
(2002) 12 AHC CK 0073
In the Allahabad High Court
Case No : C.M.W.P. No. 11368 of 1998

Ram Prasad

APPELLANT

Vs

Central Administrative Tribunal and Others

RESPONDENT

Date of Decision : 13-12-2002

Acts Referred:

Citation : (2003) 1 AWC 498 : (2003) 96 FLR 306 : (2003) 1 LLJ 945

Hon'ble Judges : Yatindra Singh, J;M. Katju, J

Bench : Division Bench

Advocate : A.P. Srivastav and A.K. Jaiswal, for the Appellant;

Judgement

M. Katju and Yatindra Singh, JJ.—We have heard learned counsel for the parties.

2. This writ petition has been filed against the impugned order of the Central Administrative Tribunal, Allahabad dated 24.12.1997, Annexure-7 to the writ petition. It appears that the petitioner was a senior Store Keeper in the Central Ordinance Depot, Agra and was suspended on 8.8.1986 and charge-sheeted. After disciplinary proceedings, he was removed from service vide order dated 10.7.1988. His appeal and revision were rejected by the authorities. The petitioner filed O.A. No. 105 of 1990 which was dismissed by the Central Administrative Tribunal on 23.1.1996. The petitioner then went up to the Supreme Court which passed an order, copy of which is Annexure-5 to the writ petition. The Supreme Court was of the view that the petitioner should approach the appellate authority for reconsideration of the quantum of punishment.

3. The appellate authority rejected the petitioner's application vide order, dated 29.11.1996, Annexure-6 to the writ petition. Thereafter, the petitioner filed the second O.A. before the Tribunal which has been dismissed by the impugned judgment dated 24.12.1997 vide Annexure-7 to the writ petition.

4. On the facts and circumstances of the case, we are of the opinion that we cannot interfere with the finding of guilt, as that is a finding of fact. However, we are of the opinion that the punishment of removing the petitioner is

disproportionate to the misconduct. This is not a case where the petitioner was responsible for embezzlement or some criminal act but the allegation against him was that he was negligent in his duty as he went on leave after giving the keys to another employee of the same store and not to a responsible person. Hence, we are certainly of the opinion that some punishment should be given to the petitioner as due to the negligence of the petitioner, the department suffered a loss of Rs. 2 lakhs. However, removal from service is, in our opinion, too harsh a punishment.

5. While ordinarily when this Court sets aside a termination order on the ground that the punishment is disproportionate to the misconduct, it has to remand the case to the authority concerned for passing a fresh order on the quantum of punishment. However, it has been held in *B.C. Chaturvedi Vs. Union of India and others*, (vide paragraph 18), that in exceptional cases, particularly where the proceedings have been going on for a long period, the High Court can itself impose the punishment so that the proceeding may come to an end, otherwise remand will cause further delay.

6. On the facts and circumstances of the case and since the matter has been going on for long, we modify the impugned order of the Tribunal and direct that the petitioner shall be reinstated within two months of production of a certified copy of this order before the authority concerned but he shall not be given any back wages, which will be his punishment. However, he will get continuity of service.

7. With these observations the petition is disposed of.