Supreme Court of India
State Of Tamil Nadu & Anr vs S. Subramaniam on 24 January, 1996
Equivalent citations: 1996 AIR 1232, JT 1996 (2) 114
Author: K Ramaswamy
Bench: Ramaswamy, K.

PETITIONER:
STATE OF TAMIL NADU & ANR.

Vs.

RESPONDENT:
S. SUBRAMANIAM

DATE OF JUDGMENT: 24/01/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
AHMAD SAGHIR S. (J)
G.B. PATTANAIK (J)

CITATION:
1996 AIR 1232 JT 1996 (2) 114
1996 SCALE (1)810

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted.

This appeal by special leave arises from the order of the Administrative Tribunal dated 12.2.1992 made in T.A. No.1315/89 (Writ Petition No.2050/84) transferred from the Madras High Court after of constitution of the Administrative Tribunal with jurisdiction over disputes with respect to recruitment and conditions of the service of the employees of the Tamil Nadu etc. The Tribunal in its order dated 12.2.1992 set aside the order of removal from service of the respondent on September 30, 1983 on the finding that merely reproducing the views of the Commission and a certification that the matter has been examined does not constitute a proper statutory order complying with requirements of rule 23 [i] of the Tamil Nadu Civil Services (Control & Appeal) Rules (for shorts 'the Rules'). The facts not in dispute are as under:

The respondent while working as a Deputy Tehsildar, Palani along with Revenue Inspector was charged to have acted, by corrupt motive, demanded and accepted illegal gratification from Thiru Veluchamy, son of Thiru Achara Naicker, Perumalnaickenvalasu Village Palai Taluk. Pursuant thereto, Veluchamy paid a sum of Rs . 50/- to the respondent and Rs.20/- to the Revenue Inspector for effecting mutation of the name of the complainant in revenue records. The complainant was serving in the army. During the holidays when he came to his native place, he and his brother effected partition of their properties. In furtherance thereof, he sought mutation of his name in the entries in the revenue record of the lands that fell to his share. For the said purpose, he repeatedly approached the Revenue Inspector for effecting mutation who had stated that he required certain payments to be made which he had complied with and amount was paid. He also demanded that Tehsildar required Rs 50/-. When the complainant approached the respondent, the latter directed him to do whatever the Revenue Inspector directed him to do. In other words the complaint is that on demand by the respondent of illegal gratification to discharge official duty and on his direction he paid the same to the Revenue Inspector who had received on his behalf. The complaint in that behalf was also laid with the Anti- Corruption Bureau and the trap was laid on the Revenue Inspector and he was caught. On the basis of the above evidence, charges were framed in a detailed manner, enquiry was conducted and opportunity also was given to the respondent to defend himself in the enquiry. After examination of the evidence, the disciplinary authority came to the conclusion that the charge was proved. Accordingly, a show cause notice was issued to him. On consideration of the reply to show cause notice, the respondent was removed from the service. The appeal as dismissed. After the Tribunal was constituted, the pending writ petition along with all other service cases were transferred to the Tribunal.

The Tribunal appreciated the evidence of the complainant and according to it the evidence of the complainant was discrepant and held that the appellant had not satisfactorily proved that the respondent had demanded and accepted illegal gratification. The Tribunal trenched upon appreciation of evidence of the complainant, did not rely on it to prove the above charges. On that basis, it set aside the order of the removal. Thus this appeal by special leave.

The only question is: whether the Tribunal was right in its conclusion to appreciate the evidence and to reach its own finding that the charge has not been proved. The Tribunal is not a court of appeal. The power of judicial review of the High Court under Article 226 of the constitution of India was taken away by the power under Article 323A and invested the same on the Tribunal by Central Administrative Tribunal Act. It is settled law that the Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. It is the exclusive domain of the disciplinary authority to consider the evidence on record and to record findings whether the charge has been proved or not. It is equally settled law that technical rules of evidence has no application for the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the view of the court or tribunal. When the conclusion reached by the authority is based on evidence, Tribunal is devoid of power to

re-appreciate the evidence and would come to its own conclusion on the proof of the charge. The only consideration the Court/Tribunal has in its judicial review is to consider whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence. This is consistent view of this Court vide B.C. Chaturvedi vs. Union of India [JT 1995 (8) SC 65], State of Tamil Nadu vs. T.V. Venugopalan [(1994) 6 SCC 302 para 7], Union of India vs. Upendra Singh [(1994) 3 SCC 357 at para 6], Government of Tamil Nadu & Anr. vs. A. Rajapandian [(1995) 1 SCC 216 para 4] and Union of India vs. B.S. Chaturvedi [(1995) 6 SCC 749 at 759-60]. In view of the settled legal position, the Tribunal has committed serious error of law in appreciation of the evidence and-in coming to its own conclusion that the charge had not been proved. Thus we hold that the view of the Tribunal is ex facie illegal. The order is accordingly set aside. OA/TP/WP stand dismissed.

The appeal is accordingly allowed. The I.A.stands dismissed. No costs.