

Union of India and Others

Vs

A. Vasu

Civil Appeal No. ... Of 1996

(B. P. Jeevan Reddy, S. C. Sen JJ)

15.03.1996

ORDER

1. The respondent was subjected to a disciplinary enquiry on a charge of misappropriation. By an order dated 6-8-1988 he was dismissed from service. On appeal the appellate authority while confirming the finding of guilt, reduced the punishment to one of compulsory retirement. The respondent challenged that order before the Tribunal. The Tribunal allowed the original application on the only ground of not furnishing the enquiry officer's report. Liberty was given for holding a fresh enquiry. The date of the Tribunal's order is 9-8-1991. On 4-11-1991, the authorities passed an order stating that in terms of Rule 10(4) of the CCS (CCA) Rules, the respondent shall be deemed to be under suspension pending enquiry with effect from the date of dismissal, i.e., with effect from 6-8-1988. Against the order dated 4-11-1991 the respondent again approached the Tribunal which has allowed the same on 11-6-1992 under the impugned order. Ibis SLP has been preferred with a delay of 407 days by the Union of India. We gave notice to the respondent and we have heard the respondent's counsel today.

2. So far as the delay is concerned, Mr Shetye, learned counsel for the respondent, says that there is no proper explanation for the delay of 407 days and that in fact the respondent was reinstated pursuant to the impugned order on 8-10-1992. Only when the respondent took out proceedings for recovery of the arrears that the Government appears to have woken up and filed these proceedings. It is also brought to our notice that a fresh enquiry has been held and the respondent has been again punished with compulsory retirement vide an order dated 17-11-1992 against him. He has again approached the Tribunal and that matter is pending there.

3. We are now concerned only with the validity of the order dated 11-6-1992 and the delay in filing the SLP. Having regard to the nature of the charges and of the facts and circumstances of the case mentioned above, we are inclined to condone the delay. The delay is condoned.

4. Leave granted.

5. Rule 10(4) of the CCA Rules is clear and express. It reads as under :

"10. (4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the government servant shall be

deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders :

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case."

6. According to this Rule the respondent shall be deemed to have been placed under suspension with effect from the date of the original order of dismissal. In the light of express language of the Rule, this appeal is allowed and the order of the High Court (sic Tribunal) is set aside. We express no opinion on the merits of the case.

7. It is, however, made clear that for the period the respondent has actually worked pursuant to the order dated 8-10-1992, he shall get full wages.

8. No costs.