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SLP(C)No. 9700-9701 OF 2004

ITEM No.8

Court No. 4

SECTION IVB

A/N MATTER

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.9700-9701/2004

(From the judgement and order dated 25/08/2003 in CWP 3576/03,CWP 3576/03 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

PRADEEP KUMAR

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With prayer for interim relief)

(With Appln(s). for c/delay in filing SLP)

Date : 11/02/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL

HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner (s)

Mr. R.K. Kapoor,Adv.
Mr. Sumit Kumar Khatri,Adv.
Mr. M.K. Verma,Adv.,
Mr. A. Malhotra,Adv.
Mr. Anis Ahmed Khan,Adv.

For Respondent (s)

Mr. R.K. Sanghi,Adv.
Mr. Narendra M. Sharma,Adv.
Mr. Rajesh Prasad Singh,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

(Sarojbala)

PA to Addl.Registrar

(Madhu Saxena)

Court Master

(The signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF

(Arising out of SLP(C) Nos. 9700-9701/2004)

Pradeep Kumar

Appellant(s)

Vs.

Union of India & Ors.

Respondent(s)

O R D E R

Leave granted.

The appellant was working with the respondents as a Technical Supervisor in Kurali Telephone Exchange in District Roopnagar, Punjab. Disciplinary proceedings were initiated against the appellant and two other employees in respect of a common certain facts. The Inquiry Officer held the three employees guilty. Ultimately, the Deputy General Manager, being the Respondent No. 3 herein, imposed a penalty reducing the pay of the delinquent officer by five stages for a period of 5 years with effect from 1st November, 2001 and further directed that the appellant would not earn increment of pay during the period of reduction.

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According to the appellant, similar punishment was inflicted on the other two employees. Being aggrieved, all three employees filed separate writ petitions before the High Court. The writ petitions of the other two employees were merely dismissed as withdrawn. As far as the appellant was concerned, the High Court not only dismissed the writ petition but also directed the punishing authority to re-consider the punishment imposed in view of the observations of the High Court and held that the maximum penalty of dismissal from service ought to have been accorded. There was a further direction that the action taken against the appellant should be intimated to the Court as soon as possible.

Irrespective of the crime/offence with which the appellant may have been charged, it was not open to the High Court to have issued such a direction. The scope of judicial review did not allow the High Court to have interfered with the punishment imposed by the Disciplinary Authorities on the appellant. Besides, a writ petitioner cannot be put in a worse position by coming to court. The directions of the High Court are not sustainable and must be set aside. We are told by

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the learned counsel for the appellant that the Respondent authority pursuant to the directions issued by the High Court initiated proceedings against the appellant for the purpose of imposing the penalty of dismissal from service. We have held that the direction of the High Court was wholly outside its jurisdiction. The appeals are thus allowed and the High Court's directions are set aside. The disciplinary enquiry initiated on the basis of the High Court's order is consequently also quashed. However, the writ petitions will stand dismissed. There is no order as to costs.

.....J.
(RUMA PAL)

.....J.
(C.K. THAKKER)

NEW DELHI
FEBRUARY 11, 2005.