Supreme Court of India
Satpal Kapoor vs State Of Punjab on 9 February, 1995
Equivalent citations: AIR 1996 SC 107, (1996) 11 SCC 769
Bench: M M Punchhi, S V Manohar
JUDGMENT

1. Criminal Appeal No. 96/90 : On a successful trap being laid the appellant was tried and found guilty for having accepted a bribe of Rs. 100/- from the complainant. The prosecution story is of the usual kind. The demand of bribe was made by the appellant under the threat that he would, as an authorised Food Inspector, purchased samples of milk from the complainant and put him to harassment. Otherwise in his capacity as Health Inspector he had complained to the authorities concerned about the insanitation created by the complainant in keeping cattle in his railway quarters. In these circumstances, the C.B.I. and the Department of Vigilance were moved into the matter and the trap was organised. The tainted currency of two notes of rupees 50/- denomination were found in the pocket of the appellant on the successful completion of the trap. The version of the appellant was that the complainant had walked into his office and on its own put the two notes on the top of an almirah placed in the covered verandah in front of his office and that the C. B. I. officials on arrival had forcibly put those currency notes in his pocket. His case was that the C.B.I. Inspector was inimical towards him and that was the reason for false implication.

2. The defence of the appellant pre-supposes that there was a raid. He has given the counter-version as stated above, but it does not probabilise in the facts and circumstances. Had the C. B. I. people been interested in foisting a case against the appellant and that too nakedly, it was no cause for the raid party to have created a drama of putting the notes into his pocket and in that way to have soiled his hands with phenolphthalein powder. without any such ritual the case could have been foisted. The appellant led no contemporaneous evidence from which it could be proved or inferred that the appellant was a victim of an organised false trap. Both the Courts below having found him' guilty of the of fence, it is difficult for us to upset the conviction. Still to be on the safer side we have read with the aid of the appellant's counsel most of the prosecution evidence. The conviction under Section 5(2) of the Prevention of Corruption Act thus appears to us to be well based requiring no interference.

3. On the sentence, however, we feel that the appellant deserves some concession. At the time of seeking exemption from surrendering in this Court, two certificates of Doctors were appended wherefrom it is evident that the appellant is an angina patient. Suffering from coronary diseases requiring medical attention. In his sworn affidavit he has described himself to be of 60 years of age. Keeping these factors in view, we would alter the sentence of the appellant to four months simple imprisonment and sustain the sentence of fine. With this modification in the sentence of the appellant, the appeal otherwise fails. Ordered accordingly.

(Prepared on 8-2-1995).

CIVIL APPEAL NO. 9089 OF 1994 :

4. Pursuant to the conviction of the respondent recorded by the Special Judge, the disciplinary authority passed an order in the purported exercise of Rule 14 of the Railway Servants (Discipline and Appeal) Rules, 1968 read in the light of the Circulars issued by the Railway Board from time to time. Coincidentally on that date, the respondent had filed an appeal in the High Court of Punjab and Haryana at Chandigarh and had obtained an order suspending his sentence under the provisions of Section 389(1) of the Code of Criminal Procedure. Incidently, it may deserve mentioning at this stage that the High Court dismissed the appeal of the respondent on 7-4-1989 confirming the conviction and sentence of the respondent. The said order of the High Court, subject to a slight modification in the measure of sentence, has been upheld by us in Criminal Appeal No. 96 of 1990 which came up for disposal along with the instant matter.

5. The aggrieved respondent on receipt of the order of removal, filed a writ petition in the Punjab and Haryana High Court which on transfer went to the Central Administrative Tribunal, Chandigarh Bench. It appears that the Tribunal took stock of a Railway Board circular of the year 1952 which was to the effect that a Railway Servant on his conviction by a Criminal Court could only be removed from service after the final decision of the Court. On that basis, the order of removal was set aside. After the confirmation of the conviction, the disciplinary authority took no steps whatever to remove the respondent from service and in the meantime, it is stated that he retired. On the other hand, a Review Petition was filed before the Central Administrative Tribunal bringing to its pointed attention a letter circular of the Railway Board of the year 1976 which was to the effect that it was not compulsory in every case to wait for the final decision of the criminal Court and it could well be that an order of dismissal could be passed after the conviction recorded by the Court of the first instance. The Tribunal rejected such prayer and it is that order passed in review which has been challenged herein by means of this appeal by special leave. Significantly, the original order passed by the Tribunal has not been subjected to appeal.

6. There have been arguments and counterarguments on the procedural aspect of the matter. Without going into the legality or otherwise of the view taken by the Tribunal at the Review stage and without interpreting those board circulars in the light of Section 14 of the Railway Servants (Discipline and Appeal) Rules, 1968, we feel that the decision in this case, more so when we have confirmed the conviction of the respondent vide decision in Criminal Appeal No. 96 of 1990, the ends of justice would be met if we uphold the order of termination of service passed by the Disciplinary Authority against the respondent, but effective from the date when the High Court dismissed the first appeal, i.e. from 7-4-1989. Without permitting the instant case to be cited as a precedent, we make the necessary modification in the order of termination of the services of the respondent to the effect afore-indicated, and as a result allow this appeal in part directing the order of removal of the respondent to be effective from 7-4-1989, No costs.