

Supdt. of Police, Manipur and Others

Vs

R. K. Tomalsana Singh [Dead] By Lrs

Civil Appeal No. 2264 of 1970

(D. A. Desai, Ranganath Misra, R. B. Mirsa JJ)

17.11.1983

JUDGMENT

One Shri R. K. Tomalsana Singh, (now dead) at the relevant time was serving as Sub-Inspector of Police in State of Manipur. He was suspended from service by an order dated October 26, 1964 by the Superintendent of Police, Manipur, being the disciplinary authority, pending a departmental inquiry against him. The Inquiry Officer submitted his report holding that the charge levelled against the delinquent were proved whereupon the Superintendent of Police after giving second opportunity to the delinquent officer dismissed him from service by the order May 11, 1965. This order dismissing the original petitioner-respondent herein from service was questioned in Civil Writ Application No. 5 of 1967 in the Court of Judicial Commissioner, Manipur. The learned Judicial Commissioner accepted the petition holding that the inquiry was not held in accordance with the relevant rules as were in force and therefore, consequential action of dismissal from service was without the authority of law. In reaching this conclusion the contention that found favour with the Court was that the order made by Chief Commissioner, Manipur dated July 27, 1951 whereby the rules included in the Assam Police Manual Part I-V would apply to Manipur Police and for the purpose of facilitating the application of these rules, they may be continued with such alterations and modifications, not affecting the substance as may be necessary or proper having regard to the existing administrative arrangements in Manipur State, was not valid and therefore, the inquiry held against the deceased respondent in accordance with the provisions in Part I-V of Assam Police Manual is illegal and invalid. The contention before the learned Judicial Commissioner on behalf of the appellant was that at the relevant time the office of the I.G.P. and Chief Commissioner of Manipur both were held by one Mr E. P. Mong and even though Section 12 of the Police Act, 1861 confers powers on the Inspector-General of Police, subject to the approval of the State Government, to issue order and frame rules, the order dated July 27, 1951 must be deemed to have been made by the Manipur State as the order in question was issued by the Chief Commissioner, Manipur who had the authority to issue order in his dual capacity as I.G.P. and mere error in describing the authority, though held, cannot vitiate the order. This contention did not find favour with the learned Commissioner and in our opinion rightly. A bare reading of Section 12 of the Police Act, 1861 shows that the power to make rules and issue orders as may be deemed expedient relating to the organisation, classification and distribution of Police Force etc. is conferred on the Inspector-General of Police subject to the approval of the State Government. The power is conferred by the statute on a statutory authority called Inspector-General of Police and the power is hedged in with a condition that it can be exercised subject to the approval of the State Government. It must at once be confessed that the approval of the State Government was not obtained and it is futile to contend that as the order issuing authority was simultaneously holding office of Chief Commissioner of Manipur State, the order dated July 27, 1951 would be deemed to have been issued with the approval of the

State Government. Section 12 does not recognise the authority of Chief Commissioner to make rules, on behalf of the State Government nor any such authority was brought to our notice. Even Rules of Business, if any, were not shown either to the learned Judicial Commissioner or to this Court which would spell out such authority of Chief Commissioner of State. In fact, the learned Judicial Commissioner was of the opinion that the inquiry ought to have been held in accordance with the Central Civil Services (Classification, Control and Appeal) Rules, 1951 and that having not been done the order is vitiated. This finding is unassailable. The situation as at present stands is that the order issued by the Chief Commissioner dated July 27, 1951 is being relied upon to show that the rules contained in Assam Police Manual have been validly prescribed for the administration of Manipur Police Force. The learned Commissioner was right in holding the order dated July 27, 1951 is ineffective to incorporate and apply provisions contained in Part I-V of Assam Police Manual for Police Force in Manipur State and therefore, the departmental inquiry was not held in accordance with the relevant law and rightly set aside the order of dismissal of deceased respondent from service and declared that the original-petitioner, respondent therein shall continue to be in service and will be entitled to all the benefits which he could have had if he had continued in service. Unfortunately, the original-petitioner, respondent herein is dead and his physical reinstatement is not possible. We, therefore, clarify that the State of Manipur shall be liable to pay all arrears of wages, salaries and other emoluments including revision in pay and dearness allowance and other allowances and any other benefits including the terminal benefits to which the deceased would have been entitled if he had continued in service. Further looking to the circumstances of the case we also direct that the appellant shall pay the costs of the hearing of the appeal. The cost is quantified at Rs 5000 and shall be paid by the State to the respondent. The amount payable under this judgment shall be paid within four months from today. With this modification, the appeals are dismissed.

</html