
(2001) 02 SC CK 0109

In the Supreme Court Of India

Case No : Civil Appeal No. 3411 of 1998

S. Ramanathan

APPELLANT

Vs

Chief Judicial Magistrate, Chengalpattu and Others

RESPONDENT

Date of Decision : 20-02-2001

Acts Referred:

Tamil Nadu Civil Services. (Classification, Control & Appeal) Rules, 1953 — Rule 8(v)
Constitution of India, 1950 — Article 226

Citation : AIR 2001 SC 1117 : (2001) AIRSCW 867 : (2001) 3 ALLMR 517 :
(2001) 3 JT 157 : (2001) 1 KLT 885 : (2001) 1 LW 881 : (2001) 2 SCALE 257 :
(2001) 3 SCC 530 : (2001) 2 SCR 141 : (2001) 2 Supreme 187 : (2001) 1 UC
597 : (2001) 2 UJ 997 : (2001) 2 UPLBEC 1530

Hon'ble Judges : G. B. Pattanaik, J;B. N. Agrawal, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The appellant was serving as a Head Clerk in the Court of the Sub-Divisional Magistrate at Poonamallee in the State of Chennai. A disciplinary proceeding was initiated and the appellant was called upon to explain three charges.

2. The delinquent submitted his explanation to the charges and ultimately he was found guilty of all the three charges. The Chief Judicial Magistrate who was the Disciplinary Authority agreed with the findings of the Inquiry Officer and came to hold that the delinquent should be dismissed from service and accordingly an order of dismissal was passed against him. The Disciplinary Authority further held that the loss to the tune of ` 12,07,529.30 paise sustained by the Government of Tamil Nadu will be recovered from the delinquent personally from the amount due to him from the Government of Tamil Nadu and from the security deposit made by him and from out of the properties belonging to him or owned by him. The delinquent preferred an appeal under the provisions of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules (for short "the Rules") assailing the order of punishment. The Appellate Authority dismissed the appeal by order dated 16-12-1985, which is extracted herein below.

"The charges are sufficiently established. There is also no reason to interfere with the punishment. Hence the appeal petition of Thiru S. Ramanathan is dismissed."

3. The appellant assailed this order by filing a writ petition in the High Court. The High court however refused to interfere with the order in exercise of its jurisdiction under Article 226 of the Constitution of India and dismissed the writ petition and thus the present appeal by grant of special leave.

4. It may be mentioned that when the matter was listed before this Court, by order dated 13th February, 1998 this Court issued notice limited to the question about the direction regarding recovery of ` 12,07,529.30 paise. Subsequently, the Court granted leave, obviously with reference to the notice that had been issued and therefore we are concerned in the present appeal with the legality of the direction for recovery of the aforesaid amount, and not with the legality of the order of dismissal, in respect of which notice had not been issued when the matter came up before this Court. Thus, the order of dismissal of the appellant from service remains unchallenged now.

5. Mr. Goyal, appearing for the appellants contends that though under the relevant Rule 8(v) of the Rules recovery could be ordered but the Impugned order of the Chief Judicial Magistrate is contrary to the said rule and an appeal having been preferred and the Appellate Authority not having indicated any reasons for dismissal of the same and not passing a speaking order, that order cannot be sustained and the High Court committed an error in not interfering with the said order of the Appellate Authority.

6. Having considered the provisions of Rule 8(v) of the Rules as well as the Appellate Order, as has been indicated in Annexure P-15 dated 6-12-1985, we have no hesitation to come to the conclusion that the aforesaid appellate order cannot be held to be a speaking order and, therefore, the same cannot be sustained in law. We therefore set aside the appellate order so far as it relates to affirming the direction of the Disciplinary Authority directing recovery of ` 12,07,529.30 paise from the delinquent and remit the matter to the Appellate Authority for reconsideration of the same by passing a reasoned order thereon. The Appellate Authority would do well in disposing of the appeal in respect of the direction regarding recovery of the amount from the appellant within a period of three months from today. This appeal is disposed of accordingly.