

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 2984 OF 2010

STATE OF WEST BENGAL & ORS. Appellant (s)

VERSUS

SATYANARAYAN PANDEY Respondent(s)

O R D E R

The present appeal is directed against the order dated 23.03.2009 passed by the High Court of Judicature at Calcutta in R.V.W. No.830 of 2005 arising from W.P.S.T. No.99 of 2004.

The respondent, a constable in Kolkata Police, aggrieved by the order of dismissal approached the West Bengal Administrative Tribunal (for short, 'the tribunal), which declined to interfere. Being aggrieved by the order of the tribunal, the respondent herein had preferred a writ petition, which was also dismissed on 10.02.2005. Thereafter, a review application was filed asserting that certain legal questions and factual issues were not considered by the Division Bench and had they been appositely considered the result would have been materially altered.

The Bench hearing the application for review proceeded to deal with the charges, the findings recorded by the Disciplinary Authority, the provisional order and further the order passed by the criminal court in the month of June, 2002, whereby he was acquitted of the charges and, in fact, proceeded to deal with the lis on merits. It was noticed by the Division Bench that when the writ petition was disposed of, the Division Bench had failed to consider the impact of the acquittal of the respondent in the criminal case. A contention was advanced, he could not have been found guilty by the departmental authorities on the same charges when he stood acquitted in the criminal case. Certain authorities were brought to the notice of the Bench that was hearing the review application. The High Court referred to the decision in G.M. Tank v. State of Gujarat, reported in (2006) 5 SCC 446 and dwelled upon the issues at length and eventually opined that the order of dismissal passed against the respondent could not be sustained. That apart, the Division Bench adverted to merits of the departmental proceedings and came to opine that the order of dismissal of the respondent was disproportionate, regard being had to the nature of the charge.

We have heard Mr. Avijit Bhattacharjee, learned counsel for the State of West Bengal. None present for the respondent. Mr. Bhattacharjee submitted that in a review jurisdiction the High

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

The appeal is allowed in terms of the signed order.

| (NARENDRA PRASAD)
| COURT MASTER

| | (M.S. NEGI)
| | COURT MASTER

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(Signed order is placed on the file)