

(2002) 09 SC CK 0105
In the Supreme Court Of India
Case No : Civil Appeal 6214 of 2002

State of U.P. and Others

APPELLANT

Vs

Rama Kant Yadav

RESPONDENT

Date of Decision : 23-09-2002

Acts Referred:

Constitution of India, 1950 — Article 136, 226

Citation : (2003) 1 CALLT 65 : (2002) 95 FLR 915 : (2002) 8 JT 237 : (2003) 1 UPLBEC 269 : (2002) 3 UPLBEC 2799

Hon'ble Judges : H. K. Sema, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The state of U.P. is in appeal against the impugned judgment of the Allahabad High Court in writ petition No. 671/2002. The delinquent respondent was a constable and he had been posted on night duty to guard the armoury. On inspection being conducted on 26th October, 1985, he was found to be sleeping and, therefore, a regular charge was framed against the aforesaid delinquent. An inquiry was conducted and on the basis of the report of inquiry he was found to be guilty and ultimately the disciplinary authority dismissed him from service. He carried the matter in appeal and appeal being dismissed, he approached the U.P. state public services tribunal. The services tribunal also dismissed his application. He, therefore, filed a writ petition. The review petition was also dismissed and he filed a review petition before the High Court invoking the jurisdiction under Article 226 of the Constitution. The High Court in the impugned judgment came to the conclusion that the finding of guilt is a finding of fact and therefore, it has no jurisdiction to interfere with that finding. Having come to the aforesaid conclusion, the High Court was of the opinion that the punishment is disproportionate to the misconduct, and set aside an order of dismissal and directed reinstatement and payment of 50% of back wages with a warning to be given to the delinquent. It is this order of the High Court which is the subject matter of challenge in this appeal.

2. It is contended on behalf of the state that the High Court, having found that the charges against the delinquent are established, ought not to have interfered with the quantum of punishment and therefore, the High Court has committed an error. It is further contended that having regard to the nature of duty and its dereliction, which is the subject matter of charge, by no stretch of imagination, it can be said that the punishment is disproportionate to the gravity of offence. Learned counsel for the respondent on the other hand submitted that in view of the decision of this Court in U.P. State Road Transport Corporation and Others Vs. Mahesh Kumar Mishra and Others, ; it would be open to the High Court to interfere with the quantum of punishment even if the charges are established and in the case in hand, the High Court has taken a right view, the same should not be interfered with by this Court, under Article 136 of the Constitution.

3. In view of the submissions made at the bar, without examining the correctness of the first submission made on behalf of the appellant, we are of the opinion that on the facts and circumstances of the present case, the High Court has committed serious error in concluding that the punishment is disproportionate to the gravity of the charges. In our view, the charges are quite grave and having regard to the facts and circumstances, it was not proper for the High Court to interfere with the punishment inflicted upon the respondent and finding that the punishment is disproportionate to the gravity of charges is erroneous. We, therefore, set aside the impugned judgment of the High Court and direct that the punishment inflicted upon shall remain.

4. With the abovesaid observations, the appeal is allowed.