

State of Up Vs. Ram Kumar Sachan and anr.

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Court : Delhi

Decided On : Jul-01-2013

Judge : Pradeep Nandrajog

Appellant : State of Up

Respondent : Ram Kumar Sachan and anr.

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision : July 01, 2013 + W.P.(C) 2283/2012 STATE OF U.P. Represented by:Petitioner Mr.Anil Mittal, Advocate versus RAM KUMAR SACHAN & ANR. Represented by: None Respondents CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MR. JUSTICE V.KAMESWAR RAO PRADEEP NANDRAJOG, J.

(Oral) CM No.4881/2012 For the reasons stated in the application, the same is allowed. W.P.(C) No.2283/2012 1. Heard learned counsel for the petitioner.

2. Since we are in agreement with the view taken by the Central Administrative Tribunal (Principal Bench), we would be brief. As per the charge-sheet issued against the respondent the allegation is that after he handed over charge on July 25, 2000 he passed an order and ante dated the same to July 17, 2000.

3. On the basis of said two facts/circumstances the Inquiry Officer held the charge to be proved. The Central Administrative Tribunal has opined that the conclusion arrived at by the Inquiry Officer does not logically flow from the evidence keeping

in view the said twin facts/circumstances relied upon by the Inquiry Officer.

4. To appreciate the twin facts/circumstances referred to by the Inquiry Officer certain backdrop facts need to be noted.

5. Certain daily rated class-IV employees working in the Forest Division in the State of U.P. had filed writ petitions before the High Court of Judicature at Allahabad and had obtained orders favourable to them requiring the State of Uttar Pradesh to pay wages to the daily rated employees at par with the regular employees doing similar work against which decision notice was issued by the Supreme Court and interim stay granted in petitions seeking Special Leave to Appeal which were filed in the year 1998. For reasons which we are unable to fathom Why, in contempt proceedings initiated in the year 2000, in spite of being informed that the directions issued by the High Court had been stayed by the Supreme Court, the learned Judge of the Allahabad High Court took a tough stand compelling the respondent to have passed an order bearing date July 17, 2000 that subject to decision taken by the Supreme Court wages may be paid to the daily rated employees at par with the regular employees. But before passing said order, the respondent filed a reply on July 03, 2000 in the contempt proceedings bringing to the notice of the learned Judge that on May 13, 1998 the Supreme Court had stayed the directions issued by the High Court.

6. The respondent was transferred on July 18, 2000 and he handed over the charge on July 25, 2000 and while drawing up the handing over report he made a reference to the contempt proceedings pending before the High Court and the requirement to effectively defend the same but made no reference to the order dated July 17, 2000 passed by him.

7. The two facts/circumstances used against the respondent by the Inquiry Officer are firstly that if the order dated July 17, 2000 had indeed been passed by him on said date a reference thereto would have been made by the respondent in the report dated July 25, 2000 handing over charge. The second fact/circumstance used against the respondent is that if the writ petition was allowed by the High Court on December 10, 1997 what was the need to have passed an order in the year 2000.

8. Now, the reason why the respondent passed the order in the year 2000 is obvious. Contempt petition was filed in the year 2000. Thus, the Tribunal has rightly opined that nothing logically flows from the fact that the respondent passed the order in the year 2000. That apart, the respondent has given a good reason to have passed the order in question. The reason being that in spite of he having filed a reply to the contempt petition on July 03, 2000 informing the High Court that the order violation whereof was alleged to be constituting contempt had been stayed by the Supreme Court the learned Judge of the Allahabad High Court persisting with the contempt action. The respondent was named as a contemnor and this explains he having passed an order recording therein that subject to orders which may be passed by the Supreme Court the order passed by the Allahabad High Court be complied with.

9. As regards the fact/circumstance i.e. the charge handing over report dated April 25, 2000 does not make a reference to the order in question passed by the respondent bearing the date July 17, 2000, no conclusion can be drawn therefrom that the order was ante dated for the simple reason when an officer hands over charge he/she lists the record custody whereof is entrusted to the successor with a note highlighting urgent pending work. In handing over memos neither a reference is made nor a list is drawn up of various orders passed from time to time.

10. We highlight that no revenue loss whatsoever was caused for the reason it appears that the learned Judge of the Allahabad High Court realized later on that in view of the Supreme Court having stayed the directions issued by the Allahabad High Court requiring wages to be paid to daily rated employees at par with the regular employees it was futile to compel the department to comply with the directions issued by the Allahabad High Court.

11. The writ petition is dismissed but without any order as to costs. (PRADEEP NANDRAJOG) JUDGE (V.KAMESWAR RAO) JUDGE JULY 01 2013 skb