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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.884 of 1986 (C.A.No.587 of 1983)

Union of India ... Appellant

Vs.

Hari Shankar Misra ... Respondent.

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

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

This Civil Appeal against the judgment and decree dated 17.9.1983 passed by the IX Addl.Munsif Kanpur in suit no.124 of 1982 has been received on transfer from the Court of IV Addl.District Judge, Kanpur u/s.29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff-respondent while working as Primary Teacher in the Ordnance Equipment Factory School Kanpur was served with a charge sheet dated 9.10.1980 issued by the Dy.General Manager (Administration) in connection with certain misconduct. After considering the statement of defence submitted by the plaintiff- respondent the General Manager vide his order dated 3.2.1981 awarded the punishment of stoppage of increment for 3 years without cumulative effect. The validity of the said order was challenged by the plaintiff in the suit giving rise to this appeal and he prayed that the said order of punishment be declared to be illegal and ultra vires on the ground that the General Manager was not his appointing authority and in any case, the General Manager could not delegate his powers to act as a disciplinary authority to the Dy.

General manager (Administration) and the charge sheet served on him as well as the order of punishment were passed by the officers having no jurisdiction in the eye of law. The defendant-appellant had contested the suit

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1 and it was stated in the written statement filed on its behalf that the disciplinary proceedings were initiated against the plaintiff in accordance with law and the order of punishment passed by the General Manager is a valid order and does not suffer from the defect of want of jurisdiction.

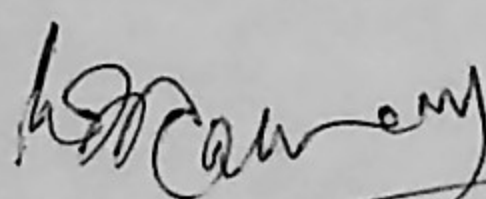
3. The learned trial Court after considering the evidence of the parties held that the General manager could not delegate his powers as disciplinary authority to the Dy.General manager and the charge sheet issued to the plaintiff was thus illegal. It was further held that the impugned order of punishment passed by the General Manager does not show that he had taken into consideration the statement of defence submitted by the plaintiff and the other material on record and the order of punishment passed by him is, therefore, illegal, arbitrary, inoperative and against the principles of natural justice and the suit was accordingly decreed with costs.

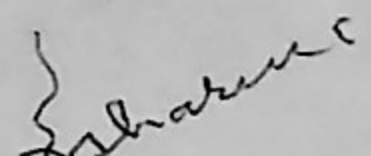
4. Aggrieved by the findings recorded by the Court, the present appeal was filed by the Union of India. At the time of arguments, the learned Addl. Standing Counsel appearing on behalf of the appellant contended that the findings given by the trial Court are incorrect. None had put in appearance on behalf of the plaintiff-respondent.

5. The question regarding the jurisdiction^{or competence} of the General Manager Ordnance Equipment Factory, Kanpur involved in this case is covered by a decision of a Bench of this Tribunal in General Manager Ordnance Equipment Factory Kanpur Vs. Supriya Roy (A.T.R.1988(1)CAT-56) in which it was held that before 2.1.1987 the General Manager Ordnance Equipment Factory Kanpur could not act as the disciplinary authority of class III and IV employees

of his factory. We see no reason to take a different view in this case. Thus, without entering into the merits of the case, we are of the view that disciplinary proceedings initiated against the plaintiff were initiated by an officer not authorised under the law to do so and the order of punishment passed against the plaintiff is void for want of jurisdiction. As the impugned order was passed by an officer not vested with the powers of the disciplinary authority, we are unable to uphold the findings of the trial Court on merits as in our opinion it is unnecessary to go into the merits in such a case.

6. The appeal is accordingly allowed in part. The finding of the trial Court on the point that General manager was not competent to impose any penalty on the plaintiff on 3.2.1981 is upheld. This finding will, however, not prevent the competent authority to initiate fresh disciplinary proceedings against the plaintiff, if so desired, within a reasonable time in accordance with law. The parties are directed to bear their own costs throughout.


MEMBER (A)


MEMBER (J)

Dated: 5th May 1989
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