

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS.3440-3441 OF 2012

**THE SECRETARY CUM CHAIRMAN,
STANDING COMMITTEE, ESIC & ANR.**

APPELLANT(S)

VERSUS

G. C. JATAV

RESPONDENT(S)

O R D E R

1. The appellant-Employee State Insurance Corporation¹ is aggrieved by a judgment dated 24th February, 2011, passed by the Division Bench of the High Court of Delhi dismissing the writ petitions² filed by it against the order dated 21st July, 2004 passed by the Central Administrative Tribunal, Principal Bench³.

2. To give a context to the dispute in the present case, it is considered appropriate to refer to the brief facts of the case. The dispute between the parties hinges on a trap laid by the Central Bureau of Investigation⁴ in respect of one Mr. G.R. Baru, Assistant Regional Director, ESIC when he was caught accepting illegal gratification. Articles of charge were served on Mr. G.R. Baru by the appellant-ESIC alleging that he had demanded and accepted bribe from a third party. **Disciplinary proceedings initiated against Mr. G.R. Baru**

1 For short 'ESIC'

2 Writ Petitions No. 561-562 of 2005

3 For short 'the Tribunal'

4 For short 'the CBI'

concluded by imposing a penalty on him of 100 percent cut in his pension *vide* order dated 02nd September, 1999. The CBI had also registered a case against the said officer under the Prevention of Corruption Act, 1988⁵.

3. Coming to the respondent herein, the charges levelled against him were pursuant to the disclosure statement made by Mr. G.R. Baru. The inquiry proceedings conducted in respect of the respondent culminated in a report dated 27th January, 2000, wherein the Inquiry officer found the respondent guilty of the charges levelled against him. *Vide* order dated 26th July 2001, Disciplinary Authority⁶, awarded the punishment of removal from service to the respondent. The said order was taken in an appeal by the respondent but was dismissed by the Appellate Authority⁷, *vide* order dated 29th October, 2001.

4. Aggrieved by the aforesaid orders, the respondent approached the Tribunal by filing an Original Application⁸. The said Original Application was partly allowed by the Tribunal. The impugned orders were set aside and the appellant-ESIC was directed to reinstate the respondent with all consequential benefits. However, it was held that the respondent will not be entitled to any back wages.

5. The order of the Tribunal when assailed by the appellant before the High Court, was upheld. After carefully

5 For short 'the PC Act'
6 Director General, ESIC
7 Chairman, Standing Committee, ESIC
8 O.A. No. 136/2003

perusing the record and examining the evidence produced by the parties before the Inquiry Officer, the High Court observed that several material witnesses, in particular, Mr. G.R. Baru whose name, though mentioned in the list of witnesses, were not produced during the inquiry proceedings. When the charges levelled against the respondent were based on the statement of Mr. G.R. Baru and he was neither produced nor was his disclosure statement produced, the Court opined that it considerably weakened the case of the appellant-ESIC.

6. Further, the alleged envelope containing a sum of ₹5,000/- (Rupees Five Thousand Only) stated to have been recovered from the residence of the respondent, was also not produced. No other cogent evidence was produced against the respondent on the basis of which he could have been awarded the punishment of removal from service. The testimonies of the other witnesses were also examined by the High Court and it concurred with the view taken by the Tribunal that the testimonies of SW-4, SW-5 and SW-9 did not implicate the respondent in any manner and resultantly, it was held that the appellant could not satisfactorily prove recovery of the envelope in question from the respondent.

7. One of the allegations levelled against the respondent was in respect of the bribe allegedly demanded by him from one Mr. Darshan Kumar for his transfer. Mr. Darshan Kumar had appeared as DW-1 during the inquiry and had categorically denied that any money was demanded from him by the respondent

through Mr. G.R. Baru. This fact has been noticed by the High Court in paragraph 17 of the impugned judgment.

8. It is apparent from a perusal of the records and the impugned judgment that the appellant-ESIC miserably failed to establish its case with cogent evidence before the Inquiry officer. Therefore, the High Court and the Tribunal cannot be faulted for having set aside the order of dismissal from service passed by the Disciplinary Authority and upheld by the Appellate Authority.

9. We are of the opinion that there is no infirmity in the impugned judgment for interference. The impugned judgment dated 24th February, 2011 is upheld, except for waiving the costs of ₹35,000/- (Rupees Thirty Five Thousand Only) imposed on the appellant-ESIC. The appeals are disposed of. Parties to bear their own costs.

..... J.
[HIMA KOHLI]

..... J.
[RAJESH BINDAL]

NEW DELHI;
03rd August, 2023

ITEM NO.111

COURT NO.11

SECTION XIV-A

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

Civil Appeal No(s). 3440-3441/2012

THE SECRETARY CUM CHAIRMAN,
STANDING COMMITTEE, ESIC & ANR.

APPELLANT(S)

VERSUS

G. C. JATAV

RESPONDENT(S)

Date : 03-08-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE RAJESH BINDAL

For Appellant(s) Ms. Sonam Anand, Adv.
Mr. Yakesh Anand, Adv.
Mr. Santosh Krishnan, AOR
Ms. Deepshika Sansanwal, Adv.

For Respondent(s) Ms. Asha Jain Madan, AOR
Mr. Mukesh Jain, Adv.

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

The appeals are disposed of in terms of the
signed order.

(Geeta Ahuja)
Assistant Registrar-cum-PS
(Signed Order is placed on the file)

(Nand Kishor)
Court Master (NSH)