

CASE NO.:
Appeal (civil) 499 of 2008

PETITIONER:
Deputy Inspector General of Police & Anr.

RESPONDENT:
K.Ravinder Rao

DATE OF JUDGMENT: 18/01/2008

BENCH:
A.K. MATHUR & H.S.BEDI

JUDGMENT:
J U D G M E N T

{Arising out of S.L.P.(c) No.18176 of 2006}

A.K.MATHUR, J.

1. Delay condoned.

2. Leave granted.

3. This appeal is directed against the order passed by the Division Bench of the Andhra Pradesh High Court whereby the Division Bench of the High Court has set aside the order of the A.P. Administrative Tribunal and directed reinstatement of the respondent with 50% back wages. Aggrieved against this order the present appeal has been filed by the Deputy Inspector General of Police, Hyderabad Range and another.

4. Brief facts which are necessary for disposal of this appeal are the respondent herein was appointed as a Police Constable in 1979 and while he was working as such at Uppal Police-Station he was placed under suspension on 9.5.1985 on the ground that he visited the house of one Smt. Kamasani Susheela in a drunken state and demanded her to provide girls for satisfying his sexual lust and when she refused, the respondent scuffled with her. When she raised alarm another Police Constable, Jagan Mohan Reddy, who was on picket duty rushed there and pulled the respondent from the house. On this misconduct by the respondent an inquiry was conducted by serving a proper charge-sheet. The Inquiring Officer after hearing both the parties, found the respondent guilty and thereafter, his explanation was called for as to why he should not be removed from service. Subsequently he was removed from service by order dated 1.10.1993. Then he filed an appeal before the appellate authority. That was rejected by order dated 30.4.1994. After that the respondent challenged that order by filing an original application being O.A.No.1489 of 1994 before the Administrative Tribunal. The Administrative Tribunal also affirmed the impugned order of removal from service. Aggrieved against that the respondent filed a writ petition before the High Court and the grievance of the respondent was that he was not afforded sufficient opportunity, the documents were not given to him and the finding of the Inquiring Officer was perverse and unsustainable. The writ petition was opposed by the appellants before the High Court. The High Court after reviewing the evidence and after going through the

statement of P.W.2, Smt. Kamasani Susheela and the statement of P.W.3, her sister and other two constables on duty, found the charges established but the High Court observed that the Inquiring Officer has given too much importance on the evidence of P.Ws.1 and 12 who were his superior officers. But the High Court found that there was no evidence that the respondent went to the house of Smt. Kamasani Susheela in a drunken state as alleged. But at the same time the High Court observed that there was some evidence that the respondent misbehaved with P.W.2. The Division Bench of the High Court held that imposition of punishment of removal from service was certainly disproportionate. The Division Bench of the High Court further observed that the finding of the disciplinary authority appeared to be perverse and the evidence has not been properly evaluated in its proper perspective. Consequently, the High Court set aside the order of the Tribunal as well as the order of the Inquiring Officer and directed reinstatement of the respondent in service as he has been out from service for 12 years i.e. since 1993 and directed payment of 50% of back wages. The High Court observed that this may not be treated as a precedent in future. Aggrieved against this impugned order of the High Court the appellants have preferred the present appeal.

5. We have heard learned counsel for the parties and perused the records. We have gone through the order passed by the Tribunal as well as the Inquiring Officer. We regret that the view taken by the High Court does not appear to be well founded. It is unfortunate that a Police Constable who is supposed to safeguard the public makes such a unreasonable demand on going to someone's house for satisfying his sensual lust. It is disgrace in uniform. The Tribunal has examined the matter in detail and after considering the matter affirmed the order of removal of the respondent. The Tribunal has also found that the findings given by the Inquiring Officer are sound and proper. The Tribunal examined the evidence and found that the testimony of P.W.2 has been corroborated by the evidence of P.W.3, Smt. Kamasani Laxmi and P.W.1, Circle Inspector of Police, who submitted a report finding the allegation true. P.Ws.7 & 9, both Constables supported the version of P.W.2. The Circle Inspector investigated the matter further and confirmed the incident that the respondent misbehaved with Smt. Kamasani Susheela and he was in a drunken condition so much so that when the respondent went to the Doctor for some medical treatment at the relevant time the Doctor declined to administer injection as the respondent was drunk. Therefore, all the evidence has been again examined by the Tribunal in objective manner and rightly affirmed the report of the Inquiring Officer.

6. It is strange that the High Court sitting under Article 226 of the Constitution of India re-appreciated the evidence and came to a different conclusion which is not within the scope of the High Court. The finding given by the Inquiring Officer has been affirmed in appeal and the same having been examined by the Tribunal in threadbare there was no justification for the High Court to come to its own conclusion when there was concurrent finding given by the Inquiring Officer and the Tribunal. But the High Court appreciated the whole evidence which was unwarranted. The respondent was drunk as is apparent from the testimony of the Doctor to whom the appellant had approached for some treatment and wanted to administer injection but having seen him in a drunken state the

Doctor declined. This is sufficient to prove that the appellant was drunk. Secondly, when the testimony of Smt.Kamasani Laxmi, supported by two beat Constables as well as by the Circle Inspector that the respondent went to the house of Smt. Kamasani Susheela and approached her for providing some girls to satisfy his sensual lust, the High Court went wrong in recording its finding. Time and again this Court has emphasized that under Article 226 of the Constitution of India, appreciation of evidence should not be done in matters of this nature unless the finding appears to be perverse. In the present case the finding having been examined in detail by the Tribunal and the Tribunal also having found no perversity in the finding of the Inquiring Officer, we fail to appreciate the approach of the High Court. Hence, we allow this appeal and set aside the order of the High Court and confirm the order of the Tribunal. There would be no order as to costs.