

Municipal Committee, Bahadurgarh

Vs

Krishnan Behari and others

Civil Appeal No. 4120 of 1996

(B. P. Jeevan Reddy, K. S. Paripoornan JJ)

19.02.1996

JUDGMENT

1. Leave granted.

2. The respondent was a clerk in the Municipality. He was alleged to have misappropriated a sum of Rs. 1548.78 p. by falsifying the accounts. He was prosecuted in a criminal case and convicted under Section 409 of the Indian Penal Code and sentenced. On appeal, the conviction was altered from Section 409 to Section 468 of the Indian Penal Code. Sections 468 reads;

"Whoever commits forgery intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to 7 years and shall also be liable to fine."

3. In view of the said punishment, the Municipal Committee dismissed the respondent. The respondent filed an appeal before the Director of Local Bodies who, while upholding the correctness of the action, reduced the punishment to stoppage of four increments and has also directed that the period during which the respondent was out of service should be treated as extraordinary leave. An appeal filed by the Municipal Committee to the Commissioner was dismissed as incompetent. A writ petition filed by the Municipal Committee was also dismissed in limine by the High Court.

4. It is obvious that the respondent has been convicted of a serious crime and it is a clear case attracting under Proviso (a) to Article 311 (2) of the Constitution. In a case of such nature - indeed, in cases involving corruption - there cannot be any other punishment than dismissal. Any sympathy shown in such cases is totally uncalled for and opposed to public interest. The amount misappropriated may be small or large; it is the act of misappropriation that is relevant. The Director had interfered with the punishment under a total misapprehension of the relevant factors to be borne in mind in such a case.

5. Accordingly, this appeal is allowed. Judgments of the High Court. Commissioner and the Director are set aside and the order of the Municipal Committee dismissing the respondent is restored. No costs. Appeal allowed.