

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 840 OF 2008

G.D.A. & ANR.

... APPELLANT(S)

VS.

RAJENDRA KUMAR JAUHARY

... RESPONDENT(S)

O R D E R

Heard Mr. Vijay Hansaria, learned senior counsel for the appellants and Mr. Daleep Kumar Dhyani, learned counsel for the respondent.

2. The civil appeal is filed challenging the judgment and order dated 29.01.2004 passed by the High Court of Judicature at Allahabad in Civil Misc. Writ Petition No. 13594 of 1997, expressing an agreement with the decision of the State Public Services Tribunal, Lucknow, concerning the termination of the respondent from his service.

3. The facts leading to this appeal are as follows:

The respondent joined as a Draftsman (Civil) in the services of Ghaziabad Development Authority ('Authority'), the first appellant herein, on 13.08.1984. It appears that because of his functioning and a particular incident on 11.06.1987, he was served with three charges on 13.10.1987. The three charges read as follows:

"Charge I: Respondent issued a false certificate that he handed over charge of commercial plots to another employee Mr. Rajaura under the direction of Joint Secretary.

Charge II: Respondent dispatched the file of M/s Mahalaxmi Land Finance Co. on back date.

Charge III: Respondent urinated in office on 11.06.1987 near the table in the presence of colleagues."

4. The respondent submitted his reply to the charge-sheet denying the allegations. Thereafter, an enquiry was held and the Inquiry Officer has given a report on 6.02.1988 that all those charges were proved. The respondent was served with a show-cause notice as to why he should not be removed from service, to which he submitted his reply and, thereafter, the order removing him from service was passed on 14.06.1988.

5. Being aggrieved by that order, the respondent filed an application before the U.P. Public Services Tribunal ('Tribunal') challenging the termination. The said petition bearing No. 324/2/1988 came to be allowed by the Tribunal. The Tribunal held in his favour on the ground that principles of natural justice were not followed while conducting the enquiry and that the order passed was a cryptic one and not a well-reasoned order. The Tribunal, therefore, allowed the petition and set aside the order of termination, and directed that the

respondent be reinstated in his old post with continuity in service and with 50% back wages.

6. Being aggrieved, the appellant herein filed a writ petition in the Allahabad High Court bearing Civil Misc. Writ Petition No. 13594 of 1997. A Division Bench of the High Court heard that matter and formed an opinion that the charges were not such which should invite the penalty of dismissal. Although, the High Court was of the opinion that the respondent should not have suffered withholding of more than two annual increments, ultimately, the court passed an order in consonance with the order passed by the Tribunal and disposed of the petition. Being aggrieved by that judgment and order, the present appeal has been filed.

7. Mr. Hansaria, learned senior counsel, appearing for the appellant-authority, pointed out that as far as the enquiry conducted by the Inquiry Officer is concerned, the respondent had admitted that one Smt. Sneha Lata Agarwal was holding that enquiry though he had at one point of time contended that she was not. Again, as far as the principles of natural justice are concerned, when he was asked to cross-examine the witnesses of the authority, he gave in writing that he did not want to cross-examine anyone of them. On 11.12.1987, he gave a letter stating that he did not want to cross-examine any of the officers. Lastly, about the incident which occurred in the office on 11.06.1987 leading to the third charge, the Authority had examined four witnesses and as it is seen from the record, the respondent accepted in writing on 26.06.1987 that he had acted in that particular manner and sought an apology for the same. Mr. Hansaria, learned senior counsel, therefore, submits that this is a case where all the three charges were proved and, particularly the third charge was such that no employer could retain such a person in a public office.

8. Mr. Daleep Kumar Dhyani, learned counsel, appearing for the respondent submitted that these charges were not so serious as to warrant termination of services. He submitted that no serious prejudice has been shown by the appellants as far as his functioning is concerned and since the Tribunal as well as the High Court had passed a concurrent order, this Court should not interfere.

9. We have noted the submissions of both the counsel. We find that the enquiry had been conducted in accordance with the principles of natural justice. The first two charges are concerning the integrity of the respondent and evidence was led with respect thereto and the third one was such which showed his demeanour which could only be said to be obnoxious. Four employees were examined to prove this charge. None of them was cross-examined by the respondent. The enquiry was conducted in accordance with the principles of natural justice and all the three charges were proved by placing material in support. In view thereof, we do not see any other order could have been passed when a Government employee functions in such a manner in a public office, particularly considering the third charge.

10. In the circumstances, we allow this appeal and set aside the order passed by the Tribunal as well as by the High Court. The order of termination passed by the first appellate authority will stand restored.

11. The civil appeal is allowed with no order as to costs.

.....J.
(H. L. GOKHALE)

.....J.
(MADAN B. LOKUR)

New Delhi; the
January 31, 2013

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(s). 840 OF 2008

G.D.A. & ANR.

Appellant (s)

VERSUS

RAJENDRA KUMAR JAUHARY

Respondent(s)

(With appln(s) for exemption from filing O.T.)

Date: 31/01/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s)

Mr. Vijay Hansaria, Sr. Adv.
Ms. Reena Singh, Adv.
Mr. Arjun Singh, Adv.
Dr. (Mrs.) Vipin Gupta, Adv.

For Respondent(s)

Mr. Daleep Kumar Dhyani, Adv.
Mr. Shashank Pandit, Adv.
For Mr. Pradeep Misra, Adv.

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

The civil appeal is allowed with no order as to costs in
terms of the signed order.

| (S.K. Rakheja)
| Court Master

| |(Indu Satija)
| | Court Master

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(Signed order is placed on the file.)