
(1993) 09 SC CK 0124

In the Supreme Court Of India

Case No : Civil Appeal No. 5208 Of 1993

Union of India (UOI) and Another

APPELLANT

Vs

Ashok Kacker

RESPONDENT

Date of Decision : 27-09-1993

Acts Referred:

Citation : (1995) 1 SCC 180 Supp

Hon'ble Judges : J. S. Verma, J;A. S. Anand, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. LEAVE granted.

2. HEARD on merits.

3. SHRI G. Ramaswamy, learned counsel for the respondent does not support the tribunal's order for the reasons given therein in view of the decisions of this Court in Union of India v. A.N. Saxena and Union of India v. K.K. Dhawan. However, Shri Ramaswamy contended that the respondent has raised several other grounds before the tribunal for quashing the charge-sheet issued to the respondent, which have not been considered by the tribunal in view of the fact that the tribunal quashed the charge-sheet on the only ground given therein. On this basis, Shri Ramaswamy submitted that it would be appropriate to remit the matter to the tribunal for a fresh decision on the other points urged on behalf of the respondent (applicant before the tribunal). Shri Ramaswamy strenuously urged that the basis on which the charge-sheet has been issued to the respondent is not available for initiating the disciplinary proceedings inasmuch as the matter on the basis of those facts had earlier been closed by the Department after full examination. He submits that for this reason initiation of disciplinary enquiry on that basis is no longer permissible.

4. ADMITTEDLY, the respondent has not yet submitted his reply to the charge-sheet and the respondent rushed to the central Administrative tribunal merely on

the information that a charge-sheet to this effect was to be issued to him. The Tribunal entertained the respondent's application at that premature stage and quashed the charge-sheet issued during the pendency of the matter before the Tribunal on a ground which even the learned counsel for the respondent made no attempt to support. The respondent has the full opportunity to reply to the charge-sheet and to raise all the points available to him including those which are now urged on his behalf by learned counsel for the respondent. In our opinion, this was not the stage at which the tribunal ought to have entertained such an application for quashing the charge-sheet and the appropriate course for the respondent to adopt is to file his reply to the charge-sheet and invite the decision of the disciplinary authority thereon. This being the stage at which the respondent had rushed to the tribunal, we do not consider it necessary to require the tribunal at this stage to examine any other point which may be available to the respondent or which may have been raised by him.

5. CONSEQUENTLY, the appeal is allowed. The impugned order of the tribunal quashing the charge-sheet is set aside resulting in dismissal of the respondent's application made before the tribunal. No costs.