

State Of U.P. & vs T.P. Lal Srivastava on 20 September, 1996

Equivalent citations: AIRONLINE 1996 SC 15, 1996 (10) SCC 702, 1997 SCC (L&S) 353, (1997) 1 UPLBEC 539, (1997) 1 SCT 108, (1997) 1 LAB LJ 831, (1997) 75 FAC LR 479, (1997) 2 LAB LN 69, (1997) 1 SERV LR 119, (1997) 1 ESC 39, (1996) 9 JT 301, (1997) 5 SCJ 230, 1996 (10) SCC 565, (1997) 1 SERVLR 581, 1997 SCC (L&S) 331, (1996) 3 SERV LJ 111, (1997) 1 LAB LJ 1215, (1996) 9 JT 301 (SC), (1996) 9 JT 286 (SC), 1997 (1) KLT SN 9 (SC), (1997) 1 KER LT 9, (2006) 2 CLR 431 (SC), (2006) 2 LACC 418, (2006) 3 CURCC 268, (2006) 3 UC 1853, (2006) 46 ALLINDCAS 954, (2006) 4 ALL WC 3643, (2006) 65 ALL LR 30, (2006) 6 ANDH LT 11, (2006) 6 SUPREME 487, 2006 (7) SCC 508, (2006) 8 SCALE 461, (2007) 1 CIVLJ 234, (2007) 1 RECCIVR 60, (2007) 2 LACC 245, (2007) 2 LANDLR 445

Author: K. Ramaswamy

Bench: K. Ramaswamy

PETITIONER:
STATE OF U.P. &

Vs.

RESPONDENT:
T.P. LAL SRIVASTAVA

DATE OF JUDGMENT: 20/09/1996

BENCH:
K. RAMASWAMY, G.B. PATTANAIK

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Though notice was sent to the respondent on January 25, 1995, till date neither

acknowledge nor unserved cover has been received back. Under these circumstances, notice must be deemed to have been served on the respondent. He is set ex parte.

Leave granted.

We have heard learned counsel for the appellant. This appeal by special leave arises from the judgment of the Allahabad High Court made on March 15, 1993 in writ Petition No. 12480/87. The admitted position is that while the respondent was working as a Senior Marketing Inspector, a charge-sheet was served on him on November 23, 1984 calling upon him to explain the charges for committing gross irregularities in the movement of wheat outside the State of U.P. Instead of submitting reply to the charge- sheet, he went on dilly-dallying in submitting the reply. Several letters addressed to the respondent proved ineffective. Resultantly, the appellants took a decision on June 26, 1987 holding that the respondent was found guilty of misappropriation. Consequently, he came to be dismissed from service. The respondent challenged the same in the writ petition. The High Court has set aside the order in the impugned order holding that the documents have not been supplied to the respondent and, therefore, the action was vitiated by error of law. We do not find any justification in the view taken by the High Court; the substratum of the result is that the appellants have not conducted any enquiry though the respondent had been avoiding to give the reply. Since the respondent had avoided to submit the reply, he has forgone his right to submit his reply. Nonetheless, the appellants are not absolved of the duty to hold an ex-parte enquiry to find out whether or not the charge has been proved. In the event of the Enquiry Officer find that the charge is proved, he would submit his report to the disciplinary authority. The disciplinary authority should communicate the copy of the enquiry report to the respondent and seek an explanation for the proposed action thereon. If the respondent submits any explanation, the same may be taken into consideration and appropriate order may be passed according to law. Until then, the respondent must be deemed to be under suspension.

The appeal is accordingly allowed, but in the circumstances, without costs.