASTAVA

APPELLANT

VERSUS

THE STATE OF
MADHYA PRADESH & ORS.

RESPONDENTS

JUDGMENT

AUGUSTINE GEORGE MASIH, J.

1. This appeal challenges the judgment dated 30.04.2019 passed by the Division Bench of the High Court of Madhya Pradesh Bench at Gwalior (hereinafter referred to as “Impugned Judgment”) whereby the High Court allowed the Writ Appeal filed by the Respondents, reversing the Order of the learned Single Judge dated 26.04.2017, which quashed the chargesheet dated 29.04.2011 issued to the Appellant. As a result, the disciplinary proceedings and the chargesheet were revived.

2. Facts in instant case are that the Appellant was appointed as Naib Tehsildar on 15.06.1981 and was promoted to Tehsildar on 31.12.1991. Between July 1993 and September 1998, he was posted as Tehsildar in Gwalior district, where he performed various functions, including quasi-judicial duties. An application filed by Kuber Singh and Madho Singh, sons of Suraj Singh for settlement of land measuring 1.500 Hect. of survey no. 1123/Min-3 situated in Village Barua. After issuing notice, no objections were received. The gram panchayat was consulted and passed a resolution stating that the applicants were cultivating the land and had no objections to the settlement in their favour. Following the procedure as prescribed under the rules as also the statement of the Patwari, the said application was allowed subject to certain conditions. Appellant as a quasi-judicial authority passed

a land settlement order dated 26.06.1997. The said order was not challenged and the same attained finality.

3. After a significant delay, a Show Cause Notice dated 21.09.2009 was issued to the Appellant by the Collector of District Gwalior. The notice alleged that the land settlement was granted to ineligible persons in an illegal manner, contrary to the rules. It further stated that the mutation order led to the land being sold, which originally vested in the State Government, causing undue benefit to the parties due to negligence and carelessness in duty.

3.1 Subsequently, Chargesheet dated 29.04.2011 was issued to the Appellant by the Commissioner, Gwalior stating that he had executed the land settlement in Survey No. 1123/min-3 illegally, which was indicative of dishonesty.

4. When the chargesheet was issued to him after 13 years, the Appellant challenged it by filing Writ Petition No. 7114/2011 before the High Court of Madhya Pradesh on 19.10.2011, seeking protection under the provisions of the Judges Protection Act, 1985 (hereinafter referred to as "JPA 1985"). He asserted that he had exercised his powers under Section 57(2) of the Madhya Pradesh Land Revenue Code, 1959. He argued that the Orders were issued in exercise of quasi-judicial functions. He further contended that inordinate delay, without any conclusion of extraneous influence or misconduct, should bar departmental proceedings.

5. The learned Single Judge decided the Writ in favour of the Appellant, quashing the chargesheet and setting aside the disciplinary proceedings initiated solely on the ground of delay, with their being no explanation thereto for such delay.

6. Assailing the order passed by learned Single Judge. The Respondent No.1 (hereinafter referred to as "respondent-State") preferred a Writ Appeal, which was allowed. The Division Bench while allowing the appeal, held that an officer who exercise judicial or quasi-judicial powers exercising negligently or recklessly, or in order to confer undue favour on a person, is not acting as a judge. In situations where a government officer acts negligently or fails to meet the prescribed conditions essential for exercising statutory powers, thereby conferring undue favor on a party and compromising their reputation for integrity, good faith, or devotion to duty, departmental proceedings can be initiated if disciplinary action is not taken for violating the conduct rules.

6.1 The Division Bench relied on the decision of this Court in Union of India and others vs. K.K. Dhawan¹. Consequently, the Order of the Single Judge was set aside, reviving the chargesheet, while also directing for the completion of the departmental inquiry expeditiously.

7. Learned Senior Advocate and Counsels for the Appellant assailed the Impugned Judgment on the ground that the chargesheet issued against the Appellant would not fall within the ambit and scope of the decision in K.K. Dhawan (supra) which was relied on by the Division Bench for setting aside the order passed by the learned Single Judge. He contended that the Respondent-State's allegations in the Show Cause Notice and Chargesheet merely suggested that the order was wrong and not in accordance with law. There were no allegations (1993) 2 SCC 56 of extraneous influence, bribery, or

gratification.

8. To substantiate his argument, the Appellant relied upon the decision of this Court in Virendra Kumar Singh vs. State of Madhya Pradesh & Others, wherein a revenue officer in similar facts and circumstances from the State of Madhya Pradesh was made to face departmental proceedings after an inordinate delay against an order passed by him in exercise of his powers as a Tehsildar.

8.1 This Court had ruled that in absence of allegations of extraneous influence, departmental proceedings should not be initiated merely because a quasi-judicial order was incorrect.

8.2 The Appellant on this basis, submits that the charges against the said officer were similar to those made against the Appellant and also the stand taken by the Respondents before the High Court, the judgment of this Court would apply in full force.

9. Further reliance was also placed upon the judgment of this Court in Zunjarrao Bhikaji Nagarkar vs. Union of India and Others², where this Court had held the quasi-judicial officer's error in judgment does not automatically imply misconduct or favouritism. Disciplinary action requires clear evidence of extraneous influence beyond mere legal mistakes to avoid undermining judicial independence. Similarly, in case of Krishna Prasad Verma through Lrs. vs. State of Bihar and Others³, this Court clarified that while wrong orders by judicial officers should not automatically lead to disciplinary action unless there are allegations of misconduct based on extraneous influences. The remedy under such circumstances would be available to the parties concerned to avail all the remedies available under law. It was further reiterated that unless there are clear cut allegations of misconduct, extraneous influences, gratification of any kind etc., disciplinary proceedings should not be initiated merely on the basis that a wrong order has (1999) 7 SCC 409 (2019) 10 SCC 640 been passed by the judicial officer or merely on the ground that the judicial order is incorrect.

10. Counsel for the Appellant argues that the 14 -

year delay in issuing the chargesheet is excessive and unexplained. This significant delay supports the claim that the departmental inquiry should not continue at such a late stage.

11. Accordingly, employee should not be made to suffer, which means that prompt action must be taken by the department. At the very outset, counsel states that in cases where an order has been passed in exercise of quasi- judicial functions, the statutory remedy available against that order should be pursued unless it was passed under extraneous considerations and there is reasonable justification or material to support such a conclusion. He accordingly prayed for the present appeal to be allowed.

12. Counsel for the Respondent-State, on the other hand, has vehemently opposed the present appeal and supported the Impugned Order passed by the Division Bench of the High Court of Madhya Pradesh. It is their contention that the Appellant while exercising his powers as a Tehsildar, is a Revenue Officer, and therefore a quasi-judicial officer is bound by the statute. The mandate of

the statute, therefore, need to be followed and given effect, which has not been done by the Appellant. What is expected from him is to at least determine the eligibility of the person for the grant of settlement. A licence was not given to the officer to pass illegal orders in contravention to provisions of law which would indicate dishonesty. Counsel for the Respondent-State is unable to address the delay in the issuance of the chargesheet. However, he has submitted that time should not be considered a factor in such matters where departmental proceedings are initiated against an employee. He was unable to provide any material evidence suggesting extraneous considerations or influences that would place this case outside the protection afforded by the law as settled by this Court. Counsel based on the above prayed for dismissal of the appeal.

13. We have considered the submissions made by the counsels for both the parties.

14. The facts as have been narrated above are not in dispute. Two aspects which need to be considered are:

(1) Whether the chargesheet issued to the Appellant by the Respondent-State would fall within the scope of observations that have been carved out by this Court in K.K. Dhawan case (supra)?

(2) Whether inordinate unexplained delay in issuance of the chargesheet (in this case 14 years) would in itself be a ground for quashing the chargesheet issued to the appellant?

15. As regards the first question in K.K. Dhawan case (supra), this Court carved out the following situations where the government is not precluded from taking disciplinary actions for violation of the Code of Conduct: -

“(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

(ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;

(iii) if he has acted in a manner which is unbecoming of a Government servant;

(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party;

(vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago “though the bribe may be small, yet the fault is great.” After carving out the above exceptions, this Court proceeded to further observe that mere technical violations or the fact that an order is wrong, if not falling

under the above enumerated instances, does not warrant disciplinary actions. It was further reiterated that each case depends on its facts, and absolute rules cannot be postulated. The above instances as referred and reproduced hereinabove, are thus only a guide and not meant to be mandatorily adhere to without exception.

16. In the present case, we are of the considered view that the charges alleged against the Appellant in the chargesheet fall under the category of a wrongful order, which does not appear to have been influenced by extraneous factors or any form of gratification. It appears that the order has been passed in good faith, without any indication of dishonesty. Furthermore, the facts outlined in the Show Cause Notice do not suggest any such impropriety. The power exercised by the Appellant in his capacity as a Tehsildar, while passing the order of Land Settlement Order, cannot be considered of a nature that would warrant disciplinary proceedings against him. The decision relied upon by the Counsel for the Appellant as mentioned above, supports this view. Consequently, the first question is answered in favor of the Appellant.

17. As to the second question, regarding whether delay is a ground for stopping the departmental proceedings at the stage of the chargesheet itself, suffice it to say that this varies from case to case. However, in the instant case where there is unexplained inordinate delay in initiating departmental proceedings despite the alleged misconduct being within the knowledge of the department, but still no departmental proceedings are initiated, the answer must go in favour of the employee. However, there may be cases where the department was not even aware of such irregularities or the misconduct, which is of such a nature that it is indicative, based on material considerations of factors other than merit, such as extraneous influences and gratifications. In such cases, such a delay, by itself would not be a valid ground to scuttle the initiation of the process of departmental proceedings.

18. Reference in this regard can be made to the decision of this court in State of Madhya Pradesh vs. Bani Singh and Another⁴, wherein the court noted that there was no reason to interfere with the quashing as the disciplinary proceedings were initiated after 12 years of delay. A reference should also be made to the decision of this Court in P.V. Mahadevan vs. MD, T.N. Housing Board⁵, where it has been reiterated that continuing the departmental proceedings after an undue delay would be unjust, causing unnecessary mental distress and damaging the reputation 1990 (Suppl.) SCC 738 2005 (6) SCC 636 of the employee for the mistakes committed by the department in initiating disciplinary proceedings.

19. In view of the above, the present appeal is allowed and the Impugned Judgment dated 30.04.2019 passed by the Division Bench of the High Court is set aside and consequently the order dated 26.04.2017 passed by the learned Single Judge stands restored.

20. There shall be no order as to costs.

21. Pending application(s), if any, stand disposed of.

.....J. [ABHAY S. OKA]J. [AUGUSTINE
GEORGE MASIH] NEW DELHI;

APRIL 01, 2025