

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10831 OF 2010

SPECIAL INSP.GEN.OF POLICE & ORS. . . . APPELLANT(S)

VERSUS

AMBADAS HARIBA YADAV RESPONDENT(S)

WITH

CIVIL APPEAL NO. 10832 OF 2010

O R D E R

Heard learned counsel for the parties.

The question involved in these two appeals is whether the order of the dismissal/suspension was passed by the Competent Authority. In the first case, the order of dismissal has been passed by the Special Inspector General of Police while in the second case, the order of suspension has been passed by the Additional Commissioner of Police.

The Tribunal as well as the High Court held that the authorities passing order of dismissal/suspension were not competent authorities.

Our attention has been drawn to Section 25 of the Bombay Police Act, 1951 which is as under:

25. Punishment of the members of the subordinate ranks of the Police Force departmentally for neglect of duty, etc. (1) The State Government or any officer authorized under Sub-section (2), in that behalf, may impose upon an Inspector or any member of the subordinate ranks of the Police Force, who in

the opinion of the State Government or such authorized officer, is cruel, perverse, remiss or negligent in, or unfit for, the discharge of his duties, any one or more of the following penalties, namely:-

(a) recovery from pay of the whole or part of any pecuniary loss caused to Government on account of the negligence or breach of orders on the part of such Inspector or any member of the subordinate rank of the Police Force;

(b) Suspension;

(c) reduction in rank, grade or pay, or removal from any office of distinction or withdrawal of any special emoluments;

(d) Compulsory retirement;

(e) removal from service which does not disqualify for future employment in any department other than the police Department;

(f) dismissal which disqualifies for future employment in Government service;

Provided that, suspension of a police office pending an inquiry into his conduct or investigation of a complaint against him of any criminal offence shall not be deemed to be a punishment under clause (b).

(1A) The State Government or any officer authorized under sub-section (2) in that behalf may impose upon an Inspector or any member of the subordinate ranks of the Police Force who is guilty of any breach of discipline or misconduct or of any act rendering him unfit for the discharge of his duty which, in the opinion of the State Government or of such authorized officer, is not of such nature as to call for imposition of any of the punishments referred to in sub-section(1), any one or more of the following punishments, namely:-

(a) warning;

(b) a reprimand (to be entered in his service book);

(c) extra drill;

- (d) fine not exceeding one month's pay;
- (e) stoppage of increments;

Provided that, the punishments specified-

- (i) in clause(c), shall not be imposed upon any personnel above the rank of Constable;
- (ii) in clause (d), shall not be imposed upon an Inspector.]

Punitive powers of [Director-General and Inspector-General], Commissioner, Deputy Inspector General [(including Director of Police wireless)] and [Superintendent] [and Principal of Training Institution.]

[(2) (a) The Director General and Inspector General] including Additional Director General, **Special Inspector General**, Commissioner including Joint Commissioner, **Additional Commissioner** and Deputy Inspector General shall have authority to punish an Inspector or any member of the subordinate rank under sub-section (1) of (1A). A Superintendent shall have the like authority in respect of any police officer subordinate to him below the grade of Inspector and shall have powers to suspend an Inspector who is subordinate to him pending enquiry into a complaint against such Inspector and until an order of the Director General and Inspector or Additional Director General and Inspector General and including the Director of Police Wireless and Deputy Inspector General of Police can be obtained.]

(b) The Principal of [a Police Training College] shall also have the like authority in respect of any member of the subordinate ranks of the Police Force below the grade of Inspector [undergoing training at [such [College] or] serving under him, and in respect of head constables and constables belonging to the Police Force of [the District in which such [College] is situated] or of any other district attached to [such [College] for duty under him. [He may also suspend an Inspector who is [undergoing training at [such

[College] or] subordinate to him pending inquiry into a complaint against such Inspector and until an order of the [Director General and Inspector General] or Deputy [Director-General) and Inspector General] can be obtained]

[(ba) The Principal of a Police Training School shall have authority in respect of any member of the subordinate ranks of the Police force below the grade of an Inspector, undergoing training at such school or serving under him, or attached to such school for duty under him.]

[(bb) ***]

(c) the exercise of any power conferred by this sub-section shall be subject always to such rules and orders as may be made by the State Government in that behalf.

(3) Nothing in [sub-section (1), (1A)] and (2)-

(a) shall affect any Police Officer's liability to a criminal prosecution for any offence with which he may be charged; or

(b) shall entitled any authority subordinate to that by which the Police Officer was appointed, to dismiss or remove him.

A perusal of Section 25 (2)(a) clearly shows that the Special Inspector General of Police as well as the Additional Commissioner of Police are the competent authorities to impose the punishment on police officer of the rank of Inspector or lesser than that. Under the Proviso to Section 25(1), the said officer(s) are also the officers to pass the order of suspension. Moreover, Rule 3(1-A)(i) of the Rules also provides that the Appointing Authority or any other authority to which it is subordinate or any other authority empowered by the State Government can pass the order of suspension pending enquiry.

In view of the above, the impugned orders of the Tribunal and the High Court cannot be sustained.

The impugned orders are set aside and the appeals are allowed in the above terms. No costs.

.....J.
[ADARSH KUMAR GOEL]

NEW DELHI
24TH JANUARY, 2017

.....J.
[UDAY UMESH LALIT]

ITEM NO.101

COURT NO.11

SECTION IX

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(s). 10831/2010

SPECIAL INSP.GEN.OF POLICE & ORS.

Appellant(s)

VERSUS

AMBADAS HARIBA YADAV
(With office report)

Respondent(s)

WITH

C.A. No. 10832/2010

(With appln.(s) for early hearing and Office Report)

Date : 24/01/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) Mr. Arpit Rai,Adv.
Mr. Nishant Ramakantrao Katneshwarkar,Adv.

For Respondent(s) Mr. M.Y. Deshmukh,Adv.
Mr. Shakti Pandey,Adv.
Mr. Rameshwar Prasad Goyal,Adv.

Mr. Yashraj Singh Deora,Adv.
Mr. Mohit Abraham,Adv.
Ms. Priyadershinee Singh,Adv.

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

Heard learned counsel for the parties.
The appeals are allowed in terms of the signed
order.

(Madhu Bala)
Court Master
(Signed order is placed on the file)

(Veena Khera)
Court Master