

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10810 OF 2014

(ARISING OUT OF S.L.P (C) NO. 23800 OF 2013)

JAI BHAGWAN VERMA

... APPELLANT(s)

Versus

UNION OF INDIA AND OTHERS

... RESPONDENT(s)

O R D E R

Leave granted.

2. We have heard learned counsel for the parties.

3. The appellant was working as a Postal Assistant with respondent No. 2. He had put in about 24 years of service. Thereafter, he suffered from some ailment which caused him to doze off for a few seconds. The appellant, in view of the ailment, was absent from duty for a period of about four months. He had also applied to respondent No. 2 to sanction the purchase of a machine to take care of his ailment. By letter dated 18.4.2007, that expenditure was sanctioned for the use of the machine by the appellant.

4. In view of the absence of the appellant from service for a period of four months, departmental proceedings were initiated against him and subsequent thereto, he was dismissed from service.

5. Feeling aggrieved, the appellant preferred a writ petition in the Delhi High Court which came to be dismissed by the impugned judgment and order dated 22.12.2011.

6. When this appeal was taken up on 14.11.2014, it was submitted by the learned counsel for the appellant that the dismissal from service may be converted into compulsory retirement.

7. Mr. Tushar Mehta, learned Additional Solicitor General took some time to take instructions in this regard from the respondents.

8. Today, we have been told that it may not be possible for the respondents to accede to the request of the appellant for converting the order of dismissal into an order of compulsory retirement.

9. Looking to the facts of the case, we are of the opinion that punishment awarded to the appellant is quite disproportionate to his misconduct. The fact that the appellant was suffering from a particular ailment is not disputed; the fact that the appellant was sanctioned funds for purchase of some equipment in view of his ailment is also not disputed. All that is submitted on behalf of the respondents is that the ailment was not such that required the appellant to be away from duty for a period of four months.

10. While that may be so, we are of the opinion that since the appellant has put in 24 years of service and is only of the rank of Postal Assistant, a more compassionate view is required to be taken in the matter, particularly in view of the admitted facts.

11. Under the circumstances, we set-aside the order of dismissal passed against the appellant and convert that order of dismissal into one of compulsory retirement.

12. The appeal is allowed with the above direction. The appellant will be entitled to all consequential benefits but without any back wages. No costs.

.....J.
(MADAN B. LOKUR)

.....J.
(R. BANUMATHI)

NEW DELHI;
DECEMBER 5, 2014

ITEM NO.41

COURT NO.9

SECTION XIV

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

Petition(s) for Special Leave to Appeal (C) No(s). 23800/2013

(Arising out of impugned final judgment and order dated 22/12/2011 in WP No. 8984/2011 passed by the High Court Of Delhi at N. Delhi)

JAI BHAGWAN VERMA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln. (s) for c/delay in filing SLP and c/delay in refiling SLP)

Date : 05/12/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Ms. Pareena Swarup, Adv.
Mr. Ameet Singh, Adv.
Mr. Mukul Singh, Adv.
Mr. Praveen Swarup, Adv.

For Respondent(s) Mr. Tushar Mehta, ASG
Mr. Shashank Bajpai, Adv.
Ms. Sadhana Sandhu, Adv.
Mr. D. S. Mahra, Adv.

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

Delay condoned.

Leave granted.

Appeal is allowed in terms of signed order. No costs.

(PARDEEP KUMAR)
AR-cum-PS

(JASWINDER KAUR)
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]