

(2000) 09 SC CK 0113

Supreme Court of India

Case No: Civil Appeal No: 640 of 1994

State of U.P.

APPELLANT

Vs

Jaikaran Singh

RESPONDENT

Date of Decision: Sept. 21, 2000**Acts Referred:**

- Constitution of India Art 226

Citation: (2000) 7 JT 378 : (2001) 9 SCC 300**Hon'ble Judges:** M. B. Shah, J; G. B. Pattanaik, J**Bench:** Division Bench**Final Decision:** Allowed

Judgement

G.B. Pattanaik J.-This appeal is directed against the judgment of the Allahabad High Court allowing the writ petition filed by the respondent and quashing the order of dismissal from service of the respondent and directing his reinstatement and continuity of service. The respondent who had been initially appointed as a Junior Clerk was promoted as Senior Clerk and then had been deputed to the Secretariat to the Department of Area Development. While continuing on deputation he was repatriated to his parent organisation on 28-9-1988 and he was relieved on 28-12-1988. But since he did not join his parent organisation, the appropriate authority placed him under suspension vide order dated 1-8-1990. A regular disciplinary proceeding was initiated and certain charges were levelled against him. The respondent did not participate in the enquiry proceedings and ultimately the enquiry officer found him guilty of the charges levelled against him. On the basis of the finding of the enquiry officer, the disciplinary authority passed an order of dismissal from service. Assailing the said order of dismissal, the respondent filed the writ petition. The learned Judge did not accept the plea of the respondent that he had not received the order of relieving and on the other hand the learned Judge found laches on the part of the respondent in not appearing before the enquiry officer concerned in the disciplinary proceedings. But being of the opinion that the order of dismissal is not commensurate with the gravity of the alleged misconduct, he interfered with the order of

dismissal and directed reinstatement as well as continuity of service and all other benefits. Subsequent to the judgment of the High Court, the respondent was reinstated vide order dated 12-7-1993 but it was indicated that it would be subject to the final decision to be passed by the Supreme Court in special leave petition which has been filed against the order dated 4-5-1993. When the matter was listed before this Court on 1-2-1994, this Court granted stay of the reinstatement but, however, said that the payment of subsistence allowance for the period of suspension has to be paid. Thereafter the appellant passed another order dated 17-3-1994, though the copy filed in this Court indicates it to be of 17-3-1993, revoking the order of reinstatement dated 12-7-1993. The judgment of the Allahabad High Court directing reinstatement is the subject-matter of challenge in this appeal. Mr Markandeya, appearing for the appellant contended that once the Court found the charges to have been established in a disciplinary proceeding and there is no legal infirmity in the conduct of the said proceedings then it would not be appropriate in exercise of jurisdiction under Article 226 to interfere with the quantum of punishment. Normally, the Court in exercise of power under Article 226 does not interfere with the quantum of punishment alone if the charges are established against the delinquent and there is no lacuna in the procedure adopted in the departmental proceedings. But at times if the Court feels that the punishment inflicted is grossly unjust and shocks the conscience then in appropriate cases the Court may interfere. Having regard to the facts and circumstances of the present case and also taking into account the fact that the respondent had served the appellant organisation for about more than 12 years, we think the ends of justice would be met if the order of dismissal is altered to one of compulsory retirement. Accordingly, this appeal is allowed to the extent indicated above.