

Gurdip Singh

Vs

Union of India

Civil Appeal No. 692 of 1971

(R.S. Pathak, E.S. Venkataramiah JJ)

24.11.1981

JUDGMENT

1. This appeal by certificate is directed against a judgment and decree of the High Court of Delhi allowing an appeal filed by the Union of India and in the result dismissing the suit filed by the appellant.

2. The appellant was serving as an Upper Division Clerk in the Directorate General of Resettlement and Employment, Ministry of Labour & Employment, a department of the Government of India, when on September 21, 1956 he was suspended for refusing to comply with an order transferring him to Ferozepur. On the next day he was served with a charge-sheet. However, before this a notice dated July 27, 1956 had already been issued by the Government of India stating that it had been decided to transfer the day-to-day administration of the Employment Exchanges and Training Centres to State Governments and that in consequence all the posts under the Government of India in the Employment Exchanges/Training Centres stood abolished. These posts included that of the appellant who was informed by the said notice that he was one of the officers whose services would be dispensed with on the abolition of the said Department and his services would not be required with effect from November 1, 1956. It appears that the disciplinary proceedings initiated against the appellant did not proceed further. In the meanwhile, the appellant continued to make representation to the Government of India for the grant of relief. On August 26, 1958 the Government of India made an order on the several representations from the appellant and recorded that the disciplinary action against him would be treated as closed. The order runs as follows :

[1] In view of the fact that all the posts under the Central Government including that held by Shri. Gurdip Singh were abolished and the appointment of Shri. Gurdip Singh under the central Government also terminated with effect from October 31, 1956 [A. N.], the disciplinary action taken against him has not been proceeded with and is treated as having been closed. In view of the Shri. Gurdip Singh will be entitled to the following :

[i] Pay and allowances, if any, due to him prior to the date of the orders placing him under suspension, i.e., September 21, 1956. [

[ii] Subsistence allowance from September 22, 1956 to October 31, 1956 [A. N.].

[iii] Gratuity and other terminal benefits including payment of leave salary due to him according to the rules and regulations of Government, on formal application

from him.

[iv] He will be treated as Central Government Discharged Employee with effect from November 1, 1956.

[2] The dues to Government from Shri. Gurdip Singh by way of refund to Cycle Advance of Rs. 165 plus interest thereon, an amount of Rs. 252-14 - 0 representing the value of stores found short while he was Storekeeper and any other dues to Government will be recovered from him by adjustment of the amount to be paid to him as referred to in para [1] above.

[3] The suspension order dated September 21, 1956 passed by the Regional Director will remain unaltered.

[4] Shri. Gurdip Singh should apply for final settlement of his dues to the Government of Punjab through the Director of Industries, Punjab.

3. Learned counsel for the appellant has urged before us that as the disciplinary proceedings initiated against the appellant have been dropped he is entitled to appointment to a post in the Government of India. We are of opinion that the claim is without substance. The appellant was employed in a department of the Government of India, which has since been abolished and with the abolition of the Department his claimed to hold any post in that Department must fail. However, having regard to the circumstances that the disciplinary proceedings have been dropped we think that the order dated August 26, 1958 mentioned above must be modified. We are of opinion that in the interest of justice the appellant should be held entitled not only to the arrears of pay and allowances before the date of suspension but also to pay and allowance and other benefits in accordance with the rules for the period from September 21, 1956 to October 31, 1956 on the basis that no disciplinary proceedings had been taken against him. Any payment to be made in pursuance of this Order shall be made after adjusting the amount found due from him. The suspension order is quashed.

4. The appeal is allowed accordingly. Having regard to the circumstance of the case, we direct the respondent to pay Rs. 1000 as costs to the appellant.

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