



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4410 OF 2012**

UNION OF INDIA AND OTHERS

...APPELLANT(S)

VERSUS

SURESH KUMAR SINGH

...RESPONDENT(S)

J U D G M E N T

B.R. GAVAI, J.

1. The appeal challenges the order dated 14th March 2011 passed by the learned Division Bench of the High Court at Patna, thereby dismissing the appeal filed by the present appellants, which was in turn filed challenging the order passed by the learned Single Judge of the said High Court dated 28th January 2010, thereby allowing the writ application filed by the respondent.

2. The departmental proceedings were initiated against the respondent on the basis of charges communicated to him in the office order dated 11th October 1999. The allegation was that the appellant allegedly asserted political pressure for cancellation of his transfer order and thereby committed misconduct under Section 11 (1) of CRPF

Act, 1949.

3. It was further alleged that the respondent along with another Constable Satyendra Kumar Tiwari made a telephone call to the Senior CRPF Officers and Additional DIGP, Mokamaghat impersonating himself as a Member of Parliament, Lok Sabha for getting the transfer order cancelled.

4. In the departmental proceedings, the respondent was found guilty and was awarded the punishment of removal from service. The respondent challenged the same before the Appellate Authority-the Deputy Inspector General of Police, CRPF, Patna in an appeal. The Appellate Authority found that the departmental proceedings were not conducted in accordance with the laid down procedure and as such, remitted the same to the original authority-Office of Commandant 133 BN, CRPF, Patna for conducting the proceedings denovo. In the denovo proceedings also, the respondent was found guilty. Challenging the same, another appeal came to be filed, which was partly allowed on 10.01.2003.

5. The Appellate Authority found that the Enquiry Committee had not recorded the statement of the then Additional DIGP, Mokamaghat, Constable Satyendra Kumar Tiwari and the owner of the S.T.D booth Ram Tola, which were very relevant for the case. The Appellate

Authority therefore modified the punishment of removal from service and the respondent was awarded 28 days confinement to Quarter Guard with forfeiture of pay and allowances. The intervening period from the date of removal from service till the date of reinstatement was directed to be treated as extraordinary leave. The respondent challenged the same by way of a revision before the Revisional Authority and the same was also dismissed.

6. The respondent, thereafter, preferred the petition before the learned Single Judge of the High Court. The learned Single Judge specifically referred to paragraph 4 of the order of the Appellate Authority dated 10th January 2003 and found a serious lacuna that the most vital witnesses, that is, the Additional DIGP, the owner of the STD booth Ram Tola and the Constable Satyendra Kumar Tiwari were not examined. The learned Single Judge has set aside the penalty imposed on the respondent and directed that the respondent would be paid entire arrears of salary with consequential benefits with effect from the date of removal till the date of reinstatement.

7. The appellants challenged the same before the learned Division Bench, which also found that the case was of no evidence and approved the findings as recorded by the learned Single Judge. Aggrieved thereby, the present appeal has been filed.

8. Mr. Rajeev Kumar Ranjan, learned counsel appearing on behalf of the Union of India, submits that the learned Single Judge of the High Court as well as the Division Bench are not justified in interfering with the departmental proceedings and specifically in the penalty as imposed. They rely on the judgment in ***State of Rajasthan and Others v. Sujata Malhotra***¹, to buttress his submission that unless the High Court found a lacuna in the departmental proceedings, the interference with penalty was not warranted.

9. Mr. Neeraj Shekhar, learned counsel appearing on behalf of the respondent submits that the view taken by the learned Single Judge of the High Court as well as the Division Bench are in accordance with law and no interference was warranted.

10. The perusal of the record would clearly reveal that an opportunity was given by the Appellate Authority to the Enquiry Committee to examine the important witnesses. Even on remand, the said three witnesses were not examined.

11. In the absence of the examination of these three vital witnesses, the Appellate Authority found that the charges against the respondent were not fully proved and taking into consideration this aspect, the learned Single Judge allowed the petition and the Division Bench

¹ (2003) 9 SCC 286

affirmed the same.

12. Insofar as the judgment of this Court relied on by the learned counsel appearing for the appellants is concerned, the same is not applicable to the facts of the present case. The present case has a specific finding that there is a serious lacuna in the conduct of the departmental proceedings in not examining the vital witnesses.

13. We, therefore, find no merit in the present appeal. The appeal is dismissed. However, no order as to costs.

14. Taking into consideration that the respondent is deprived of the benefits to which he is entitled to in law for a period of more than one decade, we direct the appellants to clear all dues within a period of three months from today.

15. Pending application(s), if any, shall stand disposed of in the above terms.

.....**J.**
(B.R. GAVAI)

.....**J.**
(HIMA KOHLI)

New Delhi;
June 01, 2022.

ITEM NO.102

COURT NO.5

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.4410/2012

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

SURESH KUMAR SINGH

Respondent(s)

Date : 01-06-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MS. JUSTICE HIMA KOHLI
(Vacation Bench)

For Appellant(s) Mr. Rajeev Kumar Ranjan, Adv.
Mr. Arvind Kumar Sharma, AOR

For Respondent(s) Mr. Neeraj Shekhar, AOR
Mr. Ashutosh Thakur, Adv.
Dr. Sumit Kumar, Adv.
Mr. Abhishek Pandey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed non-reportable judgment.

Pending application (s), if any, also stand disposed of.

(ARUSHI SUNEJA)
SENIOR PERSONAL ASSISTANT

(RANJANA SHAILEY)
COURT MASTER (NSH)

(Signed non-reportable judgment is placed on the file.)