

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONMT.PET.(C) NO. 1795/2017

IN

C.A. NO. 6575/2012

R.K. SAREEN . . .PETITIONER(S)

VERSUS

R.K. KULSHRESHTHA & ANR. . .RESPONDENT(S)

WITH

SUO MOTU WRIT PETITION (C) No. 1/2018

ORDER

1. On 12th November, 1999 reportedly the petitioner - R.K. Sareen was found involved in receipt of alleged illegal gratification of Rs.10,000/- (Rupees Ten thousand). A First Information Report ("FIR") was filed in respect of the said allegations. The criminal proceedings, however, did not materialize as sanction to prosecute under the provisions of the Prevention of Corruption Act, 1988 was refused by an order dated 9th April, 2001.

2. Parallely, departmental proceedings were initiated against the petitioner on 20th January, 2002 in respect of the same incident. The departmental proceedings got prolonged with several approaches to the Central Administrative Tribunal and the High Court as well as this Court on the issue of requirement of furnishing the petitioner (delinquent) a copy of the opinion of the Union Public Service Commission. Eventually, by an order dated 28th September, 2016 passed in Civil No.6575 of 2012 this Court affirmed the order of the High Court to the effect that the disciplinary authority should be left free to decide the matter. The order of punishment imposed was to be understood to have been set aside.

3. Thereafter, by an order dated 10th January, 2018 of the Disciplinary Authority

the charges levelled against the petitioner were held to be proved and punishment of withholding of pension to the extent of 100% (hundred per cent) along with forfeiture of gratuity was imposed. When the said fact was brought to the notice of the Court, by an order dated 9th July, 2018, the Court ordered for registration of a Suo Motu Writ Petition under Article 32 of the Constitution as against the aforesaid order dated 10th January, 2018. This was so done in view of the long efflux of time that has occurred and the fact that the petitioner had retired from his post in Northern Railways way back in August, 2003.

4. It is the legality and validity of the aforesaid order of punishment that would require to be considered at this stage.

5. While we may not have any occasion to interfere with the findings of the disciplinary authority with regard to the conclusion as regards proof of the charges, in so far as the punishment of withholding of 100% pension and the forfeiture of gratuity, both on permanent basis, is concerned, we are of the view that situation needs to be balanced.

6. The fact that the criminal prosecution did not see the light of the day and sanction to prosecute was specifically refused is a vital fact that cannot escape the attention of the Court. The charges in the departmental proceedings, therefore, must be understood to have been proved on the basis of preponderance of probabilities. A grave suspicion or a strong doubt built on reasonable grounds could very well be the basis of the impugned order of punishment.

7. Taking into account all the said facts and the period of time over which the proceedings has continued we are of the view that in the facts of the present case the disciplinary authority should have a re-look at the quantum of punishment that has been inflicted and reconsider the aforesaid limited aspect of the matter which shall be so done within a period of four weeks from today.

8. The contempt petition as well as the suo motu writ petition is disposed of in the above terms.

.....,CJI.
(RANJAN GOGOI)

.....,J.
(SANJAY KISHAN KAUL)

.....,J.
(K.M. JOSEPH)

NEW DELHI
NOVEMBER 20, 2018

ITEM NO.2

COURT NO.1

SECTION XIV/X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CONMT.PET.(C) NO. 1795/2017
IN
C.A. NO. 6575/2012

R.K. SAREEN

PETITIONER(S)

VERSUS

R.K. KULSHRESHTHA & ANR.
WITH
SMW(C) No. 1/2018 (X)
(FOR ADMISSION)

RESPONDENT(S)

Date : 20-11-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. R.K. Sareen, petitioner-in-person

For Respondent(s) Mr. Aman Lekhi, ASG
Ms. Kiran Bhardwaj, Adv.
Mr. Devashish Bharukha, Adv.
Mr. Arun Kumar Yadav, Adv.
Mr. Vaibhav Kharbanda, Adv.
Mr. Raj Bahadur, Adv.
Mrs. Anil Katiyar, AOR

UPON hearing the petitioner-in-person and learned counsel
the Court made the following

O R D E R

The contempt petition as well as suo motu writ
petition is disposed of in terms of the signed order.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

ASSISTANT REGISTRAR

[SIGNED ORDER IS PLACED ON THE FILE]