
(2008) 12 BOM CK 0028
In the Bombay High Court
Case No : Writ Petition No. 5219 of 2008

The Administrator	Vs	APPELLANT
Mr. Gulabhia M. Lad.		RESPONDENT

Date of Decision : 01-12-2008

Acts Referred:

Constitution of India, 1950 — Article 14
Dadra and Nagar Haveli Land Reforms Regulations, 1971 — Regulation 47

Citation : (2008) 12 BOM CK 0028

Hon'ble Judges : S.J. Kathawalla, J;J.N. Patel, J

Bench : Division Bench

Advocate : G.S. Kulkarni and S.S. Deshmukh, for the Appellant; S.V. Marne, for the Respondent

Final Decision : Dismissed

Judgement

This Judgment has been overruled by : The Administrator, Union Territory of Dadra and Nagar Haveli Vs. Gulabhia M. Lad, (2010) 125 FLR 880 : (2010) 4 LLJ 12 : (2010) 4 SCALE 454 : (2010) 5 SCC 775 : (2010) 3 SLJ 28 : (2010) 4 SLR 747

1. Heard.
2. The petitioner who s the Administrator, Union Territory of Dadra & Nagar Haveli has impugned the judgment and order passed by CAT in O.A. No. 367 of 2006 wherein the respondent was the applicant.
3. The respondent at the relevant time was working as Land Reforms officer which is a Group B Gazetted Post and entrusted with the quasi judicial powers under the Dadra Nagar Haveli Land Reforms Regulations, 1971 and functions as a Civil Court under Regulation 47 of the said Regulations of 1971.
4. He was chargesheeted for certain decisions given by him while exercising his quasi judicial power as Land Reforms Officer-I on the ground that he has failed to exercise his power in a bonafide manner by granting occupancy rights to five

occupants in questions who were not eligible. This decision was based on a survey conducted by one R.K. Kapadi and P.N. Vinod who all in connivance with each other were instrumental in granting occupancy rights to the five occupants though they were not found to be eligible. The Collector suo motu reviewed the order and reversed the same which led to an enquiry against the three persons which includes the respondent and they were charge sheeted. The enquiry officer found all the three guilty and the disciplinary authority posed a punishment of removal from service as a result of which all the three preferred appeals against their respective appellate authorities. The other two were let off but the respondent's punishment was upheld and, therefore, he filed an application before CAT which found that it was not proper on the part of the disciplinary authority to have discriminated in the matter of imposing punishment as it was violative of principle of equality as enshrined under Article 14 of the Constitution of India. The CAT has considered the decision of the Supreme Court rendered in the case of Tata Engineering and Locomotive Co. Ltd. v. Jitendra PD. Singh and Anr. 2002 SCC (L&S) 909 as well as State of U.P. v. Raj Pal Singh 2002 (2) SLJ 60 SC and found that the discriminatory treatment meted out to the respondent deserves to be quashed and set aside and that is how the application of the respondent was allowed.

5. The order is impugned on various grounds.

6. The learned Counsel appearing for the petitioner submitted that considering the conduct of the respondent it was not proper on the part of the CAT to have interfered with the punishment imposed on the respondent as it was on the basis of the recommendations of C.V.C.

7. The learned Counsel for the petitioner is not able to satisfy this Court as to why the authorities did not move in the matter of those two employees who faced similar charges but were let off by the appellate authorities for reasons best known to the authorities. We fail to understand why those decisions were not challenged before CAT or by approaching the High Court in the matter by invoking its extraordinary jurisdiction as nothing prevented the authorities superior to the Administrator to have taken cognizance against the same. Therefore, we do not find that CAT has committed any error or illegality in extending similar benefits to the respondent.

8. The petition is dismissed.