

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.17625/1999
(From the judgement and order dated 06/11/1998 in CMWP 32309/93
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

SUB DIVN. OFFICER KONCH

Petitioner (s)

VERSUS

MAHARAJ SINGH

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for c/delay in filing SLP)

Date : 17/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. T.N. Singh,Adv. for
Mr. R.B. Misra,Adv.

For Respondent (s) Mr. R.B. Mehrotra,Sr.Adv.
Dr. I.B Gaur,Adv.

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

.....L.....I.....T.....T.....T.....T.....J.
.SP2

Delay condoned.
Leave granted.
The appeal is allowed.

.SP1

(Y.P.Dhamija) (Suneet Bala Sharma)@@
AA
COURT MASTER COURT MASTER

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6500/2000@@
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(arising out of SLP(C) No. 17625/1999)

Sub Divn.Officer Konch ...Appellant

Vs.

Maharaj Singh ...Respondent

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

Delay condoned.
Leave granted.

The order of the learned Single Judge of Allahabad High Court in CMWP No. 32309/1993 is the subject matter of challenge in this appeal. A disciplinary proceeding was initiated and a set of charges were served on the delinquent respondent and in course of enquiry on the basis of the materials produced, the enquiring officer came to the conclusion that the charges have been proved. On the basis of the said enquiry report and the findings thereon the disciplinary authority agreed with the said findings and passed order of termination. The delinquent respondent challenged the order of the disciplinary authority by preferring an appeal but the appeal also was dismissed by the appellate authority. The delinquent then preferred a claim petition before the U.P. Public Service Tribunal. The Tribunal by its order dated 5th May, 1993 rejected the claim. The delinquent then approached the High Court. The High

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Court by the impugned judgment re-appreciated the entire materials produced before the enquiring authority and came to the conclusion that the charges cannot be said to have been proved beyond reasonable doubt. Accordingly, the High Court allowed the Writ Petition and interfered with the order of punishment inflicted upon by the disciplinary authority. It is this order of the High Court which is being challenged in this appeal.

The learned counsel appearing for the appellant contended that within the parameters prescribed for exercise of discretionary supervisory jurisdiction under Article 226 of the Constitution, it was not open for the High Court to examine the evidence adduced before the enquiring authority and on re-appreciation of the same disturb the findings arrived at. The learned counsel for the respondent, on the other hand, contended that since appropriate authority never took into consideration the reply filed by the delinquent, the High Court was fully justified in interfering with the order of punishment inflicted upon by the disciplinary authority, which was affirmed by the U.P. Public Service Tribunal.

In view of the submissions made at the Bar, we have scrutinised the impugned order of the High Court. A bare perusal of the same makes it crystal clear that the High Court in exercise of its jurisdiction under Article 226 has re-appreciated the entire evidence, gone into the question of

burden of proof and onus of proof and ultimately did not agree with the conclusion arrived at by the enquiring officer, which conclusion was upheld by the disciplinary authority as well as the U.P. Public Service Tribunal. It has been stated by this Court on a number of occasions that the jurisdiction of the High Court under Article 226 is a supervisory one and not appellate one, and as such the Court would not be justified in re-appreciating the evidence adduced in a disciplinary proceeding to alter the findings of the enquiring authority. In the aforesaid premises, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction under Article 226 in interfering with the findings arrived at by the enquiring authority by re-appreciation of the evidence adduced before the said enquiring authority. We, therefore, set aside the impugned order of the High Court and the Writ Petition filed stands dismissed. This appeal is allowed.

.SP1

.....J.
(G.B. PATTANAİK)

New Delhi,
November 17, 2000

.....J.
(U.C. BANERJEE)