

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

CIVIL APPEAL NO. 118 OF 2001@@  
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N.G.E.F. LTD. ...APPELLANT

VERSUS

SATHYANARAYANA A.V. AND ORS. ...RESPONDENTS  
(With appl.(s) for directions and with office report)

Date : 06/03/2003 This appeal was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. P.R. Ramasesh, Adv.

For Respondent (s) Ms. Kiran Suri, Adv.

UPON hearing counsel the Court made the following  
O R D E R

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.SP2

Heard learned counsel for the parties for 15 minutes.

The appeal is disposed of in terms of the signed order. No costs.

.SP1  
Sarita (Shelly Sengupta)  
Court Master

(Signed order is placed on the file)

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.PL58

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 118 OF 2001@@  
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The respondent No.1 was an employee of the appellant-Company. He was issued Memo dated 19.2.1997 alongwith the articles of charges on account of certain alleged misconduct. In the Writ Petition Nos. 3158, 32680 and 33737 of 1996, the appellant had filed an affidavit making a statement that it had withdrawn the Memo dated 19.2.1997 issued to the respondent No.1. After the disposal of the said Writ Petitions, the appellant served the respondent No.1 with a Memo dated 13.4.1999 repeating the same charges calling upon him to file further explanation, if any, to the charges contained in the memo dated 19.2.1997 within the given time. Aggrieved by the same, the respondent No.1 filed Writ Petition No.20634 of 1999 for declaration that the said Memo dated 13.4.1999 was null and void and any further action taken pursuant to the same is devoid of the authority of law and tainted by mala fides.

The learned Single Judge of the High Court took the view that the respondent No.1 instead of giving reply to the Memo dated 13.4.1999 stating all the reasons and grounds available to him had straightaway approached the High Court by filing the Writ Petition. In that view, the Writ Petition was rejected as premature. The respondent No.1 aggrieved by the order of the learned Single Judge made in the said Writ Petition, filed Writ Appeal No.4833 of 1999 before the Division Bench of the High Court. The Division Bench of the High Court, accepting the contentions of the respondent No.1, set aside the order of the learned Single Judge, quashed the Memo dated 13.4.1999 and allowed the Writ Appeal. Hence, the present appeal is filed before this Court.

This Court on 3/1/2001 granted leave and made it clear that it would be open to the appellant to issue fresh charges and initiate the proceedings against the concerned officers.

Today, at the hearing Mr. Ramseshan, learned counsel for the appellant brought to our notice that in view of the order of this Court dated 3/1/2001 afore-mentioned, the appellant completed the enquiry after issuing a fresh charge-sheet to respondent No.1 and ultimately passed the order dismissing him from service; in the meanwhile, respondent No.1 attained the age of superannuation also. Respondent No.1 has also filed appeal challenging the order of dismissal before the competent Authority. Learned counsel for the appellant contended that the Division Bench of the High Court was not right in disturbing the order passed by the learned Single Judge when the learned Single Judge had permitted respondent No.1 to file reply explaining as to why the second Memo dated 13.4.1999 could not be issued against him having withdrawn earlier Memo.

Per contra, Ms. Kiran Suri, learned counsel for the respondent No.1 made submissions supporting the impugned

order. She urged that when the appellant withdrew the charge-memo issued earlier, it was not open to them to issue fresh charge-memo again on the same charges. She also complained that this Court on 3/1/2001 left it open to the appellant to issue fresh charges; the appellant proceeded to hold enquiry on the same charges except challenging the date of issuance of charge-memo.

Taking note of the facts as stated above, we do not think it necessary to go into the merits of the respective contentions raised by both the parties to pronounce one way or the other as to whether it was open to the appellant to issue a second charge-memo to respondent No.1 when, in the light of the Order of this Court dated 3/1/2001 the appellant had already proceeded to issue fresh charge-memo and dismissed respondent No.1 from service. It is stated that the respondent No.1 has already taken action questioning the validity and correctness of the order of dismissal passed against him. But, at the same time, it may be necessary to say that it is open to respondent No.1 to challenge the order of dismissal on all the grounds available to him including the one that issuance of second charge-memo, having withdrawn earlier. Similar charges was not permissible. The appeal is disposed of accordingly modifying the impugned judgment. No costs.

.SP1

.....J.  
(Shivaraj V. Patil)

New Delhi,  
March 6, 2003.

.....J.  
(Arijit Pasayat)