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**(1997) 03 SC CK 0193**

**In the Supreme Court Of India**

**Case No :** Civil Appeal No. 1879 of 1997 Arising out of SLP (C) No. 1254 of 1997

Indian Telephone Industries Ltd.

APPELLANT

Vs

Devi Shankar Kumar Shukla

RESPONDENT

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**Date of Decision :** 06-03-1997

**Acts Referred:**

**Citation :** (1998) 9 JT 359 : (2000) 1 LLJ 531 : (1997) 11 SCC 193 : (1998) SCC(L&S) 111

**Hon'ble Judges :** J. S. Verma, J;B. N. Kirpal, J

**Bench :** Division Bench

**Final Decision :** Allowed

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**Judgement**

1. Leave granted.

2. The only question for decision is whether the appointment of a person who was not in the employment, i.e. , an outsider as the Enquiry Officer is contrary to the requirement of Standing Order 16(2)(b) so as to vitiate the domestic inquiry. The learned Single Judge as well as the Division Bench of the High Court have both answered this question in the affirmative. Hence this appeal by special leave.

3. Standing Order 16(2)(b) is as under:

16 Procedure for Punishment.

(1) \* \* \*

(2) For major punishments listed in para 15.2 before disciplinary action amounting to postponement of annual increment for more than three months or reduction in the grade or reversion or demotion to a lower grade or dismissal is taken, action on the following lines will be taken by the Manager:

(a) \* \* \*

(b) On receipt of the explanation of the employee or on expiry of the time-limit

whichever is, earlier or under special circumstances at the time of issuing the charge-sheet, the Manager shall appoint an Enquiry Officer or constitute an Enquiry Committee consisting of one or more than one person, other than from the Security Department....

4. It is clear from the above provision in the Standing Order that the requirement is to appoint an Enquiry Officer who is not from the Security Department. There is no other prohibition about choice of the person to be appointed Enquiry Officer in the above provision. The reason for excluding a person belonging to the Security Department is obvious. Such a person who is in the Security Department may have some interest in the successful conclusion of the domestic inquiry against the delinquent employee. His exclusion, therefore, is to eliminate the likelihood of any bias. Such a provision cannot be construed to mean that a person who is not even an employee in any other department and being an outsider having no interest in the outcome of the domestic inquiry is also to be excluded. The view taken by the High Court is, therefore, untenable.

5. Consequently, the appeal is allowed. The impugned judgments of the Single Bench and the Division Bench are set aside.