

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

CIVIL APPEAL NO. 4197 OF 2000@@
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RAJ KUMAR VERMA ...APPELLANT

VERSUS

THE REGISTRAR, H.C. OF UTTARANCHAL & ANR. ...RESPONDENTS
(With office report)

Date : 11/02/2003 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. R.B. Mehrotra, Sr.Adv.
Mr. Rajesh, Adv.

For Respondent (s) Mr. Ajay K. Agrawal, Adv.
Nos.2 & 3 Mr. Narendra Kumar Roy, Adv.
Ms. Alka Agrawal, Adv.
Ms. Anamika Agrawal, Adv.

UPON hearing counsel the Court made the following
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Mr. R.B. Mehrotra, learned senior counsel started his arguments at 10.35 a.m. and concluded at 10.55 a.m. After that, Mr. Ajay K. Agrawal, learned counsel for the respondents made his submissions for five minutes. The appeal is disposed of in terms of the signed order.

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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. 4197 OF 2000@@

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VERSUS

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The appellant was working as a clerk in the District Court, Dehradun. He was removed from service by order dated 11/4/1984. An inquiry was held against him on account of certain irregularities and misconduct. Certain charges were held proved against him. The disciplinary Authority accepting the report of the Inquiry Officer, ultimately imposed a punishment of removing him from service. He unsuccessfully challenged the order of removal from service before an Appellate Authority under the Rules. Thereafter, he filed a writ petition after about three years. The learned Single Judge dismissed the writ petition on the ground of delay and latches. The appellant took up the matter before the Division Bench of the High Court, which was also dismissed holding that learned Single Judge did not
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commit any error in dismissing the writ petition on the ground of delay and latches. Hence this appeal.

Mr. R.B. Mehrotra, learned Senior Counsel appearing for the appellant contended that the Appellate Authority did not examine the appeal in proper prospective, it did not deal with the contentions raised in the appeal on merits properly; learned Single Judge was not right in dismissing the writ petition on the ground of delay and latches when the delay was properly explained by the appellant in filing the writ petition. He also submitted that two additional affidavits were filed before the learned Single Judge, for which opportunity was given to the appellant to explain the delay. However, the learned Single Judge was not satisfied with the explanation given for delay. In that view, the writ petition was dismissed and the order of learned Single Judge was affirmed by the Division Bench, as noticed above. The learned Senior Counsel contended that the High Court ought not to have dismissed the writ petition on the ground of delay and latches when the averments made in the writ petition and additional affidavits were not controverted. Learned Senior counsel
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further submitted that the appellant having been removed from service in the year 1984, at this length of time he may not insist for backwages. He submitted that the punishment of removal from service was shockingly and

grossly disproportionate to the charges held proved against him, having regard to the nature of charges themselves.

Per contra, Mr. Ajay K. Agrawal, learned counsel for the respondent made submissions supporting the impugned orders. He also submitted that the order of removal from service is quite justified.

Having regard to the submissions made by the learned counsel for the parties and in the absence of the High Court examining the writ petition on merits, we think it is just and appropriate to remit the matter to the Division Bench of the High Court to consider the case of the appellant on merits only as regards the quantum of punishment while placing the submission of the learned counsel that the appellant would not claim backwages in case the Division Bench is to take a decision to re-instate the appellant and impose upon him any other punishment.

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Under these circumstances, we set aside the impugned order and remit the matter to the Division Bench of the High Court only to consider as to the quantum of punishment imposed on the appellant, making it clear that the appellant shall not be entitled to any backwages even if the Division Bench of the High Court, after examining, is to hold that the appellant would be re-instated by imposing any other punishment. We request the High Court to dispose of the case as expeditiously as possible. We hope that the case may be disposed of within the period of six months as the order of termination is of the year 1984.

We further make it clear that other factual findings recorded by the Authorities in passing the order of removal stand concluded.

With these observations, the appeal stands disposed of.

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

New Delhi,
February 11, 2003.

.....J.
(ARIJIT PASAYAT)