

Hari Pada Khan

Vs

Union of India and Others

SLP (C) No. 28044 of 1995

(K. Ramaswamy, K. S. Paripoornan JJ)

04.12.1995

ORDER

1. Petitioner was a permanent staff member of the Indian Oil Corporation. He along with others, is said to have been involved in theft of oil from Haldia Dock Complex. An FIR was lodged against all the persons who committed the theft including the petitioner. On that basis, Criminal Case No. 1 was registered and he was arrested on 6-9-1988 and was subsequently released on 3-11-1988. Relying upon Standing Order No. 20-IV of the Corporation, he was dismissed from service, which reads thus :

"Where a workman has been convicted for a criminal offence in a Court of Law or where the General Manager is satisfied for reasons to be recorded in writing, that there is neither expedient nor in the interest of security to continue the workman, the workman may be removed or dismissed from service without following the procedure laid down under III of this clause."

2. When the services of the petitioner were terminated he challenged the validity of the rule in question by filing a writ petition in the Calcutta High Court. The High Court in WP CO No. 1590 (W) of 1989 and on appeal from Original Order Tender No. 3066 of 1992 by order dated 28-6-1995 upheld the validity of the above rule and dismissed the petition. Thus this special leave petition.

3. Shri M. N. Krishnamani, learned Senior Counsel appearing for the petitioner, contended that the rule is ex facie arbitrary offending Articles 14 and 16 of the Constitution. This Court in *Workmen v. Hindustan Steel Ltd.* considered a similar provision made by the Hindustan Steel Ltd. in its standing order. This Court struck down the provision as violative of Article 14 and held that the action violated the principle of natural justice offending Article 14 of the Constitution. Same ratio is applicable to the facts in this case. Therefore, it is contended that the view taken by the High Court is not correct in law. We find no force in the contention.

4. It is seen that the rule has been made by the Corporation with the intention to prevent an employee of the Corporation served with a charge-sheet and arrested in furtherance thereof, from continuing in service. Of course it would be subject to the result of the trial. Continuance of the officer involved in an offence would be an affront to good and disciplined conduct of workmen. His continuance in service of the Corporation would demoralise the service. Therefore, it was most expedient in the public interest not to hold any further enquiry and terminate his services forthwith. However, it would be subject to the result of the trial.

5. The doctrine of principle of natural justice has no application when the authority concerned is of

the opinion that it would be inexpedient to hold an enquiry and that it would be against the interest of security of the Corporation to continue in employment the offender-workman when serious acts are likely to affect the foundation of the institution. In *Union of India v. Tulsiram Patel*, a Constitution Bench of this Court upheld the validity of the similar provisions under Article 311 of the Constitution. Recently, in SLP (C) No. 11659 of 1992 the matter had come up before this Court on 13-11-1995, where the validity of a pari materia provision was questioned. This Court upheld the validity stating that the above clause will operate prospectively.

6. A contention has been raised by Mr. Krishnamani that in *Tulsiram Patel* case this Court had upheld the validity of the rule subject to the principle of natural justice. It is needless to mention that the principle of natural justice requires to be modulated consistent with the scheme of the rules. It is settled law that the principle of natural justice cannot supplant but can supplement the law. In that view of the matter, the rule having been made to meet specified contingency the principle of natural justice by implication, stands excluded. We do not think that the rule is ultra vires of Articles 14 and 21 as stated earlier.

7. The special leave petition is dismissed accordingly.