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C.A.No. 726 OF 2001

ITEM NO.108

COURT NO. 10

SECTION IX

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No.726 of 2001 @@  
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Dhananjay Appellant (s)

VERSUS

Chief Exe.Officer, Zilla Parishad, Jalna Respondent (s)

Date : 30/01/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. S.K. Dholakia, Sr.Adv.  
Mr. C.G.Solshe, Adv.

For Respondent (s) Mr. Shivaji M. Jadhav, Av.

UPON hearing counsel the Court made the following  
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Mr.Dholakia, learned counsel for the appellant, made his submission from 12.15 p.m. to 2.25 p.m. Thereafter, Mr.S.M.Jadhav, learned counsel for the respondent, argued for about ten minutes.

The civil appeal is dismissed in terms of the signed order.

.SP1 (N. Annapurna) (Shelly Sen Gupta)  
Court Master Court Master

(Signed order is placed on the file.) REPORTABLE@@  
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IN THE SUPREME COURT OF INDIA@@  
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CIVIL APPELLATE JURISDICTION@@  
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CIVIL APPEAL NO. 726 OF 2001@@  
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Dhananjay

...Appellant(s)

versus

Chief Executive Officer,  
Zilla Parishad, Jalna

...Respondent(s)

O R D E R@@  
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The appellant was appointed in Zilla Parishad, Jalna on May 13, 1985 on temporary basis for a period of one year. After expiry of that period, he was again given a fresh appointment for one more year with effect from May 14, 1986, after giving a break for one day. He was placed under suspension on July 1, 1987 on the ground that he had paid an amount of Rs.18,000/- to a contractor when the actual cost of repairs was only Rs.8,000/-. In the very suspension order, an enquiry also was directed in regard to the allegation of payment of Rs.18,000/- as against the actual cost of Rs.8,000/- spent towards repairs. A complaint also was made against him on criminal side in respect of the same allegation. Ultimately, after trial, he was acquitted. The respondent passed an order terminating the services of the appellant. Aggrieved by this order of termination of services, the appellant filed ...2/-

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a writ petition in the High Court. A Division Bench of the High Court, after considering the respective contentions of the parties, finding no merit in the writ petition, dismissed the same. Hence, the appellant is before us in this appeal.

Shri S.K.Dholakia, the learned senior counsel for the appellant, urged that the order of termination of services of the appellant though in terms is stated to be simpliciter, but, in fact, it is a result of the alleged misconduct against the appellant and, in other words, is stigmatic. In support of this submission, the learned counsel stated that the very order of suspension shows that an enquiry was directed against the alleged misconduct with a view to initiate disciplinary proceedings against the appellant to remove him from services; even a criminal complaint was filed to proceed against him and, in fact, he was prosecuted also pursuant to the complaint. Learned counsel submitted that the High Court committed an error in placing reliance on the decision of this Court in Union of@@

India vs. Bihari Lal Sidhana [(1997) 4 SCC 385]. He added@@  
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that whether the order of termination of services in a given case is simpliciter or stigmatic depends on the facts of each case and, according to him, on the facts of the present case, the order of termination of services was not ...3/-

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simpliciter but it was punitive attaching stigma to the appellant.

In opposition, the learned counsel for the respondent made submissions supporting the impugned order and reiterated the very submissions that were made before the High Court.

It is not in dispute that the appellant was appointed on a temporary basis; his services could be terminated without notice and without assigning any reason within a period of one year. In fact, his services were terminated within a period of one year under Rule 5(1) of the Central Civil Services (Temporary Service) Rules. The only question that is required to be answered is: whether the order of termination of services is simpliciter or is punitive attaching stigma to the appellant. No doubt in the order of suspension passed on July 1, 1987 keeping the appellant under suspension, an enquiry was directed against the appellant in regard to the alleged misconduct. But, no enquiry was held pursuant to the said order, having regard to the Government Order dated November 24, 1987 that service of a temporary servant could be discharged within a period of one year without keeping him under suspension and without holding an enquiry. Although initially the enquiry was ordered, in view of this Government Order, the

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respondent did not proceed to hold any enquiry. In the criminal case filed against the appellant, he was acquitted.

Para 2 of the impugned order of termination of services makes a mention of the fact that the appellant was suspended. The learned counsel for the appellant, pointing out this paragraph, submitted that it would cast stigma on the appellant and it would adversely affect his prospects. The High Court, in dismissing the writ petition, relied on the decision of this Court in the case of *Bihari Lal@* CCCCCCCCCC afore-mentioned. Para 5 of the said judgment reads thus:

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"5. It is true that the respondent was acquitted by the criminal court but acquittal does not automatically give him the right to be reinstated into the service. It would still be open to the competent authority to take decision whether the delinquent government servant can be taken into service or disciplinary action should be taken under the Central Civil Services (Classification, Control & Appeal) Rules or under the Temporary Service Rules. Admittedly, the respondent had been working as a temporary government servant before he was kept under suspension. The termination order indicated the factum that he, by then, was under suspension. It is only a way of describing him as being under suspension when the order came to be passed but that does not constitute any stigma. Mere acquittal of government employee does not automatically entitle the government servant to reinstatement. As stated earlier, it would be open to the appropriate competent authority to take a decision whether the enquiry into the conduct is required to be done before directing reinstatement or appropriate action should be taken as per law, if otherwise, available. Since

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