
(2006) 08 DEL CK 0248
In the Delhi High Court
Case No : WP (C) 7283-85 of 2005

Union of India (UOI) and Others

APPELLANT

Vs

Tejvir Singh

RESPONDENT

Date of Decision : 08-08-2006

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2006) 132 DLT 104

Hon'ble Judges : Manmohan Sarin, J;Aruna Suresh, J

Bench : Division Bench

Advocate : A.K. Bhardwaj, for the Appellant; Maninder Acharya in WP(C) 7283-85/2005 and M.P. Raju in WP(C) 7849-51/2005, for the Respondent

Final Decision : Disposed Off

Judgement

Manmohan Sarin, J.—By this common order, we are disposing of the above writ petitions. WP(C)7283-85/2005 is filed by the Union of India through the Secretary, Ministry of Health & Family Welfare, Director General of Health Services and the Medical Superintendent, Dr. Ram Manohar Lal Hospital (RR Cell) against the judgment and order dated 24th December, 2004 in OA 462/2004 passed by the Central Administrative Tribunal, Principal Bench, New Delhi. The said OA had been filed by respondent- Tejvir Singh by which he challenged the order passed by the Disciplinary Authority imposing a punishment of removal from service. The Tribunal partly allowed the OA. Respondent Tejvir Singh along with one Dayanand (respondent in WP(C) 7849-51/2005), Om Prakash, Vinod Bist and Rishipal were proceeded in a joint inquiry for allegedly entering upon and disturbing the proceeding of a Selection Committee. The Inquiry Officer held the charges to be fully proved. Tejvir Singh and Dayanand were awarded punishment of removal from service while others were given lesser punishment of reduction in rank/pay and stopping of increments. Respondents (Petitioners in OA) had contended before the Tribunal that misconduct attributed to Tejvir Singh and Dayanand was the same as of other delinquents who have been let off with a

lesser punishment. The Tribunal reached the conclusion that allegations arise of a common incident and all the delinquents were held equally responsible for the misconduct. The Tribunal partly allowed the OA. Operative portion of the order is as under:

Impugned orders are set aside. Respondents are directed to consider imposing the punishment upon applicant as done in the case of Om Prakash and others and on his reinstatement after an order is passed by the respondents he would be entitled to all consequential benefits except back wages. The compliance shall be done within a period of two months from the date of receipt of a copy of this order.

Similarly in OA 2932/2003 preferred by respondent- Dayanand in WP(C) 7849-51/2005, the Tribunal quashed the punishment of removal from service and directed the petitioners to pass appropriate orders within two months from the date of communication of the orders keeping in mind observations made in Tribunal's earlier orders dated 8.1.2001 as also in the case of Tejvir Singh.

2. Learned Counsel for the petitioners Mr. A.K. Bhardwaj in support of the writ petitions contended that the role of Tejvir Singh and Dayanand was a pivotal one and they had acted as leaders. He submits that same becomes apparent from the fact that they were specifically named by the witnesses. This also became apparent from the evidence of Dr. Ved Bhushan who mentioned that Dayanand, Tejvir Singh and four others demanded to know why Ram Kumar had not been called for interview. Again Dr. D.K. Godpayle and Dr. Kailash Raizada had specifically named Dayanand, Tejvir and others in their depositions as having used foul language. Counsel submitted that from the reading of the inquiry report as also the evidence of witnesses and the statement of one Vinod Bist, it becomes apparent that these two were the leaders. Besides, learned Counsel also relied on the judgment of the Supreme Court in Balbir Chand Vs. Food Corporation of India Ltd. and others, to urge that giving lesser punishment compared to others does not entitle the others to claim lesser punishment even if there has been omission in imposing lesser punishment and one cannot claim parity under Article 14.

3. Learned Counsel for the respondents very persuasively attempted to urge that Tribunal had rightly come to the conclusion that misconduct arose from the same incident and no distinct role can be attributed to these two and hence imposition of punishment of removal from service against these two operated extremely harshly.

4. We have heard learned Counsel for the parties who have taken us through the inquiry proceedings and the evidence recorded. We are, prima facie, of the view that evidence as recorded is indicative of these two having taken an active role in the misconduct, and Therefore, it cannot be said that they should not have been awarded punishment different from others who have been given reduction in rank/pay. Confronted with this position, learned Counsel for the respondent(s)

after deliberation and consultation with their clients submitted that even if the said respondents misconducted and their role was more than that of others, it was not so grave as to have visited them with punishment of removal from service which results in forfeiture of all their retiral benefits. Counsel, after obtaining instructions from the respondents, submitted that they would be satisfied if they are compulsorily retired and the period since the date of removal from service is treated as one under suspension and counted for the purposes of qualifying service for grant of pension.

5. In view of the aforesaid submission, statements of respondents were separately recorded which have been duly signed by their respective counsel. Statement of Medical Superintendent of Dr. R.M.L. Hospital was also recorded who accepted the above situation and stated that petitioners having considered and reviewed the matter in the light of the statements made in court, would pass appropriate orders for compulsory retirement with benefit of pension.

We find that the above position is also the one which is warranted on merits and accordingly, let Medical Superintendent, Dr. R.M.L. Hospital pass appropriate orders of compulsory retirement of the respondents Tejvir Singh and Dayanand as stated by him, treating the period from the order of removal from service as the period of suspension and counting the same as qualifying period for grant of pension.

Both petitions stand disposed of in the above terms.