

State Of Rajasthan vs Gopal Singh on 17 September, 1993

Equivalent citations: 1994 SCC, SUPL. (2) 404, AIRONLINE 1993 SC 289

Author: A.M. Ahmadi

Bench: A.M. Ahmadi, N Venkatachala

PETITIONER:
STATE OF RAJASTHAN

Vs.

RESPONDENT:
GOPAL SINGH

DATE OF JUDGMENT 17/09/1993

BENCH:
AHMADI, A.M. (J)
BENCH:
AHMADI, A.M. (J)
VENKATACHALA N. (J)

CITATION:
1994 SCC Supl. (2) 404

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. Special leave granted*.

2. The respondent, a Police Constable, was dismissed from service on certain charges. He filed a writ petition in the High Court which was heard by a Division Bench of the High Court comprising two learned Judges. The Division Bench by its judgment and order dated 1-2-1989, dismissed the writ petition. Against that the delinquent filed a review application which was heard by one of the Judges, constituting the Division Bench, presumably because the second learned Judge was not available. In such a situation under Rule 64 of the Rules of the High Court of Judicature for

Rajasthan, 1952, the proper procedure to be followed was to lay the application before the learned Chief Justice, who with due regard to the provisions of Rule 5 of Order 47 of the Code will constitute a Bench for hearing and disposal of such application. In the instant case unfortunately this procedure was not followed but one of the learned Judges constituting the Division Bench which disposed of the main petition exercised power of review and reversed the earlier order. The effect of this * Corrected on September 20 1993 order is that a matter which would ordinarily go to a Division Bench came to be disposed of by a learned Single Judge. That clearly was not in keeping with a Rule 64 of the Rules of the High Court of Judicature for Rajasthan, 1952, read with Rule 5 Order 47 of the Code of Civil Procedure.

3. We, therefore, set aside the order in review and remit the matter to the High Court. The papers will be placed before the learned Chief Justice for constituting a Bench of two learned Judges for disposal of the review petition. The appeal is allowed accordingly with no order as to costs.