

Supreme Court of India

S.P. Mehta vs Union Of India on 13 January, 1994

Equivalent citations: 1994 SCC, Supl. (2) 467

Author: B Jeevan Reddy

Bench: Jeevan Reddy, B.P. (J)

PETITIONER:

S.P. MEHTA

Vs.

RESPONDENT:

UNION OF INDIA

DATE OF JUDGMENT 13/01/1994

BENCH:

JEEVAN REDDY, B.P. (J)

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JEEVAN REDDY, B.P. (J)

HANSARIA B.L. (J)

CITATION:

1994 SCC Supl. (2) 467

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. This appeal was filed by Mrs Urmila Kapoor. She died about two years ago whereupon the office sent a notice to the sole appellant to make alternative arrangements. The Office Report says that the acknowledgement card duly signed in token of the receipt of the notice has been received from the sole appellant but he has not entered appearance. The Office Report is dated 11-1-1994. The record shows that the notice was sent on 11- 9-1993. Since no one appears for the appellant, we have perused the record with the help of the learned counsel for the respondents.

2. The appellant was an Income Tax Officer. Five charges were framed against him. In June 1977, the inquiry was held. At the conclusion of the inquiry, a notice was served upon him proposing to remove him from service. At that stage, he filed a writ petition in the J & K High Court which allowed the same and quashed the inquiry proceedings. A de novo inquiry was ordered. Accordingly, fresh charges, now six in number were framed and a fresh inquiry held. The respondent participated

in the inquiry. On the basis of the inquiry report, the competent authority imposed the penalty of reduction to the next lower grade of Rs 650-1200, for a period of five years with the stipulation that upon restoration the period of reduction would affect his seniority. The date of order of penalty is 12-7-1984.

3. Questioning the aforesaid order of penalty, the appellant filed a suit in the court of Senior Sub-Judge, Amritsar wherein he sought a declaration that the said order is invalid and for other reliefs. The learned Senior Sub- Judge decreed the suit whereupon the Union of India carried the matter in appeal to the appellate court.

4. While the appeal was pending in the appellate court, the Central Administrative Tribunal was constituted. The said appeal was transferred to the Tribunal and numbered as T.X. No. Y-722 of 1986. The judgment of the Tribunal shows that the only ground upon which the learned Sub-Judge decreed the appellant's suit was that before imposing the penalty, no notice was given to the appellant indicating the proposed penalty and he was not heard. It also appears to have been held that since the penalty involves deprivation of the appellant's seniority, a further opportunity ought to have been given to the appellant. Both these grounds were negatived by the Tribunal, and in our opinion rightly. After the amendment of Article 311 by the 42nd Amendment to the Constitution, Rule 15(4) of the CCS (CCA) Rules, 1965 was also amended deleting the requirement of the second notice with effect from 2-9-1978. In the circumstances, no such second notice was required to be given. We also agree with the Tribunal that no fresh opportunity was required to be given to the appellant on the ground the order of penalty deprived him of the seniority as well. The penalty was a composite one and that was supposed to be adequate and appropriate penalty for the charges held proved against the appellant.

5. For the above reasons, the appeal fails and is dismissed. No costs.