

A

ANAND NARAIN SHUKLA

v.

STATE OF MADHYA PRADESH

August 2, 1979

B [N. L. UNTWALIA AND A. P. SEN, JJ.]

Second departmental enquiry, not a bar on the ground it was held on basis of the same charges of first enquiry which was quashed on technical and legal ground—Subsistence allowance paid during suspension could be allowed to stand in the order of reversion.

C The appellant, an office Superintendent was reverted to a lower rank after finding him guilty of some charges held in a departmental enquiry. The said orders were quashed by the High Court on the ground that the enquiry held was not proper and legal. The appellant was reinstated as office superintendent. Later, fresh enquiry was started after placing him under suspension on the basis of the same old charges. He was found guilty and again reverted to a lower rank with a direction in the order of reversion that the allowance paid to him during the period of suspension could remain intact. The writ petition filed by the appellant against the said orders was dismissed.

Dismissing the appeal by certificate, the Court

E HELD : 1. The observations of this Court in *State of Assam & Anr. v. J. N. Ray Biswas*, [1976] 2 SCR p. 128 @ 130 to the effect that "once a disciplinary case has closed and the official reinstated, presumably on full exoneration, a chagrined Government cannot restart the exercise in the absence of a specific power to review or revise, vested by rules in some authority" are not applicable to the fact of the present case. [197 G-H]

F The earlier order was quashed on a technical ground. The order of reinstatement does not bring about any distinction in that regard. The Government had to pass that order because the earlier order of reversion had been quashed by the High Court. Without reinstating the appellant it would have been difficult, perhaps unlawful, to start a fresh enquiry against the appellant. [197F-G]

(b) The reduced amount paid to the appellant for the period of suspension was affirmed by making it a part of the order of reversion itself, and is in order.

[197H, 198H]

G CIVIL APPELLATE JURISDICTION : Civil Appeal No. 467 of 1970.

From the Judgment and Order dated 25-4-1969 of the Madhya Pradesh High Court in Misc. Petition No. 4/67.

D. N. Mukherjee and G. S. Chatterjee for the Appellant.

H *S. K. Gambhir, R. Nath and Miss Ram Rakhiani* for the Respondent.

The Order of the Court was delivered by

UNTWALIA, J.—The appellant was an Office Superintendent in the office of Agriculture Department. Certain charges were levelled against him. An enquiry was purported to be held. After finding him guilty of some charges, he was reverted to a lower rank. He challenged that order by filing a Writ Petition in the Madhya Pradesh High Court. That Writ Petition was allowed and the order of reversion was quashed on the ground that the enquiry held was not proper and legal. In view of the order of the High Court, the appellant was reinstated in his original post of Office Superintendent. But shortly after, he was put under suspension and fresh proceedings were started on the basis of the same old charges. In the second proceedings, he has been found guilty of certain charges, the details of which are not necessary to be mentioned in our judgment. He was again reverted and it was also directed in the order that the allowance paid to him during the period of suspension could remain intact. The appellant filed a second Writ Petition in the High Court to challenge the fresh order of reversion. The High Court has dismissed his Writ Petition. Hence this appeal in this Court on grant of a certificate by the High Court.

Mr. D. N. Mukherjee, learned counsel for the appellant urged only two points before us; (1) that after the earlier order of reversion was quashed by the High Court and after the appellant was reinstated, no second enquiry on the very same charges could be held and no second order of reversion could be legally and validly made; and (2) that appellant was entitled to the full salary for the period of suspension.

We find no substance in either of the points urged on behalf of the appellant. The earlier order was quashed on the technical ground. On merits, a second enquiry could be held. It was rightly held. The order of reinstatement does not bring about any distinction in that regard. The Government had to pass that order because the earlier order of reversion had been quashed by the High Court. Without reinstating the appellant, it would have been difficult perhaps unlawful, to start a fresh enquiry against the appellant. The observations of this Court in the last paragraph of the judgment in *State of Assam & Anr. v. J. N. Roy Biswas*,⁽¹⁾ are not applicable to the facts of the present case and do not help the appellant at all.

The reduced amount paid to the appellant for the period of suspension was affirmed by making it a part of the order of reversion

(1) [1976] 2 S.C.R. 128.

▲ itself. That being so, the second point urged by the counsel is also of no substance. For the reasons, stated above, we dismiss this appeal but since the appellant has already retired from service, we make no order as to costs.

V.D.K.

Appeal dismissed.