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SLP(C)No. 18630 OF 2000

ITEM No.48

Court No. 4

SECTION XIV
A/N MATTER

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.18630/2000

(From the judgement and order dated 30/08/2000 in CWP 4856/2000
of The HIGH COURT OF DELHI AT N. DELHI)

UNION OF INDIA & ORS.

Petitioner (s)

VERSUS

MOHD. IBRAHIM

Respondent (s)

(With prayer for interim relief)

Date : 05/02/2001 This Petition was called on for hearing today.

CORAM :

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

For Petitioner (s) Mr. Mukul Rohtagi,ASG
Ms. Binu Tamta,Adv.
Mr. P. Parmeswaran,Adv.

For Respondent (s) Mr. Shakeel Ahmed,Adv.

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

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

Leave granted.
The appeal is disposed of.

.SP1

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

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1034/2001@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE
(arising out of SLP(C) No. 18630/2000)

U.O.I. & Ors. ..Appellants

Vs.

Mohd. Ibrahim ..Respondents

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

Leave granted.

Union of India is in appeal against the order of the Tribunal setting aside an order of dismissal of the respondent as well as the order of the High Court refusing to interfere in its jurisdiction under Article 226 of the Constitution. In a disciplinary proceeding against the respondent, a set of charges levelled against which charges appear to be grave and serious, the ultimate conclusion of the enquiring officer having been based upon statement of persons made in the course of preliminary enquiry, the Tribunal came to hold that the conclusion is vitiated since the same was based upon the statement of persons examined in the preliminary enquiry and accordingly the Tribunal set aside the order of dismissal. The High Court on being approached has refused to interfere with the order in an application under Article 226 of the Constitution. When the matter was listed for admission, learned ASG requested that the power of the employer to start a fresh proceeding should not be whittled down in any manner, particularly in view of the nature of charges against the delinquent. He however

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fairly stated that in the procedure adopted in the case in hand, the order cannot be found fault with. Pursuance to the notice, respondent has entered appearance and the learned counsel for the respondent vehemently contested on the ground that long 17 years have elapsed and it will cause great hardship to start a proceeding afresh. We are unable to persuade to agree with the submission of the learned counsel for the respondent, particularly looking at the charges levelled against. In that view of the matter, though we are of the considered opinion that the order of dismissal was vitiated as the findings have been based on consideration of statement of the persons examined during the preliminary enquiry but the power of employer to start a fresh proceeding cannot be taken away. Therefore, we dispose of the matter with the observation that it will be open to the competent authority to start a fresh disciplinary proceeding and conclude the same in accordance with law.

The appeal is disposed of accordingly.

.SP1

.....J.
(G.B. PATTANAIAK)

.....J.

(U.C. BANERJEE)

New Delhi,
February 05, 2001

.....J.
(S.N. VARIAVA)