

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5748 OF 2021

(Arising out of SLP (Civil) No.28513 of 2018)

STATE OF UTTAR PRADESH & ORS.

Appellant

VERSUS

KRISHNA BAHADUR SINGH

Respondent

ORDER

Delay condoned.

Leave granted.

This appeal challenges the judgment and order dated 02.08.2017 passed by the High Court of Judicature at Allahabad, Lucknow Bench in Service Bench No.143 of 2015.

The respondent herein, who at the relevant time was working as Lower Division Clerk in the Revenue Department of the State Government, was suspended on 04.10.1986 and departmental proceedings were initiated against him on the allegation that he had misappropriated Government funds. The record shows that initially the respondent had participated in the enquiry proceedings but remained *ex parte* subsequently.

After conclusion of enquiry, by order dated 13.06.1988, major penalty of termination of service was imposed upon the respondent. The respondent preferred appeal before the Commissioner, Lucknow Division, Lucknow, who vide order dated

29.07.1988 affirmed the order of punishment imposed by the first authority. The matter was carried in revision and the revision was also dismissed by the Board of Revenue.

Almost 11 years after the imposition of major penalty, Claim Petition No.1903 of 1999 was preferred by the respondent, under the Uttar Pradesh Public Services (Tribunal) Act, 1976, praying *inter alia* that the order of punishment be set-aside.

It may be mentioned that during the interregnum, criminal proceedings were also initiated against the respondent in which the respondent was acquitted giving him benefit of doubt.

The aforesaid claim petition filed by the respondent was allowed by the Uttar Pradesh Public Service Tribunal vide its judgment and order dated 07.10.2013.

Further challenge raised at the instance of the appellants by filing writ petition being Service Bench No.143 of 2015 was rejected by the Division Bench of the High Court by its judgment and order dated 02.08.2017, which is presently under challenge.

As the record indicates, the respondent had participated in the enquiry proceedings and later chose to remain *ex parte*. The challenge raised at his instance was 11 years after the initial order, on which ground alone, the challenge should have been dismissed.

In the circumstances, we allow this appeal, set-aside the orders passed by the Tribunal and the High Court and dismiss the claim petition preferred by the respondent.

However, considering the facts and circumstances and particularly the fact that the respondent has been litigating for fairly long time, we direct the appellants to pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) by way of *ex gratia* payment to the respondent. Let the sum be made over to the respondent within six weeks from today.

With these observations, the appeal stands allowed, with no order as to costs.

.....J.
(UDAY UMESH LALIT)

.....J.
(S. RAVINDRA BHAT)

.....J.
(BELA M. TRIVEDI)

NEW DELHI,
SEPTEMBER 17, 2021