

NARMADA PD. YADAV
v.
STATE OF M.P. AND ORS.

NOVEMBER 3, 2006

[DR. AR. LAKSHMANAN AND TARUN CHATTERJEE, JJ.]

Service Law:

Reversion—Police Head Constable charged of illegally detaining a person and demanding money from him for release of his articles—Disciplinary authority removing him from service—Appellate authority reverting him for two years—Held, this is a case of no evidence—There is absolutely no evidence to establish the charges—Orders of punishment set aside.

A disciplinary action was taken against the appellant, a Head Constable in the State Police, for illegally detaining a person and demanding bribe from him for release of his articles. The disciplinary authority ordered his removal but the appellate authority substituted the penalty by reverting him to the post of Constable for two years. The order was affirmed by the State Administrative Tribunal as also by the High Court. Aggrieved, the delinquent filed the present appeal.

Allowing the appeal, the Court

HELD: There is absolutely no evidence in regard to the demand of bribe or receipt of the same by the appellant. No satisfactory evidence was adduced to prove the charge in question. This is a case of no evidence. Under such circumstances, the penalty imposed de-promoting him from the post of Head Constable to the post of Constable cannot at all be countenanced and is set aside. The Period of two years on reverted post will be treated as the appellant was on duty as Head Constable with consequential benefits. [367-A-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4660 of 2006.

From the Judgment and Order dated 16.9.2004 of the High Court of Madhya Pradesh, Indore Bench, Indore in W.P. No. 1572/2002.

A A.K. Chitale, Niraj Sharma and Vikrant Sharma For the Appellant.

B.S. Banthia For the Respondents.

The Judgment of the Court was delivered by

B DR. AR. LAKSHMANAN, J. Delay condoned.

Leave granted.

C We have heard Mr. A.K. Chitale, learned Senior Counsel for the appellant and Mr. B.S. Banthia, learned counsel for the respondents. We have perused the charge framed against the appellant and the reports submitted by the Inquiry Officer, the orders of the Director General of Police, the M.P. Administrative Tribunal and also of the High Court.

The charge framed against the appellant reads as follows:

D “On 25.1.1993 by detaining Shri Ram Singh s/o Deshraj Singh Parthar without any reason and keeping his license, cycle and Rs.50/- with him and demanding Rs.1000/- for giving the item back and receiving the money. In this way you have given utmost disrespect towards your duty and by showing corrupt behaviour you have proved yourself not fit for the department.”

E A perusal of the Inquiry Officer’s report would clearly go to show that no independent witness had been examined to prove the demand and taking money by the appellant in his hand nor is there any evidence of detaining the applicant in a half constructed house. When the matter was taken on appeal before the Director General of Police, he reduced the penalty of dismissal given by the Superintendent of Police and reinstated the accused and also reverted the appellant to the post of Constable from that of Head Constable as a penalty for a period of two years from 16.11.1993 to 16.11.1995. Aggrieved against the imposition of the said penalty, the appellant preferred original application before the Administrative Tribunal being O.A. No. 875/
F
G 1994, which affirmed the penalty imposed by the Deputy Inspector General of Police and the Director General of Police.

H The matter was taken to the High Court by the appellant by filing a writ petition under Article 227 of the Constitution of India. The High Court affirmed the orders passed by all the other Authorities. Being aggrieved, the appellant preferred the above civil appeal in this Court.

We have already reproduced in paragraph supra the charge framed against the appellant. There is absolutely no evidence in regard to the demand of bribe of Rs.1,000/- or receipt of the same by the appellant. No satisfactory evidence was adduced to prove the charge in question. Under such circumstances, the penalty imposed by the Director General of Police de-promoting him from the post of Head Constable to the post of Constable cannot at all be countenanced. In our opinion, the case on hand is a case of no evidence. It is also a matter of record that the appellant had an unblemished service record of 21 years and the said factor has also not been considered by the Authorities while imposing the penalty. We, therefore, have no hesitation in setting aside the punishment inflicted on the appellant and allow this appeal. The period of two years mentioned hereinabove will be treated as the appellant was on duty as Head Constable and the appellant will also be entitled to all the monetary benefits for the said period.

In the result, the judgments of the M.P. Administrative Tribunal and the High Court stand set aside. The Civil Appeal is allowed. No costs.

R.P.

Appeal allowed.