PETITIONER:
STATE OF ASSAM

Vs.

RESPONDENT:
C.K. DAS, I.A.S. & OTHERS

DATE OF JUDGMENT20/10/1995

BENCH:
VERMA, JAGDISH SARAN (J)
BENCH:
VERMA, JAGDISH SARAN (J)
VENKATASWAMI K. (J)

CITATION:
1996 AIR 430 1995 SCC Supl. (4) 139
JT 1995 (8) 23 1995 SCALE (6)126

ACT:

HEADNOTE:

JUDGMENT:

WITH

CIVIL APPEAL NO. 9561 OF 1995
(arising out of Special Leave Petition (Civil)
No. 20572 of 1994 )
State of Assam

V.

C.K. Das, I.A.S. & Others
October 20, 1995.
J.S. Verma, K. Venkataswami

JUDGMENT

J.S. VERMA, J.

Leave granted.

These appeals by special leave are by the State of Assam and arise out of unusual circumstances involving three senior officers of the Government of Assam, namely, the Chief Secretary H.N. Das, Additional Chief Secretary P.C. Mishra and Commissioner (Home) C.K. Das. At the hearing before us Shri Kapil Sibal, learned counsel for the State of Assam submitted that it was agreed by all concerned that the adverse remarks made by the Tribunal in the impugned order against Shri H.N. Das should be expunged and, therefore, the State Government does not press these appeals on merits even though it does not accept the correctness of the Tribunal's order. All the other counsel appearing for the different parties in these appeals supported the submission of Shri sibal and a common prayer was made to dispose of these appeals in these terms.

Ordinarily, in view of the common stand taken at the hearing of these appeals it may not have been necessary to say anything more. However, in view of the distressing facts and circumstances which have given rise to these appeals, we consider it necessary to state briefly the relevant facts and express out views which we consider expedient with the hope that it prevents such situations in future at any level of the administration, mush less at the highest level.

Shri P.C. Mishra was posted as the Chairman of the Assam Board of Revenue at the relevant time. By the orders dated 10/10/1991 and 8/9/1992 of the Department of Personnel (A) in the Government of Assam, the displeasure of the Government was conveyed to Shri P.C. Mishra for conduct. Shri P.C. Mishra filed O.A. No.211 of 1992 for quashing the said orders and the O.A. has been allowed by the impugned order dated 1/8/1994 quashing the orders dated 10/10/1991 and 8/9/1992 made by the Government of Assam. While making this order, the Tribunal has made certain adverse remarks against Shri H.N. Das, who was then the Chief Secretary of the State. These appeals by special leave are by the State Government against the Tribunal's order.

As earlier stated, these appeals are not pressed on merits and, therefore, the State Government's orders conveying displeasure against Shri P.C. Mishra having been quashed, no grievance survives to Shri P.C. Mishra. In the process of quashing the Government orders against Shri P.C. Mishra, the Tribunal has made certain adverse remarks against Sh. H.N. Das which, it is common ground, now should be expunged. On the expunging of the adverse remarks against Shri P.C. Mishra would survive without the adverse remarks against Shri H.N. Das.

The material facts giving rise to this unfortunate situation are a few. In November 1990 Shri H.N. Das was the Chief Secretary of the State and Shri P.C. Mishra was the only officer in the rank of Additional Chief Secretary of the State. On 8/11/1990 Shri H.N. Das, Chief Secretary, submitted a note to the Chief Minister, stating that he wished to proceed on leave immediately, for which he sought approval. The entire note (at pages 42-43- of the paper book) is as follows :-

"CHIEF MINISTER.

I wish to proceed on leave immediately. Formal application will be submitted separately.

This may kindly be approved and alternative arrangement ordered.

sd/- H.N.Das
8/11/1990, C.S.

Additional Chief Secretary will be incharge of Chief Secretary until further orders.

Sd/- P.K. Mohanta
8/11/1990

C.S. has not specified the nature of leave or duration, It would be difficult to issue any orders on the basis of the above. Please explain this to C.S. in person.

Sd/-S.K. Tewari
9/11/1990
Commissioner Personnel

I wish to apply for Casual leave for two days on 9/11/1990 and 10/11/1990 and necessary orders may please by issued. C.M. has already agreed.

Sd/- H.N. Das
9/11/1990.

Thus it was clarified by Shri H.N. Das that his request was only for two days casual leave on 9/11/1990 and 10/11/1990.

The Chief Minister on the same day made an order directing the Additional Chief Secretary to be in charge of the office of Chief Secretary until further orders. On 10/11/1990 the Chief Minister made an order addressed to Shri P.C. Mishra directing him to take over charge as Chief

Secretary until further orders and to issue notifications promoting Shri P.C. Sharma, Shri S. Manoharan, Shri C.K. Das and Shri A.C. Changakati all I.A.S. Officers, to the super-time scales, for which orders in the relevant file had already been sent to the Personnel Department. Government Notification dated 11/11/1990 was issued posting Shri P.C. Mishra as Chief Secretary and he claimed to have taken charge of the office of Chief Secretary at 3 p.m. on 12/11/1990. On 12/11/1990, made a complaint to the Chief Secretary Shri H.N. Das against Shri P.C. Mishra. On the same day Shri H.N. Das as Chief Secretary sent to Shri P.C. Mishra the complaint of Smt. Sablok to clarify the position addressing Shri P.C. Mishra did not make any comment or give clarification to Shri H.N. Das treating himself to be the Chief Secretary on that day. An order dated 28/11/1990 was then issued by the State Government notifying the appointment of Shri H.N. Das as Chief Secretary.

On 10/10/1991 the State Government issued an order conveying its displeasure to Shri P.C. Mishra for his indecorous and uncalled for behaviour with the junior lady officer. Shri P.C. Mishra made his protest against the same. However, the State Government by its order dated 8/9/1992 confirmed its earlier order dated 10/10/1991 conveying the State Government's displeasure at the conduct of Shri P.C. Mishra.

It is this unseemly incident which led to the controversy about the exact status of Shri P.C. Mishra on 12/11/1990 because of his claim to have assumed charge of the office of Chief Secretary on that day and it culminated in the State Government's order conveying its displeasure at the behaviour of Shri P.C. Mishra. The O.A. was then filed in the Tribunal by Shri P.C. Mishra to quash the State Government's orders dated 10/10/1991 and 8/9/1992.

It is unnecessary, in view of the stand now taken by the State Government in its appeals before us to adjudicate on the exact status of Shri P.C. Mishra on 12/11/1990 and to pronounce on his claim that he was the Chief Secretary on 12/11/1990. However, it does appear to us that the mode of functioning of the State Government which led to rival claims by Shri P.C. Mishra and Shri H.N. Das of holding the office of Chief secretary on 12/11/1990, leaves much to be desired. It does appear that the situation resulted from certain ambiguous orders made by the State Government on the request of Shri H.N. Das on 8//11/1990 to proceed on leave in spite his clarification on 9/11/1990 of going only on two days casual leave. At any r ate some confusion having arisen son thereafter on 12/11/1990 on the stand taken by Smt. Sablok, Joint Secretary, Department of Personnel and Shri H.N. Das having purported to exercise the authority of Chief Secretary on the same day, it was essential for the State Government to have clarified the position immediately to avoid any escalation of that conflict which in turn jeopardised proper functioning of the State Administration. Unfortunately, this was not done. Even later the ad verse effect of this omission and its contribution to escalation of the controversy, was not realised when the matter proceeded further. It is even more unfortunate that some of the senior most officers of the Indian Administrative Service at the helm of administration in the state, did not realise the implications of their actions which resulted from a clash of egos and percolated to the lower levels of administration.

It is incumbent for each occupant of every high office to be constantly aware that the power invested in the high office he holds is meant to be exercised in public interest

and only for public good, and that it is not meant to be used for any personal benefit or merely to elevate the personal status of the current holder of that office. Constant awareness of the nature of this power and the purpose for which it is meant would prevent situations leading to clash of egos and the resultant fall out detrimental to public interest. It appears that this lack of perception in all concerned coupled with the failure of the State Government to issue clear orders, precipitated the situation into the unseemly controversy in the present case which must have adversely affected the State Administration. We do hope this incident serves as a warning for the future. We are constrained to make these observations Since they are necessary in the context and there is increase in the frequency of such occurrences every where.

For the aforesaid reasons, we expunge all the adverse remarks contained in the impugned order of the Tribunal against Shri H.N. Das, the then Chief Secretary. The Tribunal's order would now remain with this modification. The appeals are disposed of accordingly, in these terms.

JUDIS