

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 2409/1999

U O I .. Appellant (s)

Vs.

K.D. Pandey & Anr. .. Respondent(s)

(With office report)

DATE : 8.11.2000 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE S.N. VARIAVA

For Appellant (s) : Mr. K.C. Kaushik, Adv.
Ms. Sushma Suri, Adv.

For Respondent (s) : Mr. T.G. Narayanan Nair, Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....J
.SP2

The appeal is sidmissed in terms of the signed order..

.SP1

(Meenu Sethi)
Court Master

(Meena Trikha)
Court Master

Signed order is placed on the file

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.....L.....I.....J
.PL55

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2409 OF 1999.@@
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Union of India .. Appellant

Vs.

K.D. Pandey & Anr.

.. Respondents

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.SP2

Against the order of dismissal respondent No. 1 raised a dispute which was referred to the Industrial Tribunal and the Industrial Tribunal made an award setting aside the order of dismissal directing reinstatement of the respondent No.1 with back wages.

The award was challenged in a writ petition filed by the Railway Board. The writ petition was dismissed by the High Court and hence this appeal has been preferred.

The proceedings were initiated against respondent No.1 in respect of six charges. The Inquiry authority in the report made, held that none of the charges stood proved. Thereafter, the Railway Board in exercise of powers under Rule 25 of the Railway Servants(Discipline and Appeal) Rules, 1968 examined the matter and found that four of the six charges could be substantially

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proved beyond doubt with the available documentary evidence and, thereafter, remitted the matter for further inquiry as contemplated under Rule 25 (1) (c) of the Rules.

On remit the Inquiry Officer made a report finding the respondent No 1 guilty of four charges. Based on that report, the Railway Board dismissed respondent No.1, which was challenged in the dispute raised by him. The Tribunal as well as the High Court are of the view that on the same material a fresh opinion has been furnished and it was not a case of further inquiry. Indeed, it was not noticed by the disciplinary authority that the inquiry held earlier was bad or that the Management or the Establishment did not have the proper opportunity to lead evidence or the findings were perverse. In the absence of the same, it was held that there was no justification on the part of the Disciplinary Authority to commence fresh inquiry on the same set of charges.

Learned counsel for the appellant contended that in this case the Board had examined the material on record and came to the conclusion that four of the six charges

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could be proved on the available material, which had not been properly examined in the earlier inquiry. In fact from the order made by the Railway Board as well as from that part of the file where the inquiry report made earlier is discussed, it is clear that specific findings have been given in respect of each of the charges after discussing the matter and, if that is so, we fail to understand as to how there could have been a remit to the inquiry authority for further inquiry. Indeed this resulted in second inquiry and not in a further inquiry

on the same set of charges and the material on record. If this process is allowed the inquiries can go on perpetually until the view of the inquiry authority is in accord with that of the disciplinary authority and it would be abuse of process of law. In that view of the matter we think that the order made by the High Court affirming the order of the tribunal is just and proper and, therefore, we decline to interfere with the same. The appeal is dismissed accordingly.

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[S. RAJENDRA BABU]@@
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.....J@@
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[S,N, VARIAVA]@@
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New Delhi,@@
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November 8, 2000.