

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.2711 OF 2007

STY.FOR APPLIED MICROWAVE (SAMEER) & ANR

Appellant (s)

VERSUS

M.REVATHI

Respondent(s)

(With office report)

Date: 26/05/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE C.K. PRASAD
(VACATION BENCH)

For Appellant(s) Ms. Neelam Kalsi, Adv.
For Mr. Chinmoy Khaladkar, Adv.
For Ms. Abha R. Sharma, Adv.

For Respondent(s) Mr. Santosh Paul, Adv.
For Mr. M.J. Paul, Adv.

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

The appeal is dismissed in terms of the
signed order.

(Neetu Khajuria) (Phoolan Wati Arora)
Sr. P.A. Court Master

(Signed order is placed on the file.)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2711 OF 2007

SOCIETY FOR APPLIED MICROWAVE
(SAMEER) AND ANOTHER

Appellant (s)

VERSUS

M.REVATHI

Respondent(s)

O R D E R

This appeal is directed against order dated 21.9.2006 passed by the Division Bench of Madras High Court in Writ Appeal No.2973 of 2003, whereby it confirmed the order passed by the learned Single Judge, who had allowed the writ petition filed by the respondent and quashed the orders passed by the Director of the appellant-Society and the Appellate Authority respectively on the ground that she could not have been punished without holding a formal inquiry and giving her an opportunity to produce material in support of her stand and directed that the matter should be considered afresh after giving opportunity of hearing to the writ petitioner (respondent herein).

The respondent joined service under the appellant as Scientific Assistant in 1987. She was promoted as Scientific Officer (SB) in 1992 and as Scientific Officer (SC) in 1994. In November, 1998, the respondent applied for Leave Travel Concession (LTC) and obtained an advance of Rs.3,000/- (Rupees three thousand only). She purchased ticket for going to Delhi on 14.12.1998, but cancelled the same on 10.12.1998 apparently due to illness of her husband. On 19.1.1999, the respondent submitted copy of the ticket booked by her along with claim for LTC. When the concerned officer of the appellant made an enquiry from Chief Commercial Manager, Southern Railways to verify the veracity of the ticket submitted by the respondent, he was informed vide letter dated 6.4.1999 that she did not undertake the journey and in fact the ticket was cancelled on 10.12.1998. Soon thereafter, the respondent deposited Rs.3,592/- representing advance of the LTC along with interest.

In October 1999, the respondent was served with an Article of Charge containing an allegation that she had committed serious misconduct by not maintaining integrity, honesty and trustworthiness. The respondent submitted representation dated 1.11.1999 stating therein that she had unknowingly committed the mistake because there was a depressed situation in the family

due to illness of her husband. After three months, the Director issued Memorandum dated 7.2.2009 to the respondent proposing imposition of penalty of reduction to the lower grade. The respondent filed detailed reply dated 11.2.2000 in which she again admitted that LTC claim was made after cancellation of the ticket but reiterated that she had not done so intentionally and she was in a confused state of mind due to illness of her husband, whose condition had become serious and who had to be hospitalized on 14.1.1999. She also tendered an apology and pleaded that she may be forgiven. The Director did not accept the explanation of the respondent and passed order dated 9.3.2000, whereby she was reduced in rank as Scientific Officer (SB) in the scale of Rs.6500-18500/- with initial pay of Rs.6500/- with effect from 15th March, 2000. The appeal preferred by the respondent was dismissed by the Appellate Authority.

The respondent challenged the order of punishment as well as the appellate order in Writ Petition No.3319 of 2001 by contending that she could not have been punished without holding regular departmental inquiry and without complying with the rules of natural justice. The learned Single Judge allowed the writ petition and quashed the order of punishment as also the appellate order with a direction that fresh order be passed after giving the writ petitioner an opportunity to submit documents in support of her stand. The Division Bench dismissed the writ appeal preferred by the appellant by making the following observations:

"We are unable to accept the said contention. We also verified the explanation of the respondent. As rightly observed by the learned Judge, had formal disciplinary enquiry held, as stated in her explanation, it would be possible for her to justify her stand. Only on this ground the Learned Judge asked the first authority to conduct fresh enquiry, after affording opportunity of hearing the writ petitioner. By the said course, we are of the view that the appellant are not going to be affected in any way. By this course, it would be possible for the writ petitioner/respondent herein to place materials in support of her claim as stated in the explanation. Thereafter, it is for the appellant/employer to pass appropriate order in accordance with law. Hence, we concur with the

conclusion arrived at by the Learned Single Judge and we do not find any valid ground for interference."

We have heard learned counsel for the parties at length and carefully scrutinized the record. In our opinion, the learned Single Judge did not commit any error by declaring that the order of punishment could not have been passed without holding a formal inquiry and giving an opportunity to the respondent to represent her cause and the Division Bench rightly refused to interfere with the order passed by the learned Single Judge. If an inquiry had been held in consonance with the rules of natural justice, the appellant could have produced evidence to prove that she had submitted claim for LTC after cancellation of the ticket because she was under depression due to illness of her husband and she had no intention to cheat/deceive the Society.

In the result, the appeal is dismissed with liberty to the appellant to hold regular departmental inquiry against the respondent. Since the matter is sufficiently old, we expect that the concerned authority will finalise the inquiry within a maximum period of six months from the date of receipt/production of copy of this order.

.....J.
(G.S. SINGHVI)

.....J.
(C.K. PRASAD)

NEW DELHI,
26TH MAY, 2010.