

STATE OF UTTARAKHAND AND ORS.

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v.

PREM RAM

(Civil Appeal No.3152 of 2019)

MARCH 15, 2019

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**[DR. DHANANJAYA Y CHANDRACHUD AND
HEMANT GUPTA, JJ.]**

Service Law – Dismissal – Respondent joined service as Constable – Dismissal from service for misconduct on charge of drunkenness and misbehavior with public – Writ petition filed by the respondent – Relegated to the remedy of statutory appeal – Appeal filed by the respondent before Inspector General of Police, which was dismissed – Revision – Dismissed by the Additional Director General of Police – Writ petition thereagainst filed by the respondent – Dismissed by Single Judge – Division Bench of the High Court allowed the appeal by the respondent directing that the dismissal be converted to compulsory retirement – Held: Having regard to the seriousness of the charge of misconduct and the fact that the respondent was a member of the police service, no justification for the High Court to interfere with the order of dismissal – Single Judge justified in dismissing the writ petition – Order of the Single Judge did not suffer from any error of fact or law – Order of the Division Bench set aside.

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Respondent joined the police service as Constable. He was dismissed from the service for misconduct on charge of drunkenness and misbehavior with public. Writ petition filed by the respondent. High Court relegated him to the remedy of statutory appeal. Appeal filed by the respondent before the Inspector General of Police, was dismissed. Revision was dismissed by the Additional Director General of Police. Writ petition filed by the respondent challenging the said order, was dismissed by Single Judge of the High Court. Division Bench allowed the appeal by the respondent, directing that the dismissal of the respondent be converted to compulsory retirement. Hence, the present appeal.

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A **Allowing the appeal, the Court**

HELD: 1.1 The charge against the respondent was of a serious act of misconduct involving drunkenness and misbehavior with the public. The fact of intoxication was duly proved in the medical report. Having regard to the seriousness of the charge of misconduct and the fact that the respondent was a member of the police service, no justification is found for the High Court to interfere with the order of dismissal. The single Judge was justified in dismissing the writ petition. The Division Bench erred in allowing the Special Appeal. The order of the Single Judge did not suffer from any error of fact or law. The impugned judgment and order of the Division Bench of the High Court in Special Appeal is set aside, maintaining the order passed by the Single Judge dismissing the writ petition. [Paras 7, 8] [497-F-H; 498-A-B]

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D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3152 of 2019.

From the Judgment and Order dated 30.10.2014 of the High Court of Uttarakhand at Nainital in Special Appeal No. 551 of 2014.

E Saurabh Trivedi, Sunandoraha, Aviral Saxena, Advs. for the Appellants.

S. Gowthaman, Adv. for the Respondent.

The Judgment of the Court was delivered by

DR DHANANJAYA Y CHANDRACHUD, J.

F 1. Leave granted.

2. In 1987, the respondent joined service as a Constable and was posted in the District of Pithoragarh, Uttarakhand. While he was posted at Berinag, Uttarakhand it was alleged that he was found in an inebriated state on 1 November 2006 and was misbehaving with the public. He was brought to the police station and was confined to the barracks. A medical examination was done, which showed that he was under the influence of alcohol. A charge sheet was issued to the respondent on 24 February 2007. After a disciplinary enquiry, the enquiry officer found that the charge of misconduct was substantiated. Following this, a notice

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to show cause was issued on 3 May 2007. The respondent submitted his reply on 8 May 2017. On 16 May 2007, the Superintendent of Police, Pithoragarh passed an order of dismissal, holding that the charge of drunkenness and misbehavior had been proved. In the writ proceedings instituted by the respondent, on 21 April 2010, the High court disposed of the matter by relegating him to the remedy of a statutory appeal. The appeal was dismissed by the Inspector General of Police, Kumaon Range on 28 August 2010 and a revision was dismissed by the Additional Director General of Police on 19 May 2011.

3. The writ petition instituted by the respondent against the order dated 19 May 2011 was dismissed by a single Judge of the High Court on 15 September 2014.

4. In the Special Appeal¹ instituted by the respondent, a Division Bench of the High Court by its judgment and order dated 30 October 2014 allowed the appeal and directed that the dismissal from service be converted to compulsory retirement. The Division Bench held that the past conduct of the respondent should not have been taken into consideration and that since he had completed 25 years of satisfactory service in the police department, the punishment of dismissal seems to be excessive.

5. The State of Uttarakhand has challenged the order of the High Court in the present proceedings.

6. Notice was issued by this Court on 7 July 2015. The office report indicates that service is complete. The respondent has not appeared in these proceedings.

7. The charge against the respondent was of a serious act of misconduct involving drunkenness and misbehavior with the public. The fact of intoxication was duly proved in the medical report. Having regard to the seriousness of the charge of misconduct and the fact that the respondent was a member of the police service, we find no justification for the High Court to interfere with the order of dismissal. The learned single Judge in the judgment dated 15 September 2014 was justified in dismissing the writ petition. The Division Bench has erred in allowing the Special Appeal. The order of the learned Single Judge did not suffer from any error of fact or law.

¹Special Appeal No 551 of 2014

A 8. We hence allow the appeal and set aside the impugned judgment and order of the Division Bench of the High Court in Special Appeal No. 551 of 2014, maintaining the order passed by the learned Single Judge dismissing the writ petition. There shall be no order as to costs.

B Divya Pandey

Appeal allowed.