

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5135 OF 2017  
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 31698 OF 2012)

STATE OF U.P.& ORS. . . . APPELLANT(S)

VERSUS

RAJESH KUMAR . . . . RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The High Court has interfered with the quantum of punishment imposed by the disciplinary authority against the respondent on the ground that the misconduct was not so grave as to justify the punishment of dismissal.

We are unable to appreciate the view taken by the High Court in the impugned order. It cannot be said that the charge of absence from duty for 594 days is not a serious charge for which the punishment imposed on the respondent could not be justified.

The only contention raised by the learned counsel is that the charge was not established as the respondent was ill and not unauthorisedly absent. This aspect was not been gone into by the High Court. Even without finding fault with the finding of misconduct, punishment has been interfered with. This cannot be sustained. Accordingly, while setting aside the impugned order, we

remand the matter to the High Court for fresh decision in accordance with law.

The appeal is disposed of in above terms. No costs.

Parties are directed to appear for further proceedings on 17<sup>th</sup> July, 2017.

.....J.  
[ADARSH KUMAR GOEL]

NEW DELHI  
10TH APRIL, 2017

.....J.  
[UDAY UMESH LALIT]

ITEM NO.70

COURT NO.13

SECTION XI

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

Petition(s) for Special Leave to Appeal (C) No(s). 31698/2012

(Arising out of impugned final judgment and order dated 15/12/2011 in CMWP No. 36707/2007 passed by the High Court Of Judicature at Allahabad)

STATE OF U.P.&amp; ORS.

Petitioner(s)

VERSUS

RAJESH KUMAR

Respondent(s)

(With interim relief and office report)

Date : 10/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Ravi Prakash Mehrotra,Adv.  
MR. Abhinav Kr. Malik,Adv.  
Ms. Neelam Singh,Adv.For Respondent(s) Mr. Abhishek Krishna,Adv.  
Mr. Danish Zubair Khan,Adv.UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

(Madhu Bala)  
Court Master  
(Signed order is placed on the file)(Veena Khera)  
Court Master