

Food Corporation of India

Vs

George Verghese

Civil Appeal No. Nil of 1991 (In SLP No.5000)

(A. M. Ahmadi, V. Ramaswami, K. Ramaswamy JJ)

03.04.1991

### JUDGMENT

1. Special leave granted. We have heard counsel on both sides. From the facts placed on record, it appears that between 14th March, 1974 and 20th March, 1976 the respondent who was an employee of the appellant, certified certain bills which enabled the contractor to claim an excess amount of Rs. 19,180/- from the appellant. The respondent was, therefore, placed under suspension on 14th, March, 1975, on the ground that disciplinary proceedings were contemplated against him. Before the disciplinary proceedings could be initiated, it appears that First Information Report was lodged on 23rd June, 1975 and as a result thereof the appellant stayed its hands so far as the disciplinary proceedings were concerned. The special Judge who tried the respondent convicted him by his judgment and order dated 25th January, 1978. Thereupon the respondent was dismissed from service by an order dated 15th May, 1978. It appears that the respondent preferred an appeal against the order of conviction and sentence. The appeal was allowed, he was given the benefit of doubt, and was acquitted vide the High Court's order dated 23rd October, 1979. The respondent as well as his companions having thus been acquitted, the appellant set aside the order of dismissal, reinstated the respondent in service and immediately placed him under suspension by the order of 12th August, 1980. Soon thereafter he was served with the charge-sheet and the statement of allegations, etc., for holding the departmental inquiry. Thereupon he filed a Writ Petition in the High Court which was allowed by the learned single Judge. The learned single Judge came to the conclusion that once there is an acquittal, no departmental proceedings could be initiated against the delinquent. The appellant filed a Letters Patent Appeal challenging the order of the learned single Judge. While the Division Bench agreed with the ultimate conclusion of learned single Judge, it differed with him on the question of law but refused to interfere with the ultimate order on the ground of delay. We do not think that the Division Bench was justified in refusing to interfere only on the ground of delay because the delay was not occasioned on account of inaction on the part of the appellant. The appellant acted fairly by staying its hands as soon as the prosecution was initiated. It did not proceed with the departmental inquiry lest it may be said that it was trying to over-reach the judicial proceedings. If it had insisted on proceeding with the departmental inquiry, the respondent would have been constrained to file his reply which could have been used against him in the criminal proceedings. That may have been branded as unfair. After the conviction the order of dismissal was passed but immediately on the respondents being acquitted the appellant fairly set aside that order and reinstated the respondent and initiated departmental proceedings by suspending him and serving him with the chargesheet and statement of allegations, etc. It cannot, therefore, be said that the appellant was guilty of delay. It is true that between setting aside the order of dismissal and the service of the charge-sheet, there was a time gap of about eight months but we do not think that that can prove fatal.

2. In the result, we allow this appeal, set aside the order of the High Court and direct that the appellant, will proceed with the inquiry as expeditiously and complete the same as far as possible within a period of six months or thereabout provided the respondent co-operates in the inquiry and does not delay the proceedings. If the respondent has not filed his written statement to the charges levelled against him, he may do so within two weeks from today. The appeal is allowed accordingly with no order as to costs.

Order accordingly.

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