
(2014) 03 P&H CK 0126

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3598-CAT of 2007 (O&M)

Union of India

APPELLANT

Vs

M.R. Bhagat

RESPONDENT

Date of Decision : 20-03-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 2 SCT 787

Hon'ble Judges : Sanjay Kishan Kaul, C.J.; Arun Palli, J

Bench : Division Bench

Advocate : Aditi Girdhar, Advocate for Anju Arora, Standing Counsel for UOI, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, C.J.—The respondent No. 1 joined the income tax services in the year 1969 and demitted office on 31.5.1995 and would, thus, be now about 80 years old. The controversy in the present case emanates from the disciplinary proceedings initiated against the respondent No. 1 where the allegation was of loss of pack containing jewellery worth Rs. 70,000/- on 31.12.1981/1.1.1982. The recommendation of the UPSC was for fifty percent cut of pension for three years as per letter dated 3.2.2000 which was modified on the respondent No. 1's challenging the relevant order before the Central Administrative Tribunal, Chandigarh Bench, which modified the same to 20% cut of pension for three years vide impugned order dated 17.3.2006. The petitioner-department challenged this order on account of reduction of the punishment.

2. Learned counsel for the petitioner seeks to contend that as per well settled judicial principles, the power to interfere in punishments in disciplinary matters is to be exercised only in rare and exceptional cases which is not so in the present case. On perusal of the impugned order, the reasons for the same are apparent from paragraphs 19 and 20, which read as under:

19. The only question which disturbs the conscience of the court is with regard to quantum of punishment. In our view, there is undue and inordinate delay in completion of these proceedings as admittedly incident is of 1982 and nothing was done by the respondents almost for 10 years and all of a sudden which only 3 years were left for his retirement in 1995, the applicant was served with a charge sheet in 1992. The matter would have ended, had the respondents completed the inquiry within, a reasonable time but even after issuance of said charge sheet in 1992, the respondents have taken further 11 years to conclude it, even after his retirement in 1995, the applicant has suffered agony of these procedure for 8 years. In the 10 years from 1982 to 1992, this undue delay by no stretch of imagination, can be attributed to the applicant. Had this inquiry been concluded during the service tenure, he would have been imposed some other punishment prescribed under CCS (CCA) Rules to that effect.

20. It is also not the case of any embezzlement or misappropriation by the applicant causing any financial loss to the State Exchequer and for his personal gains with some dishonest motive. He was held guilty for procedural lapse only. It is also not in dispute that UPSC, while examining such cases, act in impartial manner being independent advisory body constituted under the Constitution of India and it was incumbent upon Respondent No. 3 to consider all these aspects while coming to the conclusion of imposing 50% cut per month in the pension of the applicant for 3 years which, in our considered opinion is very harsh and unconscionable.

3. What emerges is that the incident of 1981/82 remained unattended for 10 years and, three years prior to retirement, the Chand Parkash respondent No. 1 was served with a charge-sheet. Not only that, it took 11 years thereafter, post retirement, to conclude the proceedings. It is these delays which had weighed with the Tribunal. Not only that, it is not a case of any embezzlement or misappropriation found against respondent No. 1 causing any financial loss to the State exchequer for his personal gain with dishonest motive, but he was only found guilty of procedural lapses.

4. The aforesaid are the cogent reasons for the Tribunal to have interfered with punishment of the reduction in punishment. Today, to interfere with the impugned order would amount calling upon an eighty years old man to suffer a cut of thirty percent pension for a period of three years in question and pay this amount to the department, a course of action completely unacceptable to us. We are, thus, of the view that it is not a fit case to exercise our jurisdiction under Article 226 of the Constitution of India. Dismissed.