

Union of India and Others

Vs

Chhida Singh Rawat

Civil Appeal No. 318 of 1991

(K. Jagannatha Shetty, M. N. Venkatachaliah JJ)

22.01.1991

ORDER

1. Special leave granted.

2. The respondent-Constable was absent without leave for 14 days from July 7, 1966. That was the subject matter of departmental enquiry commenced in 1966 and concluded with his dismissal order dated January 6, 1968. In the interregnum that is in 1967, there was police agitation in Delhi and those who participated in that agitation were summarily dismissed from service, but later on they were reinstated pursuant to a policy decision. The respondent also appears to have participated in that agitation. But he was not dealt with nor dismissed on that count. His grievance however, is that his case was not dissimilar from those who participated in the agitation and since those persons were reinstated he should also be given a similar benefit. With that claim he moved this Court on January 3, 1985 by means of Writ Petition No. 3174 of 1985 under Article 32 of the Constitution. This Court observed that he could move the Central Administrative Tribunal. Accordingly, he moved the Administrative Tribunal with the appeal.

3. Two questions arose for consideration before the Tribunal. First, whether the respondent was dismissed from service for police agitation and if so whether he is entitled to reinstatement ? Second, whether the enquiry culminated with the dismissal order dated January 6, 1968 was vitiated since the enquiry officer Shri Amrit Singh was biased against him and there was no proper opportunity for him to defend his case. The later question was left undecided by the Tribunal and indeed, it has stated that it is not necessary to go into that question since the respondent's record shows that he had been agitating as one of the leaders of Delhi Police and the order of dismissal was made after the police agitation. The Tribunal therefore, gave him relief on the first question.

4. We have perused the entire material on record and also heard counsel for both the parties. It seems to us that the conclusion reached by the Tribunal that the respondent should be given similar benefits as extended to the participants in the police agitation cannot be sustained. The Tribunal has relief upon the solitary order of the government dated April 15, 1971 whereunder the punishment of dismissal of certain persons who participated in the agitation was converted from dismissal into removal from service. The name of the respondent was included at Sl. No. 54 in the list of persons accompanying the said order. But this order, in our opinion, is no evidence to hold that the respondent was dealt with and dismissed from service for having taken part in police agitation. As stated earlier he was dismissed for remaining absent without leave and that order of dismissal was made 3 years earlier to the government order dated April 15, 1971. The learned Solicitor General was therefore, justified in his submission that the government order dated April 15, 1971 has not superseded the dismissal order dated January 6, 1968.

5. But the fact remains that the respondent did challenge the validity of the enquiry held against him by Mr Amrit Singh, Station House Officer of Police Station Chanakyapuri, Delhi. But there is no finding about the validity of the enquiry. It would be cruel at this stage to go back to that question which was concluded nearly 22 years ago. It is not in dispute that the respondent has been reinstated into service pursuant to the order of the Tribunal subject to the result of this appeal. Taking all these factors into consideration, we set aside the order of the Tribunal and substitute the following order :

The reinstatement of the respondent shall not be disturbed. He is however, not entitled to any back salary from January 6, 1968 to January 3, 1985 the date on which the respondent moved this Court in W.P. No. 3174 of 1985. Needless to state that the respondent is entitled to all consequential benefits flowing by his reinstatement except the back salary which is denied hereto.

6. The appeal is disposed of accordingly.

7. In the circumstances of the case, however, we make no order as to costs.

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