

V.R. KATARKI
v.
STATE OF KARNATAKA AND ORS.

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MARCH 22, 1990

[RANGANATH MISRA AND K. RAMASWAMY, JJ.]

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Service Law: Karnataka Judicial Service—Civil Judge—Dismissal on ground of irregularities in discharge of official duties—Validity of—Quantum of punishment—Whether proportionate—Confidence of parties—Foundation of Judicial system—Hence, not to be affected.

The appellant, a Civil Judge, was dismissed by the High Court on the ground that he had committed certain irregularities in the adjudication of references under Section 18 of the Land Acquisition Act, 1894 by (i) writing letters to the Land Acquisition Officer, for enforcing the Award, even though under Section 82 of the Civil Procedure Code, 1908, decrees against the State were not available for execution before 90 days, (ii) fixing valuation higher than the legitimate one for the lands, and (iii) using order-sheets got printed by the Advocate for the parties. He was also alleged to have purchased a pump-set costing Rs.1,000 without prior permission from the appropriate authorities. His challenge to the dismissal was rejected by the High Court on the judicial side. Hence, the appeal.

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Dismissing the appeal, but modifying the quantum of punishment, this Court,

HELD: 1.1 It is of paramount importance that judicial officers must act above board and keep the channel of justice clean. Confidence of the litigating parties in Judicial system is the very foundation of the system and nothing should be done which would affect that. [5C]

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1.2 Fixation of valuation is a judicial act. Even if the assesment of valuation is modified or affirmed in appeal as a part of the judicial process, the conduct of the judicial officer drawable from an overall picture of the matter would yet be available to be looked into. In appropriate cases it may be open to draw inferences even from judicial acts. [3F]

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1.3 On a consideration of the materials on record, there is some scope for accepting the appellant's stand that there was some mistake in

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A fixing the valuation but no ill motive. He is, therefore, entitled to benefit of doubt. However, it cannot be said that he had acted innocently in writing letters for enforcing of the awards. Similarly, he had acted indiscreetly in allowing the order-sheets got printed by a particular Advocate to be used. Since the appellant possessed 43 acres of agricultural lands, no serious view need be taken of the purchase of pump-set without prior permission. [3G-H, 4C, E, F—G]

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C 1.4 Ordinarily, justification of the quantum of punishment imposed in a disciplinary action is not for the court to decide and there have been occasions when this Court has taken interference by the High Courts on quantum of punishment as an act in excess of jurisdiction. But keeping the residue of the charges in view, the dismissal of the appellant from service was out of proportion and compulsory retirement would meet the ends of justice. Accordingly, the appellant shall be taken to have been compulsorily retired from service from the date his dismissal became operative. [4H, 5A-B]

D CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4392 of 1986.

From the Judgment and Order dated 30.1.1986 of the Karnataka High Court in W.P. No. 19086 of 1985.

E M.C. Bhandare, Rajeshwar Thakur, Ranji Thomas and T. Sridharan for the Appellant.

B.B. Acharaya, Advocate General and P.R. Ramasesh for the Respondents.

F The following Order of the Court was delivered:

O R D E R

G The appellant was a Civil Judge in the Karnataka Judicial Service and was posted at Bagalkot in the district of Bijapur. Some time after 1979, acquisition proceedings under Central Act 1 of 1894 for the purposes of Upper Krishna Project which was being funded by the World Bank had been undertaken and references under section 18 of the Act were pending which came to adjudicated upon by the appellant. On the basis of information reaching the High Court of several irregularities therein, disciplinary proceedings were initiated against H the appellant with many allegations but the main ones with which we

are concerned are: (1) notwithstanding the provision contained in section 82 of the Code of Civil Procedure that decrees against the State were not available to be executed for 90 days from the date of making of the decree; steps were taken to enforce the Awards by writing letters to the Land Acquisition Officer; (2) higher valuation than was legitimate of the lands were fixed by the appellant; (3) printed order-sheets other than those provided at the cost of the State to be used in judicial proceedings were used in the land acquisition cases where apart from indicating the name of the Court of the appellant counsel's name was also printed. Apart from these three charges, several other charges including one which indicated that he had purchased a pump-set and its accessories costing above Rs. 1,000 without prior permission of the appropriate authority were also levelled. Ultimately he has been dismissed from service and challenge to the dismissal has been rejected by the High Court on the judicial side.

We have heard learned counsel appearing in support of the appeal at length. He has taken us through the charges including the statements of fact and the report of the Inquiry Authority and some other materials appearing on the record. So far as the valuation aspect is concerned, we find that out of 17 matters involved where higher valuation had been given, in three matters the State had gone on appeal but no challenge in the memorandum of appeal was raised on the plea of higher valuation. Three appeals have already been dismissed and the Court's awards have been confirmed. In regard to the remaining cases we have been told at the Bar that the appeals have been disposed of with modification of the valuation. Fixation of valuation was a judicial act of the appellant. We would like to make a special mention of the position that even if the assessment of valuation is modified or affirmed in appeal as a part of the judicial process, the conduct of the judicial officer drawable from an overall picture of the matter would yet be available to be looked into. In appropriate cases it may open to draw inferences even from judicial acts but in the present case when challenge was not raised in three of the appeals and only subsequently challenge came to be raised when matter was noticed, there is some scope for the appellant's stand being accepted that there was a mistake and no ill motive and he is entitled to the benefit of doubt.

So far as the letter of request issued to the Land Acquisition Officer before the expiry of three months for depositing the awarded money on the references, counsel for the appellant has explained that the land owners had been waiting too long to be paid the compensation

A and in his anxiety to have their demands satisfied, the appellant thought it appropriate to request for collection of the compensation money lying in the hands of the Land Acquisition Officer. According to him, it may be an indiscrete act but there was really no ill motive behind appellant's action and he should not, therefore, be punished. The explanation seems to be too simple to be accepted but counsel's stand cannot be totally ignored. It was really open to the Government or the Land Acquisition Officer not to respond to the court by pointing out the bar under section 82 of the Code of Civil Procedure. We have been told at the Bar by learned Advocate General who appeared in support of the respondents' stand that the Land Acquisition Officer had perhaps been a consenting party to the act of favourable response to the notice but that aspect is not relevant for the purpose of disposing of the appeal. On the materials placed before us, we do not think that the appellant acted innocently.

D Now we come to the question of use of the printed order sheets it is not disputed that order sheets are made available in the prescribed form for use in court and there was no particular necessity for the appellant to have used the ordersheets got printed by Advocate Shri M.C. Yettinamata. It has been alleged in support of the charge that this particular advocate belongs to the appellant's district and concentrated his practice in the court of the appellant when he got transferred to Bagalkor. The allegation smacks of some motive and we can take note of the feature that human nature being what it is, there is some anxiety to encourage the local people. In the present case the High Court was right in relying upon this aspect of the charge. Accepting the position that the appellant had acted indiscretely when allowing such order sheets to be used, the High Court rightly found against the appellant.

F Learned Advocate General has fairly told us that the appellant possessed about 43 acres of agricultural land and, therefore, he agreed that no serious view may be taken that the appellant had purchased a pump-set which cost above one thousand rupees without prior permission of the prescribed authority. We agree with the learned Advocate General.

G The question for consideration now, therefore, is while the finding that the appellant was guilty in terms of the charges found should the appellant have been dismissed from service. Ordinarily, justification of the quantum of punishment imposed in a disciplinary action is not for the court to decide the there have been occasions when this

Court has taken interference by the High Courts on quantum of punishment as an act in excess of jurisdiction. While we are cognizant of that fact, keeping the residue of the charges in view, we are inclined to hold that dismissal of the appellant from service was out of proportion and compulsory retirement would meet the ends of justice. We accordingly direct that in place of dismissal, the appellant shall be taken to have been compulsorily retired from service from the date when dismissal became operative. The appeal fails and is dismissed. No costs.

We would add that it is of paramount importance that judicial officers must act above board and keep the channel of justice clean. Confidence of the litigating parties in the system is the very foundation of the system and nothing should be done which would affect that.

N.P.V.

Appeal dismissed.