

PETITIONER:
STEEL AUTHORITY OF INDIA & ANR.

Vs.

RESPONDENT:
DR. R.K. DIWAKAR & ORS.

DATE OF JUDGMENT: 13/08/1997

BENCH:
K. VENKATASWAMI, V.N. KHARE.

ACT:

HEADNOTE:

JUDGMENT:

THE 13TH DAY OF AUGUST, 1997

Present:

Hon'ble Mr. Justice K.Venkataswami

Hon'ble Mr. Justice V.N.Khare

G.M.Mishra and Rathin Das, Advs. for the appellants

A.P.Mohanty, Adv. for the Respondents

J U D G M E N T S

The following Judgment of the Court was delivered:

(With C.A. No. 5851 of 1994)

J U D G M E N T

K. Venkataswami, J.

A common question of law arises out of these two appeals. As a matter of fact, the High Court disposed of the two Miscellaneous Petitions by one order.

The appellant framed charges against the first respondent in each of the appeals for certain alleged misconduct committed by them. The charge-sheets were issued by the Director, Medical and Health Services of the appellant. The delinquents challenged the charge-sheets on the only ground that their appointing authority/disciplinary authority being the Managing Director of the appellant, the charge memo issued by the Director, Medical and Health Services was invalid and of no consequence. The appellant, however, justified the issue of charge-sheet by the Director, Medical & Health Services on the ground that the powers to initiate disciplinary action had been delegated to the Head of the Department who enjoys a rank of General Manager. The Director, Medical and Health Services, who issued the charge memos, admittedly come under the category of controlling authority.

The High court did not accept the contention of the appellant (respondent before the High Court) stating that the delegation of power has not been established.

Before us, the learned counsel appearing for the appellants, apart from bringing to our notice the relevant proceedings duly delegating the power to the Director, Medical and Health Services, invited our attention to a recent decision of this Court in Director General. ESI vs. T.Abdul Razak (1996 (4) SCC 708). In that case, in answering an identical question, this Court held as follows:-

"With regard to initiation of disciplinary proceedings by the Regional Director, we find that the legal position is well settled that it is not necessary that the authority competent to impose the penalty must initiate the disciplinary proceedings and that the proceedings can be initiated by any superior authority who can be held to be the controlling authority who may be an officer subordinate to the appointing authority (See: State of M.P. v. Shardul Singh; P.V. Srinivasa Sastry v. Controller & Auditor General and Inspector General of Police v. General and Inspector General of Police v. Thavasiappan). The Regional Director, being the officer-in-charge of the region, was the controlling authority in respect of the respondents. He could institute the disciplinary proceedings against the respondents even in the absence of specific conferment of a power in that regard."

(Emphasis supplied)

In the case on hand, it is not in dispute that the authority who issued the charge-sheet was the controlling authority. That being the position, the judgment of the High Court cannot be sustained and accordingly it is set aside and the appeals are allowed. However, there will be no order as to costs.