

Vinod Vs. Union of India

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Court : Delhi

Decided On : Oct-31-2014

Judge : Sunil Gaur

Appellant : Vinod

Respondent : Union of India

Advocate for Pet/Ap. : Mr. Anil Kumar

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision:

31. t October, 2014 + RSA3132014 & C.M.Nos.17785-86/2014 VINOD Through:
..... Appellant Mr. Anil Kumar, Advocate versus UNION OF INDIA Through:
Respondent Nemo. CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(Oral) CM No.17786/2014 Allowed subject to just exceptions. RSA3132014 and CM No.17785/2014 (stay) The appellant - plaintiff, a government employee with RPF Northern Railways was charge-sheeted and after a departmental enquiry vide order of 26th February, 1981, he was dismissed from service and against the said order, the appellant had preferred a statutory appeal and thereafter he had filed a civil suit seeking declaration that his dismissal from service stands vitiated as principles of natural justice were not followed. The trial court had decreed the appellant - plaintiffs suit while holding that defence counsel was not provided to

the appellant, there was no evidence that he was under the influence of liquor and that he had remained absent from duty just for 15 minutes. However, right to impose RSA3132014 Page 1 a minor penalty was given to respondent - department. Not satisfied with the trial court judgment, respondent had filed an appeal which stands allowed vide impugned judgment of 3rd July, 2014 while holding as under:

9) After hearing the arguments and going through the record file carefully, I am of the considered view that the charges levelled against the respondent were serious in nature since the Railway Police Force (RPF) is undisputedly a disciplined force which required the members of the force to maintain the discipline. The penalty imposed upon the respondent cannot be said to be disproportionate to the charges levelled against him. Further, proper opportunities of hearing were afforded to the respondent, during the departmental proceedings. During the course of arguments, Id. Counsel for the respondent was not able to show that proper opportunities were not given to the respondent to defend his case. On the other hand, Id. Counsel for the appellant has successfully proved its case.

At the hearing of this appeal, it was strenuously urged by learned counsel for the appellant that respondents appeal was time barred as there was delay of seven days, there was misreading of evidence by the first appellate court and the material evidence on record has been disregarded. Thus, setting aside of the impugned judgment and restoration of trial court judgment is sought in the second appeal. Upon hearing and on perusal of the impugned judgment, trial court RSA3132014 Page 2 judgment and the material on record, I find that the appellant had not pointed out before the first appellate court that the appeal is barred by time. There is no material on record on the basis of which it can be reasonably concluded that respondents first appeal was time barred. It is not the case of the appellant that he had sought the assistance of a defence assistant and it was refused. In fact, it has come in the evidence of the enquiry officer that the appellant had refused to nominate any defence assistant. Although, a plea was taken that the enquiry officer (PW-1) had acted as presenting officer as well but no such plea was taken before the courts below and it was put to learned counsel for the appellant as to whether any suggestion in this regard was given to the enquiry

officer (PW-1) and it was candidly replied by learned counsel for the appellant that no such suggestion was given. During the course of hearing, it was pointed out that while the appeal was pending, the delinquent official had died and his LRs were not brought on record. This submission is noted only to be rejected because the first appellate court had also heard the counsel for the delinquent official. In the considered opinion of this court, no substantial question of law arises in this appeal. Accordingly, this appeal and the application are dismissed with no order as to costs. (SUNIL GAUR) JUDGE OCTOBER31 2014 aj RSA3132014 Page 3

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