

State of U. P. and Another

Vs.

Sri R. D. Rai and Others

Criminal Appeal Nos. 1349 and 1488 of 1977

(V. R. Krishna Iyer, Jaswant Singh, A.D. Koshal JJ)

30.11.1978

JUDGMENT

KRISHNA IYER, J. -

1. These two appeals by special leave are filed by the State of Uttar Pradesh against the judgments of the Division Bench of Allahabad High Court quashing two orders of premature retirement under C.S.R. Article 465. The two officers belong to the Prisons Department and have had entries at some stage of their career which are appreciative of their efficiency. However, the retirement was ordered on the assumption that there were adverse entries. Notwithstanding the adverse entries they also had the benefit of promotion. Shri Dikshit, learned Counsel for the appellant, drew our attention to the various facts in the case including the entries in the confidential records of the respondents. He further drew our attention to a legal flaw committed by the High Court in one of the judgments in misunderstanding the scope of U.P. Act 33 of 1976 which has a retrospective provision enabling adverse entries prior to a promotion being taken cognizance of for purposes of premature retirement in public interest.
2. Having heard counsel at some length and considered the materials before us, we are satisfied that no manifest injustice whatever has been caused by the decisions of the court under attack. Indeed one of the respondents has retired from service by superannuation in the normal course and the other has either retired or is on the verge of retirement. With the result that in the ultimate terms the dispute is a monetary claim. Even otherwise the totality of circumstances does not persuade us to the view that there is any injustice at all. Far from it, the Division Bench judgment of the High Court has perhaps left the matter at a just level. We do not go further into the appeals for this reason. We think that our jurisdiction need not be exercised merely because there are abstract questions of law or there is something to be said in support of an appeal. Having regard to the principles governing the appellate jurisdiction and further the applicability of the same criteria which prevail in exercise of Article 136 even at the time of the hearing of an appeal, we decline to interfere with the judgments of the High Court.
3. It is true that Shri Dikshit has urged an arguable point on the basis of U.P. Act 33 of 1976. Under different circumstances and in an appropriate case we might have investigated this matter, but in view of the circumstances we have already set out, we decline to consider this question of law which certainly can be raised when an appropriate situation arises. With these observations we dismiss the two appeals. No costs.

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