

State of Rajasthan Vs. Gopal Singh

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Court : Supreme Court of India

Decided On : Sep-17-1993

Reported in : 1994Supp(2)SCC404

Judge : A.M. Ahmadi and; N. Venkatachala, JJ..

Acts : High Court of Judicature for Rajasthan, 1952 - Rule 64; Code Of Civil Procedure (Cr.P.C), 1973 - Order 47 Rule 5

Appeal No. : SLP (C) No. 522 of 1992

Appellant : State of Rajasthan

Respondent : Gopal Singh

Disposition : Appeal Allowed

Judgement :

A.M. Ahmadi and; N. Venkatachala, JJ.

1. Special leave granted*.

2. The respondent, a Police Constable, was dismissed from service on certain charges. He filed a writ petition in the High Court which was heard by a Division Bench of the High Court comprising two learned Judges. The Division Bench by its judgment and order dated 1-2-1989, dismissed the writ petition. Against that the delinquent filed a review application which was heard by one of the Judges,

constituting the Division Bench, presumably because the second learned Judge was not available. In such a situation under Rule 64 of the Rules of the High Court of Judicature for Rajasthan, 1952, the proper procedure to be followed was to lay the application before the learned Chief Justice, who with due regard to the provisions of Rule 5 of Order 47 of the Code will constitute a Bench for hearing and disposal of such application. In the instant case unfortunately this procedure was not followed but one of the learned Judges constituting the Division Bench which disposed of the main petition exercised power of review and reversed the earlier order. The effect of this order is that a matter which would ordinarily go to a Division Bench came to be disposed of by a learned Single Judge. That clearly was not in keeping with Rule 64 of the Rules of the High Court of Judicature for Rajasthan, 1952, read with Rule 5 Order 47 of the Code of Civil Procedure.

3. We, therefore, set aside the order in review and remit the matter to the High Court. The papers will be placed before the learned Chief Justice for constituting a Bench of two learned Judges for disposal of the review petition. The appeal is allowed accordingly with no order as to costs.

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