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C.A.No. 5867 OF 1997
ITEM NO.105

COURT NO. 9

SECTION IVA

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. 5867 OF 1997@@
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K.S.R.T.C. ...APPELLANT

VERSUS

T. SHREE RAM REDDY ...RESPONDENT
(With office report)

Date : 11/03/2003 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. K.R. Nagaraja, Adv.

For Respondent (s) Mr. S.N. Bhat, Adv.

UPON hearing counsel the Court made the following
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Mr. K.R. Nagaraja, learned counsel for the
appellant argued the matter for 20 minutes. Then, Mr.
S.N. Bhat, learned counsel for the respondent argued in
reply for 5 minutes.

The appeal is dismissed in terms of the signed
order without any order as to costs.

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Sarita (Shelly Sengupta)@@
AA
Court Master@@
AA

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

K.S.R.T.C.

...APPELLANT

VERSUS

T. SHREE RAMA REDDY

... RESPONDENT

O R D E R@@
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This appeal is directed against the order dated 2nd December, 1996 passed by the Division Bench of the High Court affirming the order of the learned Single Judge. The respondent, while working as an Administrative Officer in KSRTC was one of the Members of the Recruitment Committee to interview the candidates for the post of Helpers. While awarding marks in the interview to the candidates, he did not conduct himself as expected of an employee of the KSRTC showing devotion to duty. In that, he awarded marks to candidates in the interview and later altered their marks either to put some candidate at advantage or to put some candidate at disadvantage. On account of the same, disciplinary proceedings were initiated against him framing four charges centering round this issue of altering the marks in the interview. After the enquiry, the Enquiry Officer found that charges Nos. 2 to 4 were proved and ..2/-

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charge No.1 was not proved against the respondent. The Disciplinary Authority disagreeing with the finding recorded in respect of charge No.1, after issuing show cause notice to the respondent, passed an order, after considering his reply, reducing him in rank from the post of Administrative Officer to Assistant Administrative Officer for a period of two years. He unsuccessfully challenged the order of the Disciplinary Authority in the departmental appeal. Thereafter, he filed the Writ Petition before the High Court challenging the order imposing punishment. The learned Single Judge took the view that inefficiency or mere negligence would not itself amount to misconduct as recorded by the Disciplinary Authority and quashed the order made against the respondent. The learned Single Judge was of the view that if there was inefficiency or negligence on the part of the respondent in awarding marks that itself could not be taken as one of the enumerated misconduct for the purpose of awarding punishment. The KSRTC, aggrieved by the order of the learned Single Judge, filed Writ Appeal. The Division Bench of the High Court after hearing the parties agreed with the order passed by the learned Single Judge. In the impugned judgment the Division bench observed that :

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"Unless it could be shown that the respondent had awarded marks with an ulterior motive to help any candidate as a result of

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nepotism or favouritism or as a result of corruption, it cannot be said that there is misconduct. Merely stating that he has been negligent in discharge of his duties would not carry the matter far. If he is inefficient in discharge of duties, it may result in not assigning to him such work thereafter."

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The Division Bench further observed that the charge being one of negligence in the discharge of duties of the respondent in awarding marks to some candidates, it would not result in disciplinary action because under KSRTC service (C & D) Regulations, 1971 there is no category of misconduct which would be made applicable to the case of the present nature as noticed by the learned Single Judge. In this view, the Division Bench dismissed the appeal filed by the KSRTC. Hence this appeal.

Shri K.R. Nagaraja, learned counsel for the appellant strongly contended that the learned Single Judge as well as the Division Bench of the High Court were not right in law in holding that the charges framed against the respondent did not amount to misconduct; although the alleged misconduct was not one of the misconducts specifically stated in the Regulations, but, they are covered by the general misconduct, i.e., the conduct unbecoming of an officer. He further submitted that having regard to the facts and circumstances of the case, i.e., the respondent altering the marks awarded to the candidates

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during the course of interview, by itself indicate that all was not well with the respondent.

In opposition, Shri S.N. Bhat, learned counsel for the respondent made submissions supporting the impugned order. He specifically pointed out to the following observations made by the learned Single Judge in the order which read :

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"If marks given by the selection committee members examined, there was no much difference or variation. The total marks given by all the members almost equal or with a difference of one or two percent. This indicates that there was identity in application of mind in awarding marks to all the candidates. It is uncommon when selection committee consists of several members, during the course of selection, for one reason or the other some may change the marks once given before the closure of the interview of all the candidates if a member feels that performance of the candidates at the time of interview ultimately found either better or worse when compared to the impression formed at the beginning."

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On this basis he submitted that there was no substantial variation in the marks awarded by the respondent when compared to the marks awarded by other four Members of the Committee.

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We have considered the submissions of the learned counsel for the parties. The learned Single Judge as well as the Division Bench of the High Court, on the facts of the case, found that the respondent did not commit any misconduct in awarding the marks in the absence of any material to show that the alteration of marks was due to any extraneous consideration or there was any corrupt practice. Having regard to the findings recorded by the learned Single Judge in the portion extracted above, we are not inclined to take a different view, particularly when the Division Bench of the High Court also having examined that aspect, confirmed the same. In this view, we do not find any good or valid reason to interfere with the impugned order. Hence the appeal is dismissed, but, without any order as to costs.

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

New Delhi,
March 11, 2003.

.....J.
(Arijit Pasayat)