

**Ranvir Singh Vs. Union of India and ors.**

**Ranvir Singh Vs. Union of India and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/699290](http://sooperkanoon.com/699290)

**Court :** Delhi

**Decided On :** Nov-26-1991

**Reported in :** 46(1992)DLT719; 1992RLR23

**Judge :** S.B. Wad and; P.K. Bahri, JJ.

**Appeal No. :** First Appeal No. 31 of 1985

**Appellant :** Ranvir Singh

**Respondent :** Union of India and ors.

**Advocate for Pet/Ap. :** P.K. Behl and; K.K. Menon, Advs

**Judgement :**

**Bahri, J.**

(1) On 28th October, 1991, we have partly allowed the appeal. The reasons are. now being stated.

(2) This appeal has been brought against judgment and decree dated February 12, 1985, of a Single Judge by which the suit brought by the plaintiff claiming Rs. 2,00.000.00 as damages with interest @ 18% per annum was dismissed leaving the parties to bear their own costs.

(3) At the time of the filing of the suit the plaintiff was working as Deputy General Manager (Telephones) at Pune, but while he was working as D.E.T. at Moradabad, during the year 1972-73 he was alleged to have committed certain acts of misconduct for which disciplinary proceedings were taken against him. It appears that on January 28, 1975, in pursuance to the Fir lodged with the police the C.B.I, had raised the plaintiff's house and office with a view to locate file No. DET/LP-72-73 but without success. It appears that copies of certain official correspondence were seized by the C.B.I and later on two separate sets of charge-sheets were served on the plaintiff in September-October 1977 and necessary disciplinary inquiries were held in November 1977 and January 1978 and in the first inquiry the Inquiry Officer vide report dated November 26, 1977, exonerated the plaintiff of the charges leveled against him but he held the plaintiff guilty of negligence in not preparing the waiting list of candidates (Linemen) in a proper manner, vide order dated February 10, 1978, defendant No. 1-Union of India directed that plaintiff may be let off with a recordable warning only to be careful in future. The plaintiff made representation dated April 3, 1978, pleading that the charge for which he had been found negligent was not part of the charge-sheet served on him and he prayed for exoneration without any warning. Vide memo dated June 27, 1978) the Union of India mentioned that although the said lapse on the part of the plaintiff was not specifically mentioned in the statement of imputations but he had been given the due opportunity to defend himself during the course of the inquiry. However, as the lapse was committed by the plaintiff not intentionally but inadvertently, so the President of India was pleased to modify the recordable warning to that of non-recordable warning.

(4) In respect of the second charge-sheet dated October 11, 1977, the Inquiry Officer vide his report dated February 29, 1978, held that the charges have not been proved. However, defendant No. 1-Union of India, disagreed with the appraisal of evidence by the Inquiry Officer and communicated its order dated March 31, 1978, which is to the following effect, to the plaintiff :

'AFTER a careful consideration of the report of the inquiring Authority and other relevant records, the President is unable to agree with the findings of the Inquiring Authority in respect of Article I of the charge. Shri Ranvir Singh has claimed that

he invariably contacted the Circle Store Depot before purchasing these items. However, it is observed that Shri Ranvir Singh failed to record in file the substance of his such telephonic conversation with the Circle Store Depot regarding the non-availability certificate in respect of telecom stores as required by the Manual of Office Procedure. His other contention accepted by the Cdi that other officers also used to purchase stocked items without obtaining non-availability certificate cannot also be accepted as valid. However, keeping in view the fact that the irregularity relates to the year 1972-73 and the officer has undergone suspense for these five years the President has taken a lenient view and has been pleased to order 'that Shri Ranvir Singh may be let off with a non-recordable warning only to be careful in future.'

(5) The plaintiff has averred in the plaint that he was harassed by defendants 1, 2, 3 & 5 on false and flimsy charges and knowing the same to be so and actuated with malice had harassed the plaintiff by getting his house searched and by resorting to the aforesaid charge-sheets. He has also averred that defendant No. 4 was actuated with malice and had willfully delayed his promotion case even after the disposal of the aforesaid two vigilance cases. The plaintiff has given- various reasons in challenging the findings on the basis of which the two non-recordable warnings have been administered to the plaintiff. It is not necessary to reproduce the various reasons elaborately enumerated in the plaint for challenging the aforesaid findings of the authorities. The plaintiff has, thereafter, pleaded that he had been further harassed and humiliated by the defendants inasmuch as his juniors have been promoted and have been given special pay posts while the plaintiff has been ignored. He has mentioned that he was due for promotion on June 6, 1977, but was not given due promotion in time and he was initially given ad hoc promotion while he should have been given regular promotion on August 18, 1978, after he was approved by the D.P.C. for regular promotion and he had been transferred in short duration four times which had disclosed the studies of his children and also resulting: in his wife losing the Job and he had not been given posting in Delhi D.G.P. & which would have fetched him extra benefit of Rs. 300.00 per month. So, the plaintiff claims Rs. 70,000.00 as damages for his being harassed and being caused mental torture when his office and residence were searched with some ulterior motive which became evident to the plaintiff when he

was served with two charge-sheets subsequently. He has claimed Rs. 70,000.00 for harassment and mental torture and discrimination by willfully fabricating the cases by linking wrong, superseded rules and rules not in existence with ulterior motive and for non-production of material record during the inquiry proceedings. He has claimed Rs. 45,000.00 for his promotion being delayed for more than six months and Rs. 5,000/ as loss of salary of his wife and Rs. 10,000/- for the disturbance to his children's studies due to frequent transfers. He has also claimed loss of difference of salary from June 6, 1977 because of his delayed promotion.

(6) We may mention that the plaintiff has made parties, Union of India as defendant No. 1, Director General (P & T) as defendant No. 2, Deputy Director General (Vigilance) as defendant No. 3 and Shri P. S. Joshi, Deputy Director General (T) as defendant No. 4 and lastly, Shri Ved Kumar, Director (Postal) as defendant No. 5. Defendants 2 & 3 are not legal entities. The plaintiff had not sued by name the two officers who were working as Director General and Deputy Director General at the relevant time. Suit was contested hotly by the defendants. Various issues framed with regard to the pleadings of the parties. The crucial questions which arose for decisions were firstly, whether the house and office of the plaintiff had been got searched from the C.B.I. on the basis of an FIR lodged at the behest of Director General (P&T;) with any malice or not and secondly, whether the disciplinary proceedings had been taken by defendant No. 1 against the plaintiff with any malicious intention of any of the defendants? The learned Single Judge has in his elaborate judgment dealing with the merits of the pleas had given findings that there was no malice actuating the acts of the defendants either in getting house and office of the plaintiff searched through C.B.I., or in taking disciplinary proceeding? against the plaintiff. We have heard the arguments and have gone through the record and carefully perused the judgment of the learned Single Judge and we entirely agree with the findings reached by the learned Single Judge on facts.

(7) Before we deal with the findings on merit arrived at by the learned Single Judge, we may point out that in the whole of the plaint no particulars or facts have been given by the plaintiff which could show malice on the part of the defendants or any one of them. H. W. R. Wade in his Administrative Law, 5th Edition, at page

673 summarised the position of repercussions of administrative acts in the following words :

'THE present position seems to be that administrative action which is ultra virus but not actionable merely as a breach of duty will found an action for damages in any of the following situations : ( 1 ) if it involves the commission of a recognised tort such as trespass, false imprisonment or negligence; (2) if it is actuated by malice, e.g. personal spite or a desire to injure for improper reasons; (3) if the authority knows that it does not possess the power which it purports to exercise.'

(8) The learned author has also laid down at page 764 that the public authorities will be held to be free from liability so long as they exercise their discretionary powers in good faith and with reasonable care. Losses caused by bona fide but mistaken acts of government may have to be suffered just as much when they are invalid as when they are valid. In *Smith v. East Elloe Rural District Council & Others*, (1956) Ac 736 (1) the principle has been laid down that if a public officer abuses his office either by an act of omission or commission and the consequence of that is an injury to an individual an action may be maintained against such public officer. And in *Principles of Administrative Law* by Jam and Jain, 4th Edition, at page 789, it has been observed that in case of an ultra virus unless there is malice or negligence the State is not held to be liable. The basis of 'this rule is that the officers should act fearlessly in the discharge of their official functions and that from time to time public interest calls for action which may later on turn to be founded on a mistake and if the official of the State is liable for the mistake it may act as a deterrent on an official to take any action at all. At page 789, the author also opined that for the acts done with reasonable care in the discharge of statutory duties or powers under the Common Law such acts do not amount to tort even though these may injure an individual.

(9) It is not necessary to go into the question whether the disciplinary proceedings being taken against the government servants can be termed as the acts referable to the exercise of sovereign power. In *M/s. Kasturi Lal Ralia Ram Jain vs State of U.P.*, Air 1956 Sc 1039, (2) the Supreme Court has laid down the law that if tortious acts are committed which are referable to the exercise of sovereign power no

action lies for damages but if on the other hand, the tortious acts have been committed by a public servant in discharge of duties assigned to him not by virtue of the delegation of sovereign power, an action for damages would lie. In the present case, in order to show that any tortious acts have been committed by the defendants or anyone of them against the plaintiff, the plaintiff has to allege and prove that any wrongful acts have been committed without reasonable and probable cause by the defendant or, anyone of them and they were actuated by any malice against the plaintiff. Apart from making the general averment that the acts of the defendants were actuated by malice the plaintiff has failed to give the facts from which he had drawn the conclusion that defendants were actuated by malice towards the plaintiff. The plaintiff ought to have been non-suited on this very short round that plaintiff had failed to show cause of action in the plaint for bringing an action in tort against the defendants.

(10) Be that as it may, even on merit the plaintiff has no case for getting any damages for any alleged tortious acts of the defendants. Plaintiff in his statement admitted that a particular file was found missing, so the lodging of the Fir and the subsequent action of C.B.I, in making efforts to search that file which admittedly was being dealt by the plaintiff could not lead to any inference that those acts have been committed by the defendants without reasonable and probable cause. At any rate, those acts were not actuated by any malice against the plaintiff because the plaintiff does not say in the plaint as to what was the ill motive nourished by the defendants or any one of them against the plaintiff when the said search was made.

(11) Now coming to the first inquiry held against the plaintiff it is true that main charges were held to be not proved but during the course of the evidence the Inquiry Officer found that plaintiff had not prepared a waiting list of the candidates properly. This was a minor lapse which came to be revealed during the course of the inquiry. For that lapse only a non-recordable warning had been administered to the plaintiff which plaintiff ought to have taken in good spirit Afterall the said nonrecordable warning does not amount to any penalty being imposed on the plaintiff and the same also does not adversely affect the promotional chances of the plaintiff or his career as a public servant with the defendants. The same also

does not amount to any imputation of misconduct. We have gone through the reasons given by the learned Single Judge for coming to the conclusion that administering this non-recordable warning was justified on merits. We adopt the said reasons in returning this finding.

(12) Similarly, in respect of second charge sheet it is true that Inquiry Officer had completely exonerated the plaintiff of all the charges but it was within the power of the President of India to have differed with all or any of the findings of the Inquiry Officer for valid reasons. The President in his order while differing with the finding of the Inquiry Officer with regard to Article I of the charge gave good reasons and again, only non-recordable warning had been administered to the plaintiff. We agree with the reasons given by the learned Single Judge for holding that there was no illegality committed in administering the aforesaid non-recordable warning by the defendants on the plaintiff with regard to said matter.

(13) Mere fact that plaintiff has been transferred four times during short span does not furnish any cause of action to the plaintiff to claim any damages from the defendants. The defendants had given good reasons in the written statement for ordering the said transfers. Moreover, mere fact that the plaintiff had been transferred without further showing that the said transfers were actuated by any malice on the part of the defendants, the plaintiff does not get any cause of action for claiming any damages from the defendants in law of tort. Then, plaintiff has made a grievance that he had not been given a posting which carries Rs. 300.00 per month as special allowance whereas some of his junior officers had been given such postings. Plaintiff has no legal right to claim to be posted to a particular post carrying a special allowance. It depends on exigencies in administration to post officers to different posts. It is not that the plaintiff had been deprived of any promotional rights by not being given a posting carrying special allowance. So, the plaintiff is not entitled to get any amount for being not given a post carrying a special pay of Rs. 300.00 per month.

(14) However, it is conceded by the learned counsel for the defendants that plaintiff has been given his promotion with effect from June 6, 1977 but has not been given the necessary arrears of salary due to the plaintiff on this promotional

post for the period June 1977 to October 1978 which amount comes to Rs. 2,772.00 . The plaintiff is entitled to have the said amount from defendant No. 1. Vide our operative order dated October 28, 1991, we had directed payment of the said amount with proportionate costs to the plaintiff by defendant No. 1. By the said order we had partly allowed the appeal to that extent and we have now recorded the reasons for the same.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**