

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3349 OF 2012

Uttarakhand Seeds and Tarai Development  
Corporation Limited and others

..Appellants

versus

Rajesh Kumar Nigam and others

..Respondents

## O R D E R

This appeal is directed against order dated 05.01.2012 passed by the Division Bench of the Uttarakhand High Court, whereby the writ petition filed by respondent no.1 questioning the termination of his service by way of punishment was set aside and he was ordered to be reinstated with consequential benefits.

We have heard Shri P.P. Rao, learned senior counsel for the appellants and Shri L.R. Singh, learned counsel for respondent no. 1, who is the contesting respondent and perused the record.

One of the grounds on which respondent no.1 had challenged the order of punishment was that no evidence, oral or documentary, was adduced by the department to substantiate the charges levelled against him. After noticing this infirmity in the enquiry proceedings, the

2

Division Bench of the High Court examined the merits of the charges found proved against respondent No.1 and concluded that none of the eight charges levelled against him has been proved.

Shri P.P. Rao argued that the High Court did not have the jurisdiction to act as an appellate authority vis-a-vis the findings recorded by the Enquiry Officer, which

were accepted by the disciplinary authority and this should be treated as sufficient for setting aside the impugned order. Shri L.R. Singh learned counsel for respondent no.1 supported the impugned order.

We have considered the respective submissions. In our view, once the High Court found that the enquiry conducted against respondent no.1 was vitiated due to violation of rules of natural justice, there was no justification to review the findings recorded by the Enquiry Officer and hold that the charges levelled against respondent no.1 were not proved. The High Court should have quashed the order of punishment and left it open for the appellants to hold enquiry in accordance with the rules of natural justice and pass appropriate order.

In the premise aforesaid, the appeal is allowed and the impugned order is set aside. The appellants shall now be free to hold fresh enquiry against respondent no.1 in accordance with relevant rules and pass appropriate order. During the pendency of the enquiry, respondent no. 1 shall be deemed to be continuing under suspension and shall be

3

paid allowances as per the rules.

While disposing of the appeal, we make it clear that

the observations made by the Division Bench of the High Court on the merits of the charges levelled against respondent no.1 shall not affect the outcome of the fresh enquiry.

.....J.  
[G.S. SINGHVI]

NEW DELHI;  
APRIL 02, 2012

.....J.  
[SUDHANSU JYOTI MUKHOPADHAYA]



[signed order is placed on the file]