

**SUPREME COURT OF INDIA**

India Thr.President of ICAR

Vs.

R.S. Shrivastava

C.A.Nos.456-457 of 2009

(B.N. Agrawal and G.S. Singhvi JJ.)

27.01.2009

**ORDER**

1. Leave granted.

2. Heard Mr. A. Sharan, learned Additional Solicitor General for the appellant, and the respondent, who has appeared in-person.

3. The disciplinary authority initiated departmental inquiry against the respondent on the ground of violation of Rule 3(1)(ii) and (iii) of Central Civil Services (Conduct) Rules, 1964 as extended to ICAR employees. The respondent challenged the same in OA No.1333 of 2004, which was dismissed by Allahabad Bench of Central Administrative Tribunal (for short 'the Tribunal') vide its order dated 13th December, 2004. Civil Misc. Writ Petition No.19054 of 2005 filed against the order of the Tribunal was disposed of by the Division Bench of the High Court with a direction that representation made by the respondent for change of the inquiry officer be decided and till then the inquiry proceedings shall remain stayed. Thereafter, by an order dated 28.11.2005, the competent authority rejected the representation of the respondent. O.A. No.144 of 2006 filed by the respondent for quashing the orders passed by the competent authority for initiation of disciplinary proceedings and appointment of inquiry officer was dismissed by the Tribunal on 2nd June, 2006. Against the said order, the High Court was moved in writ petition, which was registered as Writ Petition No.35336 of 2006. The Division Bench of the High Court passed several interim orders whereby repeated directions were issued to the appellants herein to file affidavits on one or the other issues. Hence, these appeals by special leave.

4. A perusal of different orders passed by the High Court including orders dated 20th July, 2007 and 5th October, 2007 which are subject matter of challenge in these appeals shows that the High Court has been making a roving inquiry in relation to matters which have direct bearing on the merits of the charge levelled against the respondent ignoring the fact that the Tribunal dismissed the application of the respondent on the ground that it was pre-mature and there was no valid ground to quash the proceedings of the inquiry at that stage. In our view, the High Court should not have entertained the writ petition at the threshold of the

disciplinary proceedings and passed orders touching the merits of the charge. Instead, the High Court should have directed the disciplinary authority to conclude the inquiry after giving opportunity of hearing to the respondent.

5. Accordingly, the appeals are allowed, impugned orders rendered by the High Court are set aside and the writ petition filed by the respondent is dismissed. Shri A. Sharan, learned Additional Solicitor General stated that Dr. A. Mukherjee, who is presently conducting the inquiry will be changed and some other person will be nominated as the inquiry officer. He also gave out that the respondent will be allowed to avail the services of defense assistant during the course of inquiry.

6. In this view of the matter, we direct that the competent authority shall appoint another inquiry officer within one month from today. The new inquiry officer shall proceed with the inquiry in accordance with the rules and principles of natural justice and submit report to the disciplinary authority within a period of six months from the date of nomination/appointment. The disciplinary authority shall take final decision in the matter within three months from the date of receipt of inquiry report and pass appropriate order.