

NARAYAN DATTATRAYA RAMTEERTHAKHAR

A

v.

STATE OF MAHARASHTRA AND ORS.

NOVEMBER 20, 1996

[K. RAMASWAMY, G.T. NANAVATI AND  
K. VENKATASWAMI, JJ.]

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*Service Law :*

*Removal from service—Government servant—Misconduct—  
Misappropriation of public money—Inquiry officer finding the employee  
guilty—Disciplinary authority removed him from service—Tribunal upheld  
the removal order—Pleas of employee that he was forced to deposit the  
money and the preliminary inquiry was not properly conducted—Held not  
sustainable—There is no illegality in the order passed by the Tribunal  
warranting interference.*

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)  
No. 23872 of 1996.

From the Judgment and Order dated 6.10.95 of the Maharashtra  
Administrative Tribunal, Bombay in O.A. No. 558 of 1991.

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Jasbir Singh, Malik and Ms. Kamakshi Singh Mehlwal for the  
Petitioner.

The following Order of the Court was delivered :

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Delay condoned.

The special leave petition arises from the order of Maharashtra  
Administrative Tribunal, Bombay Bench, made in OA No. 558 of 1991.  
The finding recorded by all the authorities is that the petitioner has  
misappropriated a sum of Rs. 1440 deducted from the employees and had  
not deposited until asked to pay the same in 1985. Thereby, the authorities  
have concluded that the petitioner has committed misconduct. On that  
finding, the Enquiry Officer found him guilty. The disciplinary authority  
removed him from service. The Petitioner challenged the order in the

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- A High Court. The High Court allowed the petitioner to withdraw the writ petition with liberty to avail the alternative remedy. The Tribunal found that there is no proper explanation for the inordinate delay in assailing the disciplinary action. That apart, even on merits also, we do not think that there is any case made out for interference. The finding is that the petitioner has committed misappropriation of the public money and his removal from service is an appropriate order.

- Learned counsel for the petitioner sought to contend that the petitioner has not committed any misappropriation and that he was forced to deposit the money. We cannot accept the contention in view of the fact that the petitioner himself had deposited the amount. It is then contended that the preliminary enquiry was not properly conducted and, therefore, the enquiry is vitiated by principles of natural justice. We find no force in the contention. The preliminary enquiry has nothing to do with the enquiry conducted after the issue of the charge-sheet. The former action would be to find whether disciplinary enquiry should be initiated against the delinquent. After full-fledged enquiry was held, the preliminary enquiry had lost its importance.

Under these circumstances, we do not find any illegality in the order passed by the Tribunal warranting interference. The special leave petition is accordingly dismissed.

- E R.P. . . . . . Petition dismissed.