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Judgment reserved on 19.01.2012
Judgment pronounced on 24.01.2012

Smt. Kanta Rani

... Petitioner

versus

The Registrar General & Anr

... Respondents

For the Petitioner : Mr P.S.Mahendru
For the Respondent : Mr Syed Ahmed Saud for Respondent No.1
Ms Avnish Ahlawat & Ms Urvashi Malhotra for Respondent No.2

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE V.K.,JAIN

V.K.JAIN, J.

1. One Shri V.P.Gulati was facing trial before the Additional Sessions Judge, Delhi and the petitioner before this Court was posted as the 'Reader' in that Court. A complaint was made by Shri V.P.Gulati alleging therein that the petitioner had called him at his residence and asked him to come and meet her in the Court in which she was posted. He further alleged that the petitioner told him that if he pays Rs1 lac to her then the Judge would give bail to her. He also alleged that the petitioner took him in the chamber of Additional Sessions Judge, who demanded Rs1 lac for granting bail to him. The complainant claimed to have agreed to pay Rs.50,000/- as advance on 19.1.2001 along with Rs 5,000/- for the petitioner. On receipt of the complaint, a case under Sections 7 and 13(1)(d) of Prevention of

Corruption Act, 1988 was registered. A trap was then laid by CBI on 20.1.2001. On that day the petitioner came to the house of the complainant and sat there on the sofa in the drawing room. It was alleged that the petitioner accepted the bribe money of Rs 55,000/-, from the complainant Shri V.P.Gulati at his residence.

2. Vide memorandum dated 11.11.2005 a Statement of Articles of Charge along with a Statement of Imputation of Misconduct in support of the Articles of Charge was served upon the petitioner and she was informed that an inquiry would be held in respect of those charges which were admitted by her.

3. The Articles of Charge and Statement of Imputation of Misconduct read as under:-

STATEMENT OF ARTICLES OF CHARGE

That Smt. Kanta Rani, UDC (Under-suspension) while being posted in the court of Shri S.K.Kaushik, ASJ, Delhi as a Reader on 20.1.2011, demanded and accepted a sum of Rs.55,000/- as illegal gratification from the complainant Shri V.P.Gulati, resident of 27/24, Old Rajinder Nagar, New Delhi at his said house at about 10 AM as a motive or reward and in consideration for securing bail for him in a case which was pending against him in the court being case State Vs. V.P.Gulati, FIR No.14/2001, under section 120-B IPC R/W section-7. This amount of Rs.55,000/- was accepted by her as pecuniary advantage for herself by

corrupt or illegal means or otherwise by abusing her position as Reader working in the court.

Being a Government servant, Smt. Kanta Rani was required to do nothing unbecoming of a Government Servant, devotion towards her duty and also to maintain her integrity but by doing the above said Act, she violated the Rule 3(1) of the CCS (Conduct) Rules, 1965.

The above said act on the part of Smt. Kanta Rani, UDC, (Under-suspension) indulging in corruption with financial indiscipline in discharging her duties with ulterior motive which constitute gross-misconduct, dishonesty, doubtful integrity within the meaning of Rule 3 of the CCS(Conduct) Rules, 1964 and therefore she is liable for disciplinary action under Rule 14 of CCS(CCA) Rules, 1965.

STATEMENT OF IMPUTATION OF MISCONDUCT

That Deputy Superintendent of Police, CBI, ACB, New Delhi reported that a case was registered on the basis of a complaint lodged by Shri V.P.Gulati, Complainant R/o. 27/24, Old Rajinder Nagar, New Delhi on 19.1.2001 against Smt. Kanta Rani working as Reader in the Court of Shri S.K. Kaushik, ASJ, New Delhi that Smt. Kanta Rani (Under-suspension) working as Reader was apprehended on 20.01.2001 while accepting a sum of Rs 55000/- as a motive or reward and in consideration for securing bail for him in a case FIR No. 14/2001

under Section 120-B IPC R/W Section 7 which was pending against him, from the complainant Sh. V.P. Gulati at his residence.

A trap was organized on 19.01.2001 by CBI under the leadership of Inspector Sobha Dutta, Shri Alok Kumar, Inspector, Shri A.K. Singh, Inspector, Shri M.M. Ansari, Inspector and other subordinate staff and independent witnesses namely Shri P.K. Das and C.M. Juneja from personal department, Head Officer, Oriental Bank of Commerce, Connaught Place, New Delhi. All the trap party members including independent witnesses and the complainant assembled in the room of Smt. Shobha Dutta, Inspector. Thereafter all the members of the trap party except the complainant mutually searched either other to ensure that they did not carry an incriminating document/article with them and left for the spot. While proceeding towards the residence of the complainant, the complainant made a telephonic call to his house for the purpose of ascertaining whether the accused Smt. Kanta had come to his residence or not and after the conversation with his son Sh. Pankaj Gulati, the complainant informed that Smt Kanta had come to his house at about 7 pm and left the house about 7.50 pm and would again visit on 20.1.2001 at about 8.30 am. The CBI trap party members along with both the independent witnesses and the complainant returned back to CBI office and it was decided to lay trap on 20.01.01.

A trap was again organized on 20.01.2001 by CBI under the leadership of Inspector Sobha Dutta, and the trap party reached the spot (residence of Shri V.P. Gulati, Complainant) at about 8.05 a.m. Thereafter all the trap party members including two independent witnesses and the complainant entered into the house of complainant at 1st floor of above said address. All the trap party members including shadow and independent witness took suitable positions in the house of the complainant.

Later on, a lady whose identity was disclosed as Smt. Kanta Rani, Reader in the court of Shri S.K. Kaushik, ASJ, Tis Hazari Court, Delhi entered into the house and sat on the Sofa lying in the drawing room along with complainant. On receipt of pre-appointed signal all the trap party members rushed towards the drawing room. On being enquired the shadow witness informed that the bribe amount was demanded by Smt. Kanta on which the complainant took out the tainted bribe amount from his right hand and the same was accepted by Smt. Kanta through her left hand and kept the bribe amount with her after checking the same with both of her hands. On being enquired the complainant also corroborated the version of the shadow witness and further informed that Smt. Kanta had kept Rs 50,000/- in red colour shawl in a plastic bag and the remaining Rs 5000/- in her leather hand bag. After the said recovery from Smt. Kanta Rani she was arrested on the spot by Inspector Shobha Dutta. Remaining proceedings were also done by the inspector

concerned in the presence of Police officials and public witnesses as stated in the statements of witnesses, copies of which has been relied by the department and copy of which are being supplied to the delinquent official. Statements of witnesses, Police officials, whose name have been given in the list of witnesses have been recorded in support of case and the copies of the statements have been/are being given to the delinquent official.

Being a Government servant, Smt. Kanta Rani was required to do nothing unbecoming of a Government Servant, devotion towards her duty and also to maintain her integrity but by doing the above said act, she violated the Rule 3(1) of the CCS (Conduct) Rules, 1965.

The above said act on the part of Smt. Kanta Rani, UDC (Under-suspension) indulging in corruption with financial indiscipline in discharging her duties with ulterior motive which constitute gross-misconduct, doubtful integrity within the meaning of Rule 3 of the CCS(Conduct) Rules, 1964 and therefore she is liable for disciplinary action under Rule 14 of the CCS (CA) Rules, 1965.”

4. Since the petitioner did not admit the charge against her, an inquiry was conducted by Shri Neeraj Kumar Gupta, Additional District Judge, Delhi, who submitted a report reporting therein that the Charge of demand and acceptance of the bribe money did not stand established. It was further reported by the Inquiry Officer that the petitioner had admitted that she had gone to the house of the

complainant on the aforesaid date and time and was present there, and since the explanation given by her for visiting the house of the complainant was not found to be creditworthy, her presence at the residence of the complainant, who was facing trial in the Court where the petitioner was working as Reader, amounted to a conduct unbecoming of a Government Servant. It was found by the Inquiry Officer that the petitioner had also handled the tainted money since, admittedly, phenolphthalein power was found on both her hands and her explanation in this regard was not worthy of any reliance. The Inquiry Officer also termed her conduct to be an act of doubtful integrity.

5. District Judge-I and Sessions Judge, Delhi who was the Disciplinary Authority of the petitioner, after giving personal hearing to her, and after considering her contentions as well as the material on record concluded that the petitioner had failed to maintain absolute integrity, had compromised the position of trust and confidence reposed in a court official in such capacity and her act was unbecoming of a Government Servant, bringing the entire system of administration of justice to disrepute. He, accordingly, imposed penalty of dismissal from service upon the petitioner.

An appeal was filed by the petitioner against the order of dismissal dated 21.07.2009. The appeal was dismissed by an Hon'ble Judge of this Court, vide order dated 9.9.2010.

6. The first contention of the learned Counsel for the petitioner, before us, was that visiting the house of the complainant and being found present there was not the charge against the petitioner and therefore she could not have been punished for the aforesaid act. A bare perusal of the Articles of Charge and Statement of Imputation of Misconduct would show that the contention is wholly misconceived, since the charge against the petitioner was that she accepted illegal gratification from the complainant at his house i.e. 27/24, Old Rajinder Nagar, New Delhi at about 10.00 am on 21.1.2001, while she was posted as Reader in the Court of the Additional Sessions Judge, Delhi. It was stated in the Statement of Imputations of Misconduct that the case registered vide FIR No. 14/2001 was pending against Shri V.P.Gulati, resident of 27/24, Old Rajinder Nagar, New Delhi in the Court in which the petitioner was posted as the Reader. It was further stated in the Statement of Imputation and Misconduct that a lady, who was identified as Smt Kanta Rani, entered the aforesaid house of the complainant and sat there on the sofa in the drawing room along with the complainant. It was also stated that the complainant delivered the bribe money to the petitioner from his right hand and the same was accepted by her through her left hand after checking the same with both her hands. It was also stated that she was arrested on the spot by CBI Officers. Thus, entering the house of the complainant, who was facing trial in a criminal case, in the very same Court in which the petitioner was posted as Reader, and being found present

there was a part of the Charge served upon the petitioner. We, therefore, we find no merit in the contention that the finding of the Inquiry Officer, with respect to the petitioner visiting the house of Shri V.P.Gulati, an accused facing trial in the Court in which she was posted as the Reader and being found present there was beyond the Articles of Charge served upon the petitioner.

7. The second contention of the learned Counsel for the petitioner before us was that since the petitioner had visited the house of the complainant Shri V.P.Gulati, at the instance of one Shri B.M.Bhatia, who was related to her it cannot be said that her act or conduct was unbecoming of a Government Servant. A perusal of the inquiry report would show that no written statement of defence was filed by the petitioner, on receipt of the charge-sheet and the plea that she visited the house of the complainant at the instance of Shri B.M.Bhatia was taken for the first time after evidence of the department had been closed. A perusal of the inquiry report by the Inquiry Officer would show that it was in the knowledge of the petitioner that the complainant Shri V.P.Gulati was an accused and was facing trial in the same very Court in which she was posted as the Reader. Admittedly, Shri B.M.Bhatia was not produced by the petitioner to substantiate the defence taken by her during the course of inquiry. If Shri B.M.Bhatia was related to her, as she claimed before the Inquiry Officer, the petitioner could very well have produced her as a witness, to substantiate the plea taken by her. It was stated by

the learned Counsel for the petitioner that since the relations of the complainant with Shri B.M.Bhatia were not cordial, he had refused to appear before the Inquiry Officer. We notice that this contention is contrary to the plea taken before the Inquiry Officer. The contention before the Inquiry Officer was that Shri B.M.Bhatia being unwell was unable to attend the inquiry proceedings. As rightly noted by the Inquiry Officer, had the relations between the complainant and Shri B.M.Bhatia been strained, there would have been no occasion for Shri B.M.Bhatia to take the petitioner to the house of the complainant. It had also been revealed during the inquiry that neither any person by the name of B.M.Bhatia nor any other person had accompanied the petitioner when she entered the house of the complainant. There is no material on record to substantiate the plea taken by the learned Counsel, but, assuming it to be correct, nothing prevented the petitioner from requesting the Inquiry Officer to summon Shri B.M.Bhatia as a witness for the petitioner. Even otherwise, in our view, if the petitioner visited the house of the complainant Shri V.P.Gulati even on the request of a relative such an act would still constitute an act or conduct unbecoming of a Government Servant since she knew that the complainant was facing trial in the Court in which she was working as the Reader and therefore, she was not expected to interact with him in any manner.

8. We also take note of the finding of the Inquiry Officer that the petitioner had handled the tainted money as was evident from her admission that phenolphthalein powder was found on both her hands. The explanations given by her in this regard was found to be unreliable.

9. The learned Counsel for the petitioner has referred to decision of the Supreme Court in **Commissioner of Police, Delhi And Others v. Jai Bhagwan (2011) 6 SCC 376**. A perusal of the judgment would show that in that case a police constable was charge-sheeted for extorting illegal gratification from the complainant, during security check of passengers of a flight. The police constable was dismissed from service and the appeal filed by him as well as his OA before the Central Administrative Tribunal were dismissed. The High Court, however, allowed the Writ Petition filed by him, and set aside the order passed by the Tribunal. The appeal filed by Commissioner of Police, Delhi was dismissed by the Supreme Court, after noticing that during the course of inquiry proceedings, no witness was examined on behalf of the appellants to prove and establish by any reliable evidence, that the amount of Rs 100/- was received by the respondent by way of illegal gratification. Two person viz. Shri O.P.Yadav and Arjun Singh, on the basis of whose statements, the case was initiated, denied having witnessed the incident and claimed to be the witnesses only of the respondent returning the money to the complainant. Considering this as well as other discrepancies in the

case, Supreme Court held that though there was some evidence of return of Rs100/- by the respondent to the complainant, there was no direct or reliable evidence which would clearly prove that he had demanded and received an illegal gratification. The Court also felt that it was quite impracticable that the respondent could have extorted money in presence of a large number of passengers. A number of shortcomings were found in the investigation. It was, in these circumstances, that Supreme Court agreed that it was a case of 'no evidence'. However, the facts of the case before this Court are altogether different and in fact the charge on the basis of which the petitioner was punished stands proved from the admission made by her during the course of inquiry and her inability to substantiate the explanation given by her for visiting the house of the complainant and phenolphthalein powder being found on both her hands.

10. We, therefore, are in full agreement with the Inquiry Officer and the Disciplinary Authority that the act of the petitioner in visiting the house of a person, who was facing trial in the Court in which she was posted as Reader, and being found present there, constituted an act which clearly exhibited lack of absolute integrity, which a public servant must necessarily possess and was an act unbecoming of a government servant.

11. The last contention of the learned Counsel for the petitioner before us that the punishment of dismissal from service awarded to the petitioner was wholly disproportionate to the charge proved against her.

12. With respect to proportionality of punishment, we, in our judgment dated 19th January, 2012 in **Ex. Head Constable Manjeet Singh v. Union of India & Ors.: WP(C) No. 2431/2011**, observed as under:

“It is a settled proposition of law that neither the Central Administrative Tribunal nor the Writ Court can interfere with the punishment awarded in a departmental proceeding, unless it is shown that the punishment is so outrageously disproportionate, as to suggest lack of good faith. While reviewing an order of punishment passed in such proceedings, the Court cannot substitute itself for the Appellate Authority and impose a lesser punishment, merely because it considers that the lesser punishment would be more reasonable as compared to the punishment imposed by the Disciplinary Authority. The Court or for that matter even the Tribunal can interfere with the punishment only if it is shown to be so disproportionate to the nature of the charge against the delinquent official that no person, acting as a Disciplinary Authority would impose such a punishment. The following observations made by Supreme Court in **V.Ramana v. A.P.SRTC And Others: (2005) III LLJ 725 SC** are pertinent in this regard:

“The common thread running through in all these decisions is that the court should not interfere with the administrator’s decision unless it was illogical or suffers from procedural impropriety or was

shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.

To put it differently unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the court/Tribunal, there is no scope for interference. Further to shorten litigations it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In a normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.”

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In *B.C.Chaturvedi v. Union of India: 1995(6) SCC 749*, Supreme Court, after considering a Constitution Bench decision in *State of Orissa And Others v. Bidyabhushan Mohapatra: (1963) ILLJ 239 SC* and some other decisions, inter alia held as under:

A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High

Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.”

13. The petitioner before this Court was working as the Reader in the Court in which the complainant Shri V.P. Gulati was facing trial for a serious offence. The petitioner, despite, being fully aware of this fact chose to visit the house of the complainant and was caught while sitting there in his drawing room. There is no worthwhile explanation for the petitioner visiting the house of the complainant and being found present there. If a Court Official visits the house of an accused, without a reasonable excuse and is caught from there by CBI officers and it is also established that she, in some manner or the other, had also handled the bribe money, it is only logical to presume, in the absence of any material to the contrary, that the visit of the employee to the house of the accused was actuated by a dishonest motive. What exactly that motive was may or may not be proved in a given case, but, it can be confidently said that such a visit cannot be a bona fide act on the part of a Court employee. We have no hesitation in holding that such acts

bring disrepute to the entire Justice Administration System and have the dangerous potential of tarnishing the image of those who are manning the system. Considering the nature of the charge established against the petitioner, which in our opinion is of a grave nature and amounts to gross misconduct, we have no hesitation in holding that the punishment awarded to the petitioner cannot be said to be so disproportionate to the charge proved against her as to shock the conscience of the Court or to be a punishment which no reasonable person could have awarded to the petitioner.

We find no merit in the petition and the same is hereby dismissed.

V.K.JAIN, J

BADAR DURREZ AHMED, J

JANUARY 24,2012
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