
(2010) 05 GUJ CK 0009

In the Gujarat High Court

Case No : Special Civil Application No. 6572 of 1994

B.P. Vora

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 04-05-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 05 GUJ CK 0009

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : Mahendra K. Patel, for the Appellant; K.C. Calla, AGP for Respondent 1 and H.S. Munshaw, for Respondent 2, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Jhaveri, J.—By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed to quash and set aside the order of punishment dated 21.04.1994, whereby, an amount of Rs. 100/- per month was ordered to be deducted from the pension of the petitioner for a period of five years.

2. The facts in brief are that the petitioner was working as an Executive Engineer with the respondent-Department at Radhanpur and during the period from 07.10.1981 to 16.11.1981 he was given the additional charge of Mehsana District. In connection with the installation of sub-standard pipes in a project, the petitioner was served with a charge-sheet dated 14.02.1990. The petitioner gave his reply to the same. Pursuant thereto, departmental inquiry was ordered to be initiated against the petitioner. Ultimately, vide impugned order dated 21.04.1994, the disciplinary authority imposed the penalty in question on the petitioner. Hence, this petition.

3. Mr. M.K. Patel, learned Counsel for the petitioner, has submitted that the alleged incident in connection with which a charge-sheet was served upon the petitioner had taken place around nine years back. He has submitted that such a

delayed action taken after a lapse of almost nine years cannot be sustained in the eyes of law.

3.1 Learned Counsel has further submitted that so far as the charges levelled against the petitioner are concerned, there is no evidence on record to prove the same. The disciplinary authority has merely proceeded on assumptions and presumptions and there is complete non-application of mind on its part. Hence, the impugned order passed by the authority deserves to be quashed and set aside.

4. Mrs. K.C. Calla, learned AGP, has submitted that the petitioner was found guilty of misappropriating the funds of the Government. In the inquiry proceedings, the charges levelled against the petitioner were proved beyond doubt. Hence, the authority was completely justified in imposing the penalty in question.

5. Heard learned Counsel for the respective parties and perused the documents on record. In the inquiry proceedings held against the petitioner, out of the total three charges that were levelled against the petitioner, charge No. 1 was proved, charge No. 3 was partly proved, whereas, charge No. 2 was not proved. The charge that stood proved against the petitioner is of a serious nature as it amounts to misappropriation of the funds of the Government.

6. The petitioner was holding a responsible post in the Department at the relevant time and the misconduct committed by him causes serious loss to the public exchequer. Looking to the entire evidence on record, I am of the opinion that the disciplinary authority has rightly imposed the penalty in question. I am in complete agreement with the reasonings given by and the findings arrived at by the authority.

7. In view of the above, the petition is dismissed. Rule is discharged. Interim relief stands vacated.