

SUPREME COURT OF INDIA

State of Bihar

Vs.

Phulpari Kumari

C.A.No.8782 of 2019

(L.Nageswara Rao and Hemant Gupta,JJ.,)

06.12.2019

JUDGMENT

L.Nageswara Rao,J.,

SLP(C)No.21197 of 2019

1. The State of Bihar has filed the above Appeal questioning the judgment of the High Court of Judicature at Patna by which the order of dismissal of the Respondent dated 10.12.2014 was set aside.

2. The Respondent was appointed as a Child Development Officer on 29.06.2011. Sh. Jitendra Rajak filed a complaint against the Respondent to the Vigilance Bureau of Investigation, Patna alleging demand of illegal gratification. The Vigilance Bureau conducted a raid and the Respondent was caught red-handed while accepting an amount of Rs.40,000/-. A First Information Report (FIR) was registered against the Respondent on 17.08.2013. Simultaneously, disciplinary proceedings were commenced against the Respondent on 12.11.2013 and she was placed under suspension. An inquiry was held in which the following charges were framed:

First Charge:

"You demanded the gratification amount for the selection/appointment letter to the selected candidate after the selection of the general meeting on the vacant post of Anganwari Sevika in Anganwari Centre No. 27 (Ward No.03 Panchayat Mahuii) of the Child Development Project, Patna Rural Patna."

Second Charge:

Irregular operation of Anganwari Centers and the Centre found to be closed. The Anganwari Centre was found to be closed in the preschool education at Anganwari Centre No. 63 of the Child Development Project, Patna Sadar - 1 on 13.10.2011. Anganwari Centre was running in the house made of straws. Sevika came late. Sevika told that she had taken leave on that day from the woman Supervisor, which

information came to be wrong. The Helper was found to be absent. Kitchen was found to be closed since 02.10.2011. Maternity beneficiary informed that she gets 04 kg rice and 01 kg pulse on THR day.

The operation of the Centre was found to be unsatisfactory.

Third Charge

As mentioned in the supplementary form attached to the Resolution No. 1218 dated 04.03.2014 about registering FIR by vigilance PS case No. 49//.

3. The findings of the Inquiry Officer are that a general meeting was convened on 24.06.2013 to decide the vacancies for the position of Child Development Officer (Sevika) in Anganwari Centre No.27 (Ward No.03 Panchayat Mahuli) of the Child Development Project, Patna. A resolution was passed to select Smt. Suman Kumar, the wife of the complainant. The Respondent was also present in the general meeting. Smt. Suman obtained 62.4 per cent marks. As per the complaint, the Respondent demanded a sum of Rs.1,50,000/- for the appointment of the complainant's wife, Smt. Suman Kumar. The amount was then reduced to Rs.50,000/-. The complainant approached the Vigilance Bureau and a raid was conducted on 17.08.2013 by laying a trap. As per the directions of the Vigilance authorities, the complainant approached the Respondent who was standing in the verandah of her house. The Respondent received the money and put the amount on the chair and began to shut the grill of her house, when she saw other persons of the raiding party. The fingers of both the hands of the Respondent were washed in sodium carbonate solution and the color of the solution turned pink. The Inquiry Officer concluded that there is sufficient evidence to hold that the Respondent is guilty of the first charge framed against her. The charge of demanding and accepting illegal gratification was proved against her. The other charges were also needed to be proved.

4. The Respondent was dismissed from service by an order dated 10.12.2014. She challenged the order of dismissal by filing a Writ Petition in the High Court, which was allowed by a judgment dated 12.12.2017. A learned Single Judge of the High Court disbelieved the version of the complainant as neither the complainant nor his wife were examined in the disciplinary proceedings. The learned Single Judge concluded that the charge of demand and acceptance of the illegal gratification by the Respondent was not proved.

5. The Division Bench of the High Court affirmed the judgment of the learned Single Judge in the Writ Petition and dismissed the Appeal filed by the Appellant. The Division Bench proceeded to examine the evidence and held that the charge of demand and acceptance of illegal gratification was not proved. The submission of the Respondent that she was falsely implicated in a trap case was accepted by the Division Bench.

6. The criminal trial against the Respondent is still pending consideration by a competent criminal Court. The order of dismissal from service of the Respondent was pursuant to a

departmental inquiry held against her. The Inquiry Officer examined the evidence and concluded that the charge of demand and acceptance of illegal gratification by the Respondent was proved. The learned Single Judge and the Division Bench of the High Court committed an error in reappreciating the evidence and coming to a conclusion that the evidence on record was not sufficient to point to the guilt of the Respondent. It is settled law that interference with the orders passed pursuant to a departmental inquiry can be only in case of 'no evidence'. Sufficiency of evidence is not within the realm of judicial review. The standard of proof as required in a criminal trial is not the same in a departmental inquiry. Strict rules of evidence are to be followed by the criminal Court where the guilt of the accused has to be proved beyond reasonable doubt. On the other hand, preponderance of probabilities is the test adopted in finding the delinquent guilty of the charge. The High Court ought not to have interfered with the order of dismissal of the Respondent by re-examining the evidence and taking a view different from that of the disciplinary authority which was based on the findings of the Inquiry Officer.

7. In view of the above, the judgment of the High Court is set aside and the order of dismissal of the Respondent is upheld. The Appeal is accordingly allowed.