

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.1311 OF 2001@@
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NARENDRA NATH BHALLA

Appellant (s)

VERSUS

STATE OF U.P. & ORS.

Respondent (s)

(With Office Report)

Date : 13/02/2003 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. C.L. Sahu, Adv.
Mr. Ujjwal Singh, Adv.
Mr. J.P. Singh, Adv.
Mr. R.C. Kaushik, Adv.

For Respondent (s) Mr. R.C. Verma, Adv.
Mr. Mukesh Verma, Adv.
Mr. Manish Shanker, Adv.
Mr. Vivek Vishnoi, Adv.

UPON hearing counsel the Court made the following

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Mr. C.L. Sahu, learned counsel appearing for the
appellant started arguments at 11.05 A.M. and concluded at
11.50 A.M. Thereafter, Mr. R.C. Verma, learned counsel
appearing for the State of U.P. argued for about 20
minutes.

The appeal is dismissed in terms of the signed order.
No costs.

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(A.S. Bisht)
Court Master

(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.1311 OF 2001@@  
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NARENDRA NATH BHALLA

APPELLANT(S)

:VERSUS:

STATE OF U.P. & ORS.

RESPONDENT(S)

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The appellant was a confirmed employee and was working as a Stamp Clerk. On finding certain irregularities and misconduct said to have been committed by him he was kept under suspension on 6.5.1982. A charge-sheet also was issued to him; Inquiry Officer was appointed who after completing the inquiry submitted a report holding that certain charges were proved against him. The Disciplinary Authority on consideration of the Inquiry Report, the materials placed on record and looking to the charges held proved agreed with the Inquiry Report and passed an order dismissing the appellant from service. The appellant filed a Claim Petition No.1081/1984, before the U.P. Public Services Tribunal, challenging the correctness and validity of the

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order of dismissal from service. The said Tribunal dismissed the claim petition. He filed a writ petition before the High Court assailing the order passed by the Tribunal. The Division Bench of the High Court, after considering the rival contentions in the light of the materials placed on record for consideration, dismissed the writ petition affirming the order passed by the Tribunal. Hence, the appellant is before us in this appeal.

The learned counsel for the appellant contended that the documents on which reliance was placed during the inquiry against the appellant, were not at all furnished to him inspite of the request made by him; no proper inquiry was held at all; report of the inquiry was also not furnished to the appellant which seriously prejudiced his case and the punishment imposed on the appellant was grossly and shockingly disproportionate even to the charges proved against him.

The learned counsel for the respondents in his argument supported the impugned judgment.

Before considering the respective contentions we perused the nature of the charges levelled against the

appellant, which are serious. They include charges of misappropriation and issuing false certificate.

The Division Bench of the High Court has recorded in the impugned order that the appellant was allowed inspection of documents; no material placed on record shows that the appellant had as a matter of fact sought for copies of those documents. On the other hand, it was found that the letters were given by the appellant seeking inspection of the documents which was allowed. In this view, the contention that the documents were not supplied to the appellant inspite of the request made by the appellant cannot be accepted. The complaint as to not holding a proper inquiry was also considered by the High Court. It is reflected in the impugned order that by the letter dated 18.9.1982 the Inquiry Officer asked the appellant to submit his reply and to produce his defence. The appellant in his letter dated 21.9.1992, addressed to the Inquiry Officer, mentioned that he would not produce any defence. In view of this, it cannot be said that the inquiry was not held as alleged by the appellant. The contention that the Inquiry Report was not furnished to the appellant and consequently prejudice was caused to him also cannot be accepted for the simple reason that the case relates to the period prior to the

case Union of India & ors. vs. Mohd. Ramzan Khan [1991@@  
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(1) SCC 588]. The High Court has clearly noticed in the impugned order that furnishing of inquiry report prior to Mohd. Ramzan Khan's case (supra) was not mandatory. The learned counsel for the appellant relying on the decision of this Court in the case of State of U.P. vs. Harendra@@  
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Arora & anr. [2001 (6) SCC 392] and pointing out to@@  
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paragraph 23, in particular, urged that in terms of Rule 55-A of the relevant rules, furnishing of inquiry report was mandatory. A reading of very paragraph 23 clearly shows that even if the rule provides for furnishing copy of the inquiry report still it was obligatory on the appellant to show that non-furnishing of such a report caused prejudice to him. In light of the facts of the present case, it has not been shown as to how any prejudice was caused to the appellant by mere non-furnishing of the inquiry report even when he said that he had no defence to produce.

Learned counsel for the appellant also submitted that the appellant has already paid back the money which was held proved against him that he had misappropriated. Mere repayment of money does not absolve him of serious charge of misappropriation. The last submission that the punishment imposed on the appellant is too harsh also

does not appeal to us, having regard to the serious nature of charges including the misappropriation of money and issuing a receipt on the plain paper and reflecting it in the official record something else. The decision in Mehnga Singh, Ex-Sub Inspector vs. Inspector General@@  
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of Police, PAP, Jalandhar Cantt. & ors. [1995 (5) SCC@@  
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682] relied by the learned counsel for the appellant does not help him as that is a case which governs the facts of that case. The other decision relied for the same purpose is in M.A. Khalsa vs. Union of India & ors.@@  
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[1988 (Suppl.) SCC 436]. Even this decision does not help the appellant in any way as can be seen from the very facts and the opinion expressed therein that the order of dismissal having regard to serious nature of the charge of misappropriation was felt appropriate. However, the penalty was modified on peculiar facts of that case. Under these circumstances, we find no merits in this appeal. Consequently it stands dismissed with no order as to costs.

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( SHIVARAJ V. PATIL )@@  
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( ARIJIT PASAYAT )@@  
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New Delhi;  
February 13, 2003.