

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. 7939 OF 2001@@
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S. GURUCHARAN SINGH ...APPELLANT

VERSUS

G.M., ORDNANCE FACTORY PROJECT & ANR. ...RESPONDENTS
(With office report)

Date : 25/02/2003 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. A.K. Sanghi, Adv.

For Respondent (s) Mr. Mukul Rohtagi, ASG
Mr. Vipin Sanghi, Adv.
for Mr. B.V. Balram Das, 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.
The appeal is allowed 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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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7939 OF 2001@@
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S. GURUCHARAN SINGH ...APPELLANT

VERSUS

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

The appellant was appointed as a crane driver on 21.3.1988. On 8.4.1993 when after completing his duties he was coming out of the factory premises, on search a loose bundle of cotton swap was found in his tiffin box. An enquiry was instituted and charge-sheet was served on him. After holding enquiry he was dismissed from service accepting the enquiry report. The appellant filed a petition before the Central Administrative Tribunal challenging the correctness and validity of the order of termination of his services. The Tribunal, having considered the respective contentions and having due regard to the facts and circumstances of the case, modified the order of dismissal of the appellant from service. The Tribunal ordered re-instatement of the appellant in service but, however, denied entire backwages and continuity of service. The respondents ..2/-

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.2.

were not satisfied with the order of the Tribunal and aggrieved by the same they filed writ petition in the High Court. The High Court, on examination of the contentions raised, set aside the order of the Tribunal and restored the order of dismissal of the appellant from service. Hence this appeal.

Mr. A.K. Sanghi, learned counsel for the appellant urged that having regard to the facts and circumstances of the case and the explanation given by the appellant, it could not be said that the appellant had committed any serious offence so as to say that he had committed theft of one cotton swap. He submitted that the Tribunal, even on the finding that the appellant was guilty of charges levelled against him, passed a right and fair order. The High Court exercising its jurisdiction under Article 226 of the Constitution ought not to have interfered with such an order.

Per contra, Mr. Mukul Rohtagi, learned Additional Solicitor General submitted that the appellant attempted to take away the property of the factory out of the premises which was opposed to the rules and it amounted to misconduct, more so when the establishment where the appellant was working is an ordnance factory. ..3/-

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Having heard learned counsel on either side and taking note of the fact that the appellant had taken out only one cotton swap and according to him, it was taken only for the purpose of sealing the tiffin box to avoid spilling over the food and no doubt this act of the appellant amounts to misconduct. Even if it was required, he could have taken permission. But it is difficult for us to say on the facts of this case that he had definite or deliberate intention to commit any theft.

Under these circumstances, in our view, the order of the Tribunal being just and fair the High Court ought not to have interfered. In this view, we set aside the order of the High Court on the facts and circumstances of this case and restore the order of the Tribunal.

The appeal is allowed accordingly. No costs.

.SP1

.....J.
(SHIVARAJ V. PATIL)

New Delhi,
February 25, 2003.

.....J.
(ARIJIT PASAYAT)