

Supreme Court of India

The Deputy Inspector General Of ... vs K.S. Swaminathan on 4 October, 1996

Bench: K. Ramaswamy, S.P. Kurdukar

PETITIONER:

THE DEPUTY INSPECTOR GENERAL OF POLICE

Vs.

RESPONDENT:

K.S. SWAMINATHAN

DATE OF JUDGMENT: 04/10/1996

BENCH:

K. RAMASWAMY, S.P. KURDUKAR

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Delay condoned.

Leave granted.

While the respondent was working as an Inspector of Police, District Special Branch in Coimbatore Rural District a special raid was conducted in the farm house of one Eswaramoorthy Gounder located within the limits of Avinashi Police Station on August 19, 1991. The incriminating material recovered from the from house would indicate that he was making payments to certain persons and one of the names disclosed from the incriminating material was of the respondent. Consequently, a charge memo imputing misconduct on his part was issued to him. The respondent filed O.A in the Administrative Tribunal challenging the validity of the charge memo dated September 28, 1991. The Tribunal in the impugned order dated April 15 1994 set aside the charge memo on the ground that the charges were vague. Thus, this appeal by special leave.

It is settled law by catena of decisions of this Court that if the charge memo is totally vague and does not disclose any misconduct for which the charges have been framed, the Tribunal or the Court would not be justified at that stage to go into whether the charges are true and could be gone into, for it would be a matter on production of the evidence for consideration at the enquiry by the enquiry officer. At the stage of framing of the charge, the statement of facts and the charge sheet

supplied are required to be looked into by the Court or the Tribunal as to the nature of the charges, i.e., whether the statement of facts and material in support thereof supplied to the delinquent officer would disclose the alleged misconduct. The Tribunal, therefore, was totally unjustified in going into the charges at that stage. It is not the case that the charge memo and the statement of facts do not disclose any misconduct alleged against the delinquent officer. Therefore, the Tribunal was totally wrong in quashing the charge memo. In similar circumstances, in respect of other persons involved in the same transactions, this Court in appeals arising out of SLP (C) Nos.19453-63 of 1995 had on February 9, 1996 allowed the appeals, set aside the order passed by the Tribunal and remitted the matter holding that:

"This is not the stage at which the truth or otherwise of the charges ought to be looked into. This is the uniform view taken by this Court in such matters."

We respectfully agree with the above conclusion and set aside the impugned order of the Tribunal. The enquiry officer is directed to conduct and complete the enquiry within a period of eight months from the date of the receipt of the order and the disciplinary authority is directed to take action thereon within three months thereafter.

The appeal is accordingly allowed but, in the Circumstance, without costs.