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Central Administrative Tribunal, Allahabad

Registration T.A.No.1664 of 1987 (C.A.No.497 of 1987)

Union of India Appellant

Vs.

Raj Kishore Respondent

Hon'ble G.S.Sharma, JM
Hon'ble K.J.Raman, AM

(By Hon'ble G.S.Sharma, JM)

The Union of India had filed Civil Appeal No.497 of 1983 against the judgement and decree dated 30.7.1983 passed by the IX Addl. Munsif Kanpur in suit no. 108 of 1982 in the Court of the District Judge, Kanpur. The appeal was heard and allowed by the IX Addl. District Judge Kanpur on 15.10.1984. The plaintiff- respondent, however, preferred a Review Application against the said decision which was received in this Tribunal under Section 29 of the Administrative Tribunals Act XIII of 1985 on its establishment and the Review was allowed on 14.9.1987 and the decision of the appellate Court was set ~~xe~~ aside and the appeal was ordered to be registered for hearing afresh. It is in this way that this appeal has come ^{up} for hearing before us.

2. We have heard learned counsel for the parties- Sri K.C.Sinha for the Union of India and Sri V.L.Varma for the plaintiff- respondent and as the appeal can be disposed of on a short jurisdictional point, it is not necessary to narrate the detailed ^{facts of the} case of the plaintiff here. It will suffice to say that the plaintiff while posted as Machinist 'B' in the Ordnance Equipment Factory Kanpur was served with charge sheet dated 11.11.1978 issued

by the General Manager Ordnance Equipment Factory Kanpur for certain alleged misconduct. After the inquiry, the guilt of the plaintiff was found established and the General Manager, vide his order dated 3/4.12.1979 removed him from service by way of punishment. The appeal preferred by the plaintiff against the said penalty was dismissed by the Sr. Dy. Asstt. Director General, Ordnance Factories, on 4.12.1979. The plaintiff thereafter preferred appeal/representation to the Minister but that too was ultimately rejected on 1.6.1981. The suit giving rise to this appeal was filed by the plaintiff for setting aside the orders dated 3/4.12.1979 and 4.12.1979 passed by the General Manager. The contention of the plaintiff, as accepted by the trial Court, is that the General Manager had no jurisdiction to initiate the disciplinary proceedings against him in 1978 and he had also no jurisdiction to act and impose any penalty on 3/4.12.79 in his capacity as his disciplinary authority.

3. The question relating to the jurisdiction of the General Manager Ordnance Equipment Factory Kanpur to act as the disciplinary authority of Class III and IV employees of his Factory was finally decided by this Bench in the case of General Manager Ordnance Equipment Factory Kanpur Vs. Supriya Roy (A.T.R. 1988 (1)CAT-56) and it was held that before 2.1.1987 the General Manager was not competent to act as the disciplinary authority of Class III and IV employees of its Factory. We are bound to follow the same principle in this case.

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4. In view of this legal position, the view taken by the learned Munsif cannot be assailed on behalf of the defendant-appellant and the appeal has to be dismissed.

5. The appeal is accordingly dismissed. This order will, however, not prevent the defendant Union of India from initiating fresh action against the plaintiff in accordance with law, if they so desire. The parties shall bear this own costs throughout.

W.M.A.
MEMBER (A)

Z.S. Bhambhani
MEMBER (J)

Dated: 26th April, 1989
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