P.C. Joshi vs State Of U.P. & Ors on 8 August, 2001

Equivalent citations: AIR 2001 SUPREME COURT 2788, 2001 (6) SCC 491, 2001 AIR SCW 2924, 2001 LAB. I. C. 2861, 2001 ALL. L. J. 2038, 2002 (1) SERVLJ 73 SC, 2001 (8) SRJ 129, 2001 (2) UJ (SC) 1456, (2001) 6 JT 239 (SC), 2001 UJ(SC) 2 1456, (2001) 3 UPLBEC 2473, (2001) 91 FACLR 105, (2001) 3 ALL WC 2402, (2001) 3 SERVLR 726, (2001) 3 GUJ LR 2642, (2001) 3 RAJ LW 416, (2001) 3 SCT 1097, (2001) 2 LABLJ 1249, (2002) 1 MAD LW 479, (2001) 3 SCJ 111, (2001) 3 CURLR 259, (2001) 5 SCALE 119, (2001) 5 SUPREME 609, (2001) 4 LAB LN 6, 2001 SCC (L&S) 984

Bench: S.Rajendra Babu, Doraiswamy Raju

CASE NO.:
Appeal (civil) 5182 of 2001

PETITIONER:
P.C. JOSHI

Vs.

RESPONDENT:
STATE OF U.P. & ORS.

DATE OF JUDGMENT: 08/08/2001

BENCH:
S.Rajendra Babu & Doraiswamy Raju

JUDGMENT:

RAJENDRA BABU, J. :

Leave granted This appeal is directed against the order of the High Court of Allahabad dismissing a writ petition filed by the appellant. Certain disciplinary proceedings were initiated against the appellant. After inquiry, he was held guilty of the charges and was ultimately terminated from service. A writ petition was filed by him in the High Court on the grounds, inter alia, that:

1. The charges leveled against him do not constitute misconduct; and

2. The findings recorded in the inquiry are based on conjectures and surmises and not on facts.

The High Court found that there was material for the inquiry officer to reach the conclusions adverse to the appellant and dismissed the writ petition.

The disciplinary proceedings were initiated, inter alia, on complaints made by two Advocates, namely, V.K.Tiwari and Rajiv Kumar Singh. Nine charges were leveled against the appellant, seven of them pertain to orders of bail granted in 19 cases. During his tenure of two years at Etah, the appellant is stated to have disposed of over 3,000 bail applications. Only 19 bail orders out of these 3000 bail applications were the subject matter of charge sheet. The Enquiry Officer, however, found that in 7 cases, orders of bail were properly granted and the charges were not proved to that extent. In four cases the charges are held to be partly proved. In one case, the appellant himself had recalled the order of bail after about 1-1/2 months of the grant of bail on an application made by the complainant on the ground that the bail was obtained by fraud and misrepresentation. In two other cases, according to the Enquiry Officer, bail ought to have been granted on the very first application, but it was granted on the second application. The Enquiry Officer took note of each one of the cases before him and re-examined whether bail should have been granted in each one of those cases or not. The parties concerned had not made any complaint in any one of the cases. On examination of each one of the charges in relation to grant of bail, the Enquiry Officer proceeded to consider the cases on merits. He found that there used to be a pattern in rejecting the first bail application and thereafter even in the absence of fresh ground, second bail application was entertained and bail had been granted or in certain other cases even in the first instance itself the bail ought to have been granted. Although we have been taken through the various charges levelled against the appellant in detail and the material placed before the Enquiry Officer, it is clear that inferences have been drawn only on the basis that either the applications had been rejected at earlier stage for grant of bail or such applications ought to have been granted at the first stage itself. However, no specific material was brought on record to show or prove that there were any mala fide or extraneous reasons on the part of the appellant in passing the orders.

The test to be adopted in such cases is as stated by this Court in the cases of Union of India & Ors. vs. A.N.Saxena, 1992 (3) SCC 124 and Union of India & Anr. vs. K.K.Dhawan, 1993 (2) SCC 56. In K.K.Dhawans case [supra], this Court indicated the basis upon which a disciplinary action can be initiated in respect of a judicial or a quasi- judicial action as follows :

(i) where the judicial officer has conducted in a manner as would reflect on his reputation or integrity or good faith or devotion to duty;

(ii) that there is prima facie material to show recklessness or misconduct in the discharge of his duty;

(iii) that if he has acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(iv) that if he had acted in order to unduly favour a party;

(v) that if he had been actuated by corrupt motive.

Dealing with a matter of similar nature in Ishwar Chand Jain vs. High Court of Punjab & Haryana & Anr., 1988 Supp. (1) SCR 396, the following observations were made by this Court :

> .. While exercising control over the subordinate judiciary under the Constitution, the High Court is under a constitutional obligation to guide and protect judicial officers. An honest, strict judicial officer is likely to have adversaries. If complaints are entertained on trifling matters relating to judicial officers which may have been upheld by the High Court on the judicial side, and if the judicial officers are under constant threat of complaints and enquiry on trifling matters, and if the High Court encourages anonymous complaints, no judicial officer would feel secure, and it would be difficult for him to discharge his duties in an honest and independent manner. An independent and honest judiciary is a sine qua non for the Rule of law. It is imperative that the High Court should take steps to protect its honest judicial officers by ignoring ill-conceived or motivated complaints made by unscrupulous lawyers and litigants. [p.409] In the present case, though elaborate enquiry has been conducted by the Enquiry Officer, there is hardly any material worth the name forthcoming except to scrutinize each one of the orders made by the appellant on the judicial side to arrive at a different conclusion. That there was possibility on a given set of facts to arrive at a different conclusion is no ground to indict a judicial officer for taking one view and that too for alleged misconduct for that reason alone. The Enquiry Officer has not found any other material, which would reflect on his reputation or integrity or good faith or devotion to duty or that he has been actuated by any corrupt motive. At best he may say that the view taken by the appellant is not proper or correct and not attribute any motive to him which is for extraneous consideration that he had acted in that manner. If in every case where an order of a subordinate court is found to be faulty a disciplinary action were to be initiated, the confidence of the subordinate judiciary will be shaken and the officers will be in constant fear of writing a judgment so as not to face a disciplinary enquiry and thus judicial officers cannot act independently or fearlessly. Indeed the words of caution are given in K.K.Dhawans case [supra] and A.N.Saxenas case [supra] that merely because the order is wrong or the action taken could have been different does not warrant initiation of disciplinary proceedings against the judicial officer. In spite of such caution, it is unfortunate that the High Court has chosen to initiate disciplinary proceedings against the appellant in this case.
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> There are other two charges in respect of which the appellant was found to be guilty. One relates to grant of order of stay of disconnection of telephone for non-payment of Rs.410/- to the Telephone Department in a consumer dispute filed by a senior government doctor. All that he did in his capacity as Incharge District Judge on the assumption that the District Judge being the ex-officio Chairman of the District

Consumer Forum he could grant such an order and that too when one of the members of the Forum has placed the papers before him seeking for orders. At best it is a case of bona fide and erroneous exercise of judicial powers and that matter cannot be treated as misconduct at all. How the Enquiry Officer could arrive at a finding that it is falling in one of the categories mentioned above surpasses our comprehension.

The last charge is to the effect that the appellant had appointed a mali [gardener] on a temporary basis for a period of 3-12 months at a time when he was Incharge District Judge. The action of the appellant was too trivial to call for any action because the appointment made by him was not pursuant to any improper motives such as illegal gratification or otherwise. How the same amounts to misconduct is not clear to us at all except to state that he was only Incharge District Judge.

Thus we find that the findings recorded by the Enquiry Officer are totally vitiated for want of any legally acceptable or relevant evidence to support the charges of misconduct. In the absence of any evidence, the Enquiry Officer could not have reached the conclusion in the manner he did, and these findings affirmed by the disciplinary authority also stand vitiated.

The learned counsel for the respondents sought to rely upon a number of decisions of this Court to indicate the scope of interference in matters of this nature. We have adverted to the broad principles attracted to a case of this nature which are sufficient for disposal. Hence, we do not refer to other decisions.

We, therefore, have no hesitation to allow this appeal, set aside the order made by the High Court and thereby allow the writ petition filed by the appellant, directing his immediate reinstatement in service with continuity of service and all consequential benefits such as payment of arrears of salary and other benefits. No costs.

J. [S. RAJENDRA BABU] ...J. [DORAISWAMY RAJU] AUGUST 08, 2001.