

(2001) 02 AHC CK 0133

Allahabad High Court

Case No: C.M.W.P. No. 6926 of 2001

Union of India (UOI) and Others

APPELLANT

Vs

Bishwambhar Nath Mishra and
Another

RESPONDENT

Date of Decision: Feb. 26, 2001

Citation: (2001) 2 AWC 986

Hon'ble Judges: Onkareshwar Bhatt, J; Markandey Katju, J

Bench: Division Bench

Advocate: A.K. Gaur, for the Appellant; S.C. and A.K. Dave, for the Respondent

Final Decision: Dismissed

Judgement

Markandey Katju and Onkareshwar Bhatt, JJ.

Heard learned Counsel for the Petitioners and Sri A.K. Dave, who has appeared for the respondents.

2. The Petitioners have challenged the impugned order dated 9.11.2000. Annexure-4 to the writ petition. It appears that respondent No. 1 was in railway service and was charge-sheeted for his absence without leave for certain periods. After enquiry, he was removed from service. The Tribunal substituted the punishment of removal from service by punishment of compulsory retirement. Evidently the Tribunal took this humanitarian approach because the respondent No. 1 has retired from service and by substituting the punishment of removal from service by the punishment of compulsory retirement, it enabled him to get pensioner benefits in his old age. We, therefore, see no reason to interfere with this humanitarian approach of the Tribunal.

3. The learned Counsel of the Petitioners has submitted (hat the Tribunal cannot substitute the -quantum of punishment awarded by the concerned authority. However, the Hon'ble Supreme Court In the case of [B.C. Chaturvedi Vs. Union of India and others](#) , has held that the High Court or Tribunal can itself substitute the

punishment awarded by the authority to some lesser punishment in appropriate cases to shorten the litigation, and impose appropriate punishment with cogent reasons in support thereof. Hence, as mentioned above, we see no reason to interfere with the impugned order of the Tribunal.

4. The writ petition is accordingly dismissed.