

(1993) 07 SC CK 0034

In the Supreme Court Of India

Case No : Civil Appeal No. 973 of 1991

Dr. P.N. Varman

APPELLANT

Vs

Punjab Agricultural University, Ludhiana and others

RESPONDENT

Date of Decision : 30-07-1993

Acts Referred:

Citation : AIR 1994 SC 83

Hon'ble Judges : M. M. Punchhi, J;K. Jayachandra Reddy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The appellant, Dr. P.N. Varman, held the post of Professor in Veterinary Physiology in the Punjab Agricultural University, Ludhiana. On the basis of some charges, he was removed from service by an order of the Vice-Chancellor dated 28-9-84. He challenged the said order by means of a writ petition in the Punjab and Haryana High Court and a learned single Judge on 27-2-89 set aside the order of removal. As a consequence thereof, he was put on job on May 31, 1989 and since then stands stationed in his post with the aid of subsequent interim orders passed in his favour from time to time by the Punjab and Haryana High Court in Letters Patent Appeal as also by this Court in the SLP and presently this appeal. He has remained out of job for nearly four years and eight months from 28-9-84 to 31-5-89.

2. The core controversy before the learned single Judge of the High Court as also before the Letters Patent Bench (on appeal at the instance of the University) was whether the Vice-Chancellor was the appointing and punishing authority of the appellant and hence the authority entitled to effect his removal. The appellant's contention was that it was the Board of Management which was competent to do so and not the Vice-Chancellor. The University entertained contrary views. The learned single Judge held the Board of Management to be the appointing authority while the Letters Patent Bench held to the contrary. When the matter came before us we had passed an interim order on 11-3-92

requiring the Board of Management to decide the question of its own jurisdiction so as to say whether it had the initial power of removal or as a higher body had the power of correction so as to reverse the Vice-Chancellor. We required of it to examine the matter uninfluenced by the reasoning of either Bench of the High Court. We also required of the Board of Management to record a finding on the merits of the case so that we could be benefited by its views and be in a position to dispose of this matter.

3. Pursuant to our orders the Board of Management vide its report dated June 11, 1992 has described the appointment of the appellant as that of a teacher and thus the Vice-Chancellor as its delegate and as such empowered to make such appointment and effect removal. On merits the Board of Management opined that the charges against the appellant stood proved and there was no ground to interfere with the punishment of removal.

4. Even though the report of the Board of Management as a whole has now been challenged before us, we are of the view that the stance of the Board of Management need not be tested presently and be kept open and not pronounced upon for the course we are adopting disposing of the appeal otherwise. We even leave such question as decided by the Division Bench of the High Court open. We rather take stock of the situation as it exists today in order to do complete justice between the parties.

5. Details apart, the appellant has had a brilliant academic career as mentioned in his writ petition and has done some good work. He has served the University for a lot many years and is due to retire in April, 1996. The facts and circumstances of the case do suggest that there is a sharp cleavage between his way of thinking and that of the University in the handling of matters and functioning and particularly in regard to preparation of reports pertaining to specialised subjects. Though the expression will not be appropriate he has apparently lost confidence of the University, otherwise there is no moral turpitude involved. It would in the fitness of things be then proper that he parted company with the University. The appellant who is present in Court and his counsel have volunteered that the appellant is prepared to seek or treat himself voluntarily retired from the University on a date to be fixed by the Court. At the same time it is prayed on his behalf that for the period between 28-9-84 and 31-5-89 when he was out of service 50% back wages be paid.

6. We have heard Mr. Ashok Mahajan learned Counsel for the respondent-University. He has suitable instructions from the University and has apprised us of the difficulty in counting the qualifying service of the appellant which would stand in the way of the sought for voluntary retirement. According to him the period from 28-9-84 till 31-5-89, when the appellant was out of job, cannot be computed as part of service in which case the total service would be less than 20 years disentitling the appellant voluntary retirement. This, as we view it, is a small hurdle which we remove hereby. When the order of removal was set aside by the Single Bench, he is deemed to have been in service with effect from

28-9-84 onwards. This period we direct to be reckoned in counting the qualifying period of 20 years but that shall not entitle the appellant to claim any back wages except to have that period treated as if leave of the kind due to. If any emoluments accrued to the appellant in this period the appellant shall be entitled to those. And in that breath, we accept his offer of voluntary retirement, and in substitution of the impugned orders of the High Court we direct that the appellant shall be taken to have been voluntarily retired in the month in which the current academic session ends so as to obviate any dislocation to all concerned. The appellant tells us that the academic session would be finishing on or around 15th August, 1993. Consequently, we direct that the appellant shall be taken to have been voluntarily retired on 31st August, 1993. At the pointing out of Mr. Mahajan, we also direct that the three months period required under the service rules for giving notice for voluntary retirement by the appellant shall stand waived. The dues of the appellant, if any, for the period ordered to be treated on leave of the kind due be cleared within a period of three months. The other retiral benefits of the appellant be also worked out within a period of two months after retirement. Emoluments shall include any increments accrued in that period, if due under the service rules.

7. The appeal shall stand allowed accordingly, but without any orders as to costs.