

Food Corporation Of India And Anr. vs V.P. Bhatia on 4 October, 1996

Equivalent citations: [1999(81)FLR22], (2001)IIILLJ1058SC, (1998)9SCC131, AIRONLINE 1996 SC 146, 1998 SCC (L&S) 466, 1998 (9) SCC 131, (1999) 3 LAB LJ 733, (1999) 1 CUR LR 25, (1999) 1 SCT 243, (1998) 8 JT 16.2, (1998) 8 JT 16(2) (SC), (1998) 8 JT 16 (SC), (1999) 10 JT 454 (SC), (2000) 41 ALL LR 777, (2001) 1 ALL RENTCAS 114, 2001 SCFBRC 14, (2003) 1 CIVILCOURTC 615, (2003) 1 PUN LR 493, (2003) 1 RECCRIR 683, (2003) 2 ALLCRILR 364, (2003) 2 BANKCAS 448, (2003) 2 CURCRIR 231, (2003) 2 ICC 402, (2003) 4 ALLINDCAS 877

Bench: S.C. Agrawal, K. Venkataswami

ORDER

1. Special leave granted.

2. These appeals raise common questions regarding the initiation of disciplinary proceedings against the respondents which have been quashed by the Delhi High Court by the impugned judgments on the ground that there was undue delay on the part of the appellants in initiating the proceedings and thereafter in the conduct of the said proceedings.

3. The facts, briefly stated, are that in April 1996, the Central Bureau of Investigation (hereinafter referred to as CBI) upon information that substandard crates have been supplied to the Food Corporation of India, Appellant 1 in both the appeals (hereinafter referred to as "the appellant-Corporation") carried out surprise checks and took samples and thereafter suo motu investigation was undertaken by the CBI. As a result of the investigation it was found that the crates had only 30% Kail/Deodar and, as a result, the appellant-Corporation had suffered loss to the tune of Rs. 9,80,056 and Rs. 2,89,340. The CBI submitted its report on 30-12-1988 wherein it recommended holding of disciplinary proceedings against the employees concerned of the appellant-Corporation, including the respondents in these appeals. The matter was thereafter referred to the Central Vigilance Commission and the Central Vigilance Commission on 22-5-1989 recommended initiation of proceedings for imposing major penalty. Consequently charge-sheets were served on the respondents in September 1990 and the enquiry in the charges was entrusted to the same Enquiry Officer in the proceedings against both the respondents. While the proceedings were pending before the Enquiry Officer, the respondents filed writ petitions before the Delhi High Court which have been allowed by the impugned judgments and as a result the disciplinary proceedings have been quashed. The High Court has held that there was no reason why the appellant-Corporation should have waited for the report from CBI when the misconduct was detected in the year 1987 itself and that enquiry should have been started straightaway. The High Court has further observed that even after the CBI recommended action in 1988, the enquiry was

not initiated till 1990 and that as on the date of impugned judgments no Enquiry Officer has been appointed and enquiry had not proceeded.

4. It is no doubt true that undue delay in initiation of disciplinary proceedings may cause prejudice to the employee concerned in defending himself and, therefore, the courts insist that disciplinary proceedings should be initiated with promptitude and should be completed expeditiously. The question as to whether there is undue delay in initiation of disciplinary proceedings or whether they are being unnecessarily prolonged has to be considered in the light of the facts of the particular case. On an examination of the facts of this case we find that the alleged misconduct came to light in April 1986 after the CBI carried surprise checks in April 1986 and the samples that were taken were found to be substandard by the Forest Research Institute, Dehradun. Thereafter, the CBI took up the investigation in the matter suo motu and submitted its report on 30-12-1988 wherein it recommended the holding of disciplinary proceedings against the employees concerned including the respondents. Shri Vivek Gambhir, the learned counsel for the appellants, has invited our attention to paragraph 1.7 of Chapter III of Volume I of the Vigilance Manual of the Central Vigilance Commission which has been adopted by the appellant-Corporation wherein it is stated; "Once a case has been entrusted to the CBI for investigation further inquiries should be left to them and departmental inquiry, whether fact-finding or formal under the Discipline and Appeal Rules, if any, commenced already, should be held in abeyance till such time as the investigation by the CBI has been completed. Parallel investigation of any kind should be avoided. Further action by the administrative authority should be taken on the completion of the investigation by the CBI on the basis of their report."

5. In view of the said direction contained in the Vigilance Manual no fault can be found with the appellant-Corporation in waiting for the investigation report of the CBI and the High Court was in error in holding that the appellant-Corporation need not have waited for the report of the CBI and should have started the disciplinary proceedings straightaway.

6. After the receipt of the report of the CBI dated 30-12-1988 the matter was considered by the Central Vigilance Commission because reference had been made to the Central Vigilance Commission by the CBI as well as by the appellant-Corporation. The Central Vigilance Commission, on 22-5-1989, recommended initiation of proceedings for major penalty. Thereafter, the appellant-Corporation took up the preparation of the charge-sheet against the employees concerned and the charge-sheets were served on the respondents in September 1990. The charge-memos that have been served on the respondents show that in the said charge-memos reliance has been placed on 69 documents and 44 witnesses. Having regard to the alleged misconduct and the fact that large number of documents and statements of witnesses had to be looked into it cannot be said that the period of slightly more than one year taken in serving the charge-memos after the recommendations of the Central Vigilance Commission is unduly long.

7. As regards the progress of the proceedings after the service of the charge-memos Shri Gambhir has pointed out that after serving the charge-memos three Enquiry Officers had been appointed and the reason why the Enquiry Officers had to be replaced was that they were officers on deputation who had to be repatriated to their parent department. It has been pointed out that Shri G.D. Sharma

was the Enquiry Officer who was conducting the proceedings at the time when the High Court delivered the impugned judgments and that the High Court was, therefore, not right in holding that on the date of the said judgments there was no Enquiry Officer. Shri Gambhir has invited our attention to the order-sheet dated 6-8-1993 in the inquiry proceedings which bears the signatures of Shri G.D. Sharma as the Enquiry Officer to show that Shri G.D. Sharma was the Enquiry Officer who was conducting the enquiry on 6-8-1993. Shri Gambhir has also pointed that Shri G.D. Sharma proceeded with enquiry as against one of the delinquent officers who did not approach the High Court and has submitted the report after completing the enquiry in the charges against that officer. This would show that the Enquiry Officer was functioning on the date of the impugned judgments and the High Court was not right in saying that on that date there was no Enquiry Officer and that the Enquiry Officer had not proceeded between the period 14-9-1990 till date.

8. In the facts referred to above it cannot be said that there was undue delay on the part of the appellant-Corporation in initiating disciplinary proceedings against the respondents or in conducting the said proceedings after serving of the charge-memos. In the circumstances the High Court was not justified in quashing the charge-memos against the respondents on the ground of delay.

9. The appeals are accordingly allowed, the impugned judgments of the High Court are set aside and the writ petitions filed by the respondents are dismissed. No order as to costs.