

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4669 OF 2008
[ARISING OUT OF SLP (CIVIL) NO. 5769 OF 2006]

THE COMMANDANT, DIS. AUTHY & ORS.

Appellant(s)

VERSUS

B. NAGESWARAO

Respondent(s)

ORDER

1. Delay condoned.
2. Leave granted.
3. We have heard learned counsel for the parties.
4. It is not disputed that the respondent was not provided with the defence assistance by the appellants which is in clear violation of Rule 34(5) of CISF Rules. This fact has been noticed in the impugned judgment by the High Court. Instead of remitting the matter to the Enquiry Officer for fresh consideration after providing defence assistance to the respondent, the following order has been passed by the High Court:

"In the normal course, we would have remitted the matter back to the respondents for fresh consideration by them from the stage where the discrepancy crept in. However, after considering the nature of allegations and some of the conclusions arrived at by the Enquiry Officer without providing a Defence Assistant to the petitioner, we feel that ends of justice would not be met by dragging on the matter any further.

Further, we are of the opinion that, the allegations, even if proved, do not call for any severe punishment the removal of the petitioner from his service.

For the above stated reasons, the order of the first respondent dated 10.07.2000 removing the petitioner from service and the consequential orders of the second and third respondents dated 18.12.2000 and 26.05.2001 respectively are quashed. In view of our reasons in paragraph 36, the petitioner is not entitled to backwages. However, the said period is to be counted for all service benefits. The writ petition is allowed to this extent. No costs."

5. In our view, the High Court was not justified to pass the aforesaid order. In this view of the matter, we set aside the impugned judgment and remit the matter to the Enquiry Officer for fresh consideration. We direct that the respondent will be provided

a defence assistance. The respondent would also be provided legible copies of all relevant documents within four weeks. Enquiry Officer to conclude the enquiry as expeditiously as possible.

We direct the

6. with these observation, the appeal stands disposed of. We direct the parties to bear their own costs.

.....J .
(Dalveer Bhand a ri)

..... J.
(Harjit Singh Bedi)

New Delhi;
July 28, 2008 .
IT E M NO.53

COURT NO.12

S E C T I O N XII

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 (Civil) No(s).5769 / 2007

(From the judgment and order dated 17 / 07 / 2006 in W P No. 11924 / 2001 of The HIGH COUR T OF MAD R A S)

TH E COMMA N D A N T , DIS.AUT H Y & ORS.

Petitioner(s)

VER SUS

B. NAG E S W A R A RAO

Respondent(s)

(With appln(s) for c/delay in filing SL P and with prayer for interim relief and office report)

Date: 28 / 07 / 2008 This Petition was called on for hearing today.

CORA M :

HON' B L E MR. JUS T I C E DA L V E E R BHA N D A R I
HON' B L E MR. JUS T I C E HAR J I T SIN G H B E D I

For Petitioner(s) Mr. A. Shar a n, ASG
Mrs. V. Mohan a, Adv.
Ms. Sush m a Suri, Adv.

For Respondent(s) Mr. Dayan Krishn a n, Adv.
Mr. Nikhil Nayyar, Adv.
Mr. Gauta m Narayan, Adv.

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

Delay condoned.
Leave granted.
The appeal stands disposed of in terms of the signed order. We direct the parties to bear their own costs.

(K. K. Chawla)
Court Master

(Neeru Bal a Vij)
Court Master

[Signed order is placed on the file]