

Union of India and Others

Vs

Om Prakash

Civil Appeal No. 2750 of 1992

(Kuldip Singh, Yogeshwar Dayal JJ)

27.07.1992

ORDER

1. Special leave granted.

2. As a result of the disciplinary proceeding Om Prakash, respondent was removed from service by an order dated February 12, 1981. He challenged the order before the Central Administrative Tribunal, Allahabad Bench. Relying upon the judgment of this Court in Union of India v. Mohd. Ramzan Khan [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] the Tribunal set aside the order of removal on the ground that the copy of the Enquiry Report was not supplied to the respondent. This appeal by the Union of India is against the judgment of the Central Administrative Tribunal.

3. Mrs Kitty Kumar Mangalam, the learned counsel for the Union of India has contended that the judgment of this Court in Mohd. Ramzan Khan case [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] has prospective application and as such the punishment imposed on the respondent in the year 1981 could not be challenged by seeking support from the said judgment. She has placed reliance on para 17 of the judgment in Mohd. Ramzan case [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] which is as under : (SCC p. 597)

"We have not been shown any decision of a coordinate or a larger bench of this Court taking this view. Therefore, the conclusion to the contrary reached any two-Judge Bench in this Court will also no longer be taken to be laying down good law, but this shall have prospective application and no punishment imposed shall be open to challenge on this ground."

4. There is merit in the contention of the learned counsel. The Tribunal fell into error in not noticing the dictum of this Court making the judgment in Mohd. Ramzan Khan case [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] operative prospectively. The learned counsel for the respondent has, however, contended that there were other points before the Tribunal but since the Tribunal allowed his application by following Mohd. Ramzan Khan case [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] the other grounds taken in the application were not discussed by the Tribunal. He has taken us through he charge-sheet, findings of the Enquiry Officer on charge No. 1 and other relevant documents on the record. We are prima facie of the view that the petitioner has other arguable points in this case. We allow the appeal, set aside the judgment of the Tribunal dated December 6, 1991 and remand the case to the Central Administrative Tribunal, Allahabad Bench, Allahabad for deciding the other points averred in the application before the Tribunal. The respondent-applicant shall appear before the Tribunal on August 28, 1992. The Tribunal shall decide

the application after hearing both the parties within three months thereafter. There shall be no orders as to costs.

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