

STATE OF U.P. AND ANR.  
v.  
VED PAL SINGH AND ANR.

OCTOBER 7, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Service Law:*

*Back wages—Criminal proceedings against employee culminating in acquittal—However, employee dismissed from service pursuant to departmental proceedings—Reinstatement as a result of order of High Court with an order for payment of back wages—Held, when the Court directs payment of back wages or reinstatement, the Court/Tribunal is required to consider the backdrop of the circumstances and pragmatically apply the principle to the given set of facts—In the light of the confidential reports indicating doubtful integrity of the employee, it is not expedient to direct payment of back wages, though he was acquitted by the criminal court may be on technical grounds or on merits—The circumstances of the case and conduct of the employee do furnish justification for denying him the back wages lest it would be a premium on proclivity for corruption—Order of High Court directing payment of back wages set aside.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 13221 of 1996.

From the Judgment and Order dated 12.8.92 of the Allahabad High Court in W.P. No. 507 of 1983.

Ashok K. Srivastava for the Appellants.

B.S. Mor, Ms. Kusum Singh and M.S. Dhaiya for the Respondents.

The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises against the judgment of the High Court of Allahabad dated 12.8.92 made in W.P. No. 507/83. It is not

- A necessary to re-count all the events touching upon the interference by the High Court in the matter. We issued notice only on the limited question of payment of back wages. The respondent who was on temporary service was removed from service on conviction by criminal court. A criminal case had been initiated against him for offence under section 409 I.P.C. No doubt, later, he was acquitted of the charge. The record of the service of
- B the respondent was produced before the Tribunal. The Tribunal on going through the record was not inclined to interfere with the order. But the High Court had interfered with the removal of the respondent from service. Since we are not going into the question of correctness of the removal of the respondent from service after acquittal, it would suffice to state that
- C from the record placed before us, we are satisfied that the respondent is not entitled to the back wages. His integrity was doubted and he was found to be man of doubtful integrity. His confidential reports are not good.

- D Corruption is the result of deep-seated moral degradation and unsatiated greed for wealth. The office of public service affords an opportunity to the public servant to abuse of the office and in that pursuit to accept illegal gratification for the discharge of official duty. Criminal prosecution launched against the public servant many a time may end may be due to technical defects inapathy on the part of the prosecution or approach in consideration of the problem or the witnesses, turn hostile or
- E other diverse reasons but the meat of the matter is that on equitable consideration the Government servant claims re-instatement into service. Equity *per se* may not prevent the Government to take appropriate action under the conduct rules or under Article 311 of the Constitution but many a time they do become fruitless exercise. Resultantly public servant on re-
- F instatement claims consequential benefits including back wage. On many a occasion, public servant avoids the detection of corruption or by skilful management proof of commission of corruption would be wanting. But his conduct gains notoriety in service and among the public in that behalf and payment of back wages would provide an impetus and put a premium on corruption. The society has to pay the price for corrupt officers from public
- G exchequer. Therefore, when the court directs payment of back wages or re-instatement, the court/tribunal is required to consider the backdrop of the circumstances and pragmatically apply the principle to the given set of facts. No abstract principle of universal application could be laid in that behalf. The confidential reports of the officer prior to initiation of the
- H prosecution do furnish the evidence of conduct of the public servant. It is

the duty of the officer to place his material and of the Government to place all the necessary record in that behalf before the court/tribunal for consideration and it would be for the court/tribunal to consider and decide the matter. This Court has pointed out in several cases the need to record confidential reports objectively and dispassionately with a reformatory purpose to enable the public servant to reform himself to improve quality of the service and efficiency of the administration. Parochial, sectorial or nepotism approach would be deleterious to the efficiency of administration and maintenance of discipline in service confidential reports placed on record in this case do disclose such deleterious tendency in writing the confidential reports. One set of officers reported integrity of the appellant and while diametrically in opposite terms the predecessor officer had reported doubtful integrity of the appellant. They do demonstrate the lack of objectivity on the part of some officers in writing the confidential reports. This would be a very sad state of affairs impinging upon efficiency of administration. We have confined to the question of payment of back wages with an intention that on reinstatement the appellant would reform himself purging from the proclivity of corrupt practices and prove himself to be a useful public servant to himself, to the family and to the society. In the light of the confidential reports indicating doubtful integrity, we are of the view that it is not expedient to direct payment of back wages, though he was acquitted by the criminal court may be on technical ground or on merits, he is not entitled to back wages. As stated earlier the circumstances of the case and conduct of the appellant do furnish justification in denying him the back wages lest it would be a premium on proclivity for corruption.

The appeal is accordingly allowed. The order directing payment of back wages stands set aside. No costs.

R.P.

Appeal allowed.