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SLP(C)No. 8456 OF 2003

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1446 OF 2004

[Arising out of S.L.P.(C) No.8456/2003]

G. MAHADEVAPPA

.....

APPELLANT(S)

:VERSUS:

K.S.R.T.C.

.....

RESPONDENT(S)

O R D E R

Leave granted.

It is a strange case of its type in which the appellant has been awarded punishment of dismissal from service for an inconsequential mistake which has been treated to be a misconduct with oblique motive.

It appears that the appellant was working as an Assistant Traffic Manager in Raichur. In a departmental inquiry he was appointed as an Inquiry Officer to inquire into the charges against an employee of the Karnataka State Road Transport Corporation. The appellant conducted the inquiry and recorded a finding that the charges against the delinquent were proved. On receipt of the written submissions from the delinquent, the appellant forwarded it along with the report to the disciplinary authority, who passed an order of punishment on the basis of the inquiry report of the appellant.

The delinquent of the case, in which the appellant was appointed as an Inquiry Officer, had submitted the written brief dated 17.5.1988 on 18.5.1988. The appellant put the date of receipt of the written submission as 19.5.1988, which according to the charge, has been cut out and re-written as 19.5.1988. The case of the department was that the date 18.5.1988 was deliberately corrected as 18.5.1988 so as to help out the delinquent of that proceedings and in collusion with the disciplinary authority. The explanation of the appellant, however, is that the written submission was in fact received on 18.5.1988 but by mistake he had written it as 19.5.1988, which he later on corrected as 18.5.1988.

The fact, however, remains that the record of the proceedings, with the report of the appellant holding that the charges were proved, along with the written brief of the delinquent of that inquiry, were forwarded to the disciplinary authority who passed the order of punishment. It is not understandable as to in what manner the correction of the figure 19.5.1988 to 18.5.1988 helped the delinquent of that inquiry or it made any difference whatsoever so far as the merit of the case is concerned. In our view, it has rightly been argued on behalf of the appellant that he had held the delinquent of that inquiry guilty of the charges and had forwarded the whole record including the written brief of the delinquent of that inquiry, to the disciplinary authority. The change of the date from 19.5.1988 to 18.5.1988 was inconsequential and it was only a bona fide mistake which was corrected having no bearing on the merits of the matter at all.

Learned counsel appearing on behalf of the respondent has also been fair to accept that so far the merit of the matter is concerned it made no difference. Unless it would have made some difference on the merit of the matter an innocuous correction of date, would hardly be termed as a misconduct much less a fabrication of the official record. It may not usually happen but the possibility cannot be ruled out that by mistake a wrong date was put while receiving a document. The case of the appellant is that by mistake he had put the date as 19.5.1988, in place of 18.5.1988, which alone was corrected.

We hardly find that the facts and circumstances, as enumerated above, made out any case of mis conduct against the appellant so as to entail the punishment of dismissal from service. The orders passed by the departmental authorities and the High Court are unconscionable and not sustainable.

In the result, the appeal is allowed and the orders passed by the concerned departmental authorities and the High Court are set aside. The appellant shall be entitled to all consequential benefits including arrears of salary.

.....J
(BRIJESH KUMAR)

.....J
(ARUN KUMAR)
NEW DELHI;
FEBRUARY 27, 2004.

ITEM No.208

Court No.10

SECTION IVA
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.8456/2003

(From the judgement and order dated 17/12/2002 in WA 3568/01
of The HIGH COURT OF KARNATAKA AT BANGALORE)

G. MAHADEVAPPA

Petitioner (s)

VERSUS

K.S.R.T.C.

Respondent (s)

(With Office Report)

(For final disposal)

Date : 27/02/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner (s)Mr. Girish Ananthamurthy,Adv.
Mr. P.P. Singh,Adv.

For Respondent (s)Mr. P.R. Ramasesha,Adv.

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

Leave granted.

The appeal is allowed and the orders passed by the concerned departmental authorities and the High Court are set aside in terms of the signed orders.

(A.S. BISHT) (PROMILA NAGPAL)
COURT MASTER

COURT MASTER

[Signed order is placed on the file]