

Supreme Court of India

Commandant, Central Industrial ... vs Bhopal Singh on 3 November, 1993

Equivalent citations: AIR 1994 SC 573, 1994 LabLC 235, (1995) ILLJ 829 SC, 1993 (4) SCALE 358, (1993) 4 SCC 785

Author: K Singh

Bench: K Singh, S Mohan

ORDER Kuldip Singh, J.

1. Special leave granted.

2. Bhopal Singh, respondent herein, was working as a security guard in the Central Industrial Security Force. As a result of disciplinary proceedings, he was removed from service by the order dated June 16, 1982. Appeal, filed by him; against the said order was dismissed in July 1983. He challenged the order of removal by way of a writ petition before the Calcutta High Court. A learned single Judge of the High Court by his judgment dated July 8, 1991 allowed the writ petition on the ground that he was not served with a copy of the inquiry report during the disciplinary proceedings. The learned Judge relied upon the judgment of this Court in Union of India and Ors. v. Mohd. Ramzan Khan, . Commandant, Central Industrial Security Force challenged the order of the learned Judge by way of appeal before the High Court. A Division Bench of the High Court by its judgment dated March 12, 1992, dismissed the appeal and upheld the findings of the learned single Judge. This appeal by way of special leave is against the judgment of the High Court.

3. It was contended before the Division Bench of the High Court that the ratio in Mohd. Ramzan Khan's case would not be applicable to the facts of the present case because the requirement of supplying the copy of the inquiry report has been made operative by this Court in Mohd. Ramzan Khan's case prospectively. It was contended that the judgment in Mohd. Ramzan Khan's case was delivered by this Court on November 20, 1990, whereas the order of removal in respect of the respondent was passed on June 16, 1982. The argument was rejected by the Division Bench. N.P.Singh,C.J., (as brother N.P.Singh then was) who spoke for the Division Bench held as under: -

If the law which has been declared by the judgment in question, was to operate prospectively and was not to invalidate the order of removal and dismissal which had been passed against the delinquents concerned on dates prior to the date of the aforesaid judgment of the Supreme Court, there was no occasion to quash the orders of removal and dismissal by allowing the appeals in question. According to me, it is not possible to hold that the law declared by the Supreme Court in respect of furnishing an inquiry report to a delinquent before an order of removal or dismissal is passed shall not be applicable to orders of removal or dismissal which have been challenged and are pending consideration in appeals before authorities or before different High Court or Supreme Court and which have not attained finality.

4. Mohd. Ramzan Khan's case had since been considered by a Constitution Bench of this Court in Managing Director, ECIL, Hyderabad v. B. Karunakar (Civil Appeal No, 3056 of 1991 with connected cases) decided on October 1, 1993. The Bench formulated seven questions for consideration. Question Nos. VI & VII are as under:-

(vi). From what date the law requiring furnishing of the report,, should come into operation?

(vii). Since the decision in Ramzan Khan's case (supra) has made the law laid down their prospective in operation, i.e., applicable to the orders of punishment passed after 20th November, 1990 on which day the said decision was delivered, this question in turn also raises another question, viz., what was the law prevailing prior to 20th November, 1990?

5. The relevant finding of the Bench are reproduced as under:-"It will, therefore, have to be held that notwithstanding the decision of the Central Administrative Tribunal in H.G.Patel's case (supra) and of the Gujarat High Court in Premnath K.Shanna's case (supra) and of the other courts and tribunals, the law was in an unsettled condition till at least 20th November, 1990 on which day the Mohd. Ramzan Khan's case was decided, Since the said decision made the law expressly prospective in operation the law laid down there will apply only to those orders of punishment which are passed by the disciplinary authority after 20th November, 1990. This is so, notwithstanding the ultimate relief which was granted there which, as pointed out earlier, was per incuriam. No order of punishment passed before that date would be challengeable on the ground that there was a failure to furnish the inquiry report to the delinquent employee. The proceedings pending in courts/tribunals in respect of orders of punishment passed prior to 20th November, 1990 will have to be decided according to the law that prevailed prior to the said date and not according to the law laid down in Mohd. Ramzan Khan's case (supra). This is so notwithstanding the view taken by the different Benches of the Central Administrative Tribunal or by the High Courts or by this Court in R.K.Vashist's Case (supra).

6. In view of the authoritative pronouncement by this Court in B.Karunakar's case the impugned judgment of the High Court has to be set aside.

7. Mr. A.P. Mohanty, learned Counsel for the respondent, contended that apart from the point dealt with by the High Court, there were several other points raised in the writ petition before the High Court. According to him, since the High Court allowed the writ petition on the short ground of non-supply of the copy of the inquiry report, it did not go into other points. On December 9, 1992, we adjourned the hearing to enable Mr. Mohanty to place on record of this Court copy of the writ petition filed by the respondent before the High Court to find out as to what other points were raised by him before the High Court. He has done so. We have carefully gone through the copy of the writ petition. In paras 21 and 22 of the writ petition it has been vaguely stated that the petitioner was not permitted to inspect the documents which were necessary for preparation of the written statement, was denied the right to inspect the documents, not permitted to cross-examine the prosecution witness effectively and his prayer for de novo inquiry was wrongly rejected. These are bald allegations in the writ petition without any factual details. No arguable point can be culled-out. No useful purpose will be served in sending the case back to the High Court for further hearing.

8. We allow the appeal, set aside the judgment of the learned single Judge and the impugned judgment of the Division Bench of the Calcutta High Court. We dismiss the writ petition filed by respondent, Bhopal Singh, before the High Court. No costs.