

Supreme Court of India

Union Of India vs I. S. Singh on 19 January, 1994

Equivalent citations: 1994 SCC, Supl. (2) 518

Author: B Jeevan Reddy

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

PETITIONER:

UNION OF INDIA

Vs.

RESPONDENT:

I. S. SINGH

DATE OF JUDGMENT 19/01/1994

BENCH:

JEEVAN REDDY, B.P. (J)

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JEEVAN REDDY, B.P. (J)

HANSARIA B.L. (J)

CITATION:

1994 SCC Supl. (2) 518

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. The respondent was a Superintendent of Statistics in the Field Operations Division, National Sample Survey Organisation, Union of India the appellants herein. Certain charges were framed against him for unauthorised absence and an inquiry held. By an order dated May 30, 1980, he was compulsorily retired from service as a measure of penalty. He filed an appeal which was dismissed on August 30, 1982. It appears that thereafter he filed a review before the appellate authority which is not indeed provided by the rules. This review petition came to be dismissed on July 9, 1985, whereupon he approached the High Court by way of a writ petition. While the writ petition was pending, the Central Administrative Tribunal was constituted and the writ petition was transferred to that Tribunal. The Tribunal allowed the respondent's application by its order dated November 4, 1991. The Tribunal has allowed the application on two grounds, viz., (1) non- furnishing of the report of the Enquiry Officer to the respondent before imposing the punishment and (2) irregularities in conduct of the inquiry.

2. So far as the first ground is concerned, it stands negated by the recent decision of this Court in *Managing Director, ECIL, Hyderabad v. B. Karunakar*, inasmuch as the order of punishment is of the year 1980. So far as the second ground is concerned, a few facts need be stated. An inquiry was held, in the first instance, which was not found to be in order by the disciplinary authority who directed a fresh inquiry. When notices were issued in the second inquiry, they could not be served on the respondent. On a later date, the respondent sent an application stating that he is suffering from unsoundness of mind and that the inquiry may be postponed till he regains his mental health. 1 (1993) 4 SCC 727: 1993 SCC (L&S) 1184: (1993) 25 ATC 704: JT (1993) 6 SC 1 The respondent also states that he sent his medical certificate along with his application. (Indeed, according to him, he sent not one but three letters to the said effect.) The report of the Enquiry Officer, however, does not show that he paid any attention to these letters. If, indeed, the letters were not accompanied by medical certificates, as is now asserted by Shri Mahajan, learned counsel for the appellants, the proper course for the Enquiry Officer was to have called upon the respondent either to produce a medical certificate or to direct him to be examined by a medical officer specified by him. The inquiry report does not even refer to the request contained in the said application nor does it mention why and for what reasons did he ignore the said plea of the respondent. The Enquiry Officer proceeded *ex parte*, in spite of the said letters and made his recommendation on the basis of which the aforesaid penalty was imposed. It is evident from the facts stated above that the Enquiry Officer has not only conducted the inquiry in a manner contrary to the procedure prescribed by Rule 14(2) of CCS (CCA) Rules but also in violation of the principles of natural justice. The result of this finding would have been to set aside the order of punishment and allow the authority to proceed with the inquiry afresh. In our opinion, however, this is not advisable at this distance of time and also having regard to the nature of the charges levelled against the respondent. We think that the more appropriate course would be to give a *quies* to the matter at this stage itself, at the same time providing for some measure of penalty to the respondent. We suggested to the learned counsel for the respondent whether he is agreeable to our suggestion, viz., that the respondent should forego the emoluments for the period commencing from June 1, 1980 to August 31, 1985 (approximating to the date of punishment and the date on which the respondent approached the High Court). Learned counsel, Shri H.M. Singh, agrees to the said course after consulting his client. In the circumstances, we dismiss the appeal but direct that the respondent shall not be entitled to any emoluments for the period June 1, 1980 to August 31, 1985. The said period shall, however, count for seniority and other purposes. The respondent shall be reinstated forthwith.

3. The appeal is disposed of in the above terms. No costs.