

**HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
HON'BLE DR. JUSTICE SHAMEEM AKTHER**

WRIT PETITION No.12827 of 2016

ORDER: *(per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)*

The petitioner, Mr. K. Venkateswarlu, has challenged the legality of the order dated 20.08.2011, whereby, the High Court had reduced the punishment from the one of dismissal to the one of compulsory retirement.

Briefly, the facts of the case are that the petitioner was appointed as an Attender in 1982. Thereafter, he was promoted to the post of Field Assistant/Bailiff in the year 2002. However, Mr. Keloth Champalal lodged a complaint against the petitioner stating that the petitioner is demanding an illegal gratification of Rs.2,000/- to Rs.3,000/- to avoid the attachment order passed by the Court. Subsequently, trap proceedings were carried out by the Anti-Corruption Department when the petitioner was caught while taking a bribe of Rs.1,000/- from the wife of the judgment debtor. The said incident, in fact, was telecasted on 23.01.2008. Subsequently, the respondent not only issued a charge sheet to the petitioner, but also, conducted a full departmental enquiry. Eventually, by order dated 13.08.2009, the petitioner was dismissed from service. Therefore, he filed an appeal before the respondent No.1, the High Court. By order dated 20.08.2011, the High Court has reduced the punishment as mentioned hereinabove. Hence, this petition before this Court.

Mr. Surya Balu Mahendra, the learned counsel representing Mr. Kowturu Pavan Kumar, the learned counsel for the petitioner, has vehemently pleaded that even the punishment of compulsory retirement is shockingly disproportionate to the alleged misconduct committed by the petitioner. Therefore, the impugned order deserves to be set aside by this Court.

On the other hand, Ms. V. Uma Devi, the learned Standing Counsel for the High Court, submits that the judiciary is known for its objectivity and impartiality. In case, the incidents of bribery, even of an employee of the Court, go unpunished, the faith of the people in the judiciary would be shattered. Therefore, a very serious view had to be taken of the alleged bribery taken by the petitioner. Hence, initially, by order dated 13.08.2009, the respondent No.2 had imposed a punishment of dismissal upon the petitioner. However, subsequently, realizing the fact that the petitioner had worked for twenty seven long years with the institution, and that he has dependants, whose welfare he is required to look after, the High Court had validly and legally reduced the punishment of one from dismissal to one of compulsory retirement. Therefore, the learned counsel has supported the impugned order.

Heard the learned counsel for the parties and perused the impugned order.

In the case of **Union of India and Others v.**

P.Gunasekaran¹, the Hon'ble Supreme Court has laid down certain parameters which read as under:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

¹ (2015) 2 SCC 610

- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*
- (v) interfere, if there be some legal evidence on which findings can be based.*
- (vi) correct the error of fact however grave it may appear to be;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.”*

Hence, the jurisdiction to examine and adjudicate the punishment order is extremely a limited one. However, this Court is empowered to consider the issue of proportionality of the punishment.

Although the learned counsel for the petitioner claims that the punishment imposed upon the petitioner is a disproportionate one, the same is highly misplaced. For, needless to say, the very foundation of the justice delivery system or of the judiciary is based upon the faith of the people. Cases of bribery, even of an employee of a Court, undermine the faith of the people in rule of law, and in the justice delivery system. Admittedly, in the present case, the petitioner was caught red-handed, while accepting a bribe of Rs.1,000/-.

Considering the gravity of the offence, the respondent had initially imposed the punishment of dismissal. However, subsequently, reconsidering the circumstances of the case in a holistic manner, especially considering the fact that the petitioner

had served the institution for twenty-seven long years, and had dependants, who have to be looked after only by him, in its generosity, the High Court had reduced the punishment from dismissal to compulsory retirement. In fact, the punishment was reduced only in order to enable the petitioner to live quietly and securely in the dusk of his life. Therefore, the impugned order is certainly proportionate to the misconduct committed by the petitioner. Hence, the contention raised by the learned counsel for the petitioner is untenable.

For the reasons stated above, this Court does not find any merit in the present writ petition; it is, hereby, dismissed.

Pending miscellaneous petitions, if any, shall stand dismissed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, ACJ

Date: 21.06.2019

DR. SHAMEEM AKTHER, J

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