

1989SCMR316

Present: Shafiur Rahman and Ali Hussain Qazilbash, JJ

**MUHAMMAD TUFAIL--Petitioner
versus**

ASSISTANT COMMISSIONER/COLLECTOR--Respondent

Civil Petition for Leave to Appeal No. 464 of 1982, decided on 31st July 1988.

(From the judgment of Service Tribunal dated 30-3-1982 passed in Civil Appeal No. 787/1089 of 1980).

Government Servants (Efficiency and Discipline) Rules, 1975--

--R. 6(3)--Constitution of Pakistan (1973), Art. 212(3)--Civil service--Dismissal from service on corruption charge--Government servant dismissed from service as a result of summary procedure adopted under R. 6(3), efficiency and Discipline Rules, 1975, but was acquitted by Criminal Court--Service Tribunal upheld decision of department dismissing the Government servant--Government servant protesting against adoption of summary procedure prescribed under R. 6(3) of Efficiency and Discipline Rules, 1975 and on the plea of double jeopardy--Departmental proceedings against Government servant took place in background of Magisterial raid and recovery of bribe money from him which justified shorter procedure for which provision existed in the Rules--Service Tribunal analytically examined case against accused Government servant qua sufficiency of material and found no infirmity in appraisal of apparent material--Departmental procedure concluded before competent authority and criminal proceedings resulted in acquittal of accused and two proceedings were different in substance and result--Question of double jeopardy therefore not arising--No question of law was raised--Leave to appeal refused in circumstances.

Ch. Muhammad Ashraf Azim, Advocate Supreme Court and Ch. Mehdi Khan Mehtab, Advocate-on-Record for Petitioner.

Nemo for Respondents.

Date of hearing: 31st July, 1988.

JUDGMENT

SHAFIUR RAHMAN, J.--The petitioner, formerly a Patwari was subjected to proceedings under the Anti-Corruption laws initiated by a Magisterial raid, leading to recovery of Rs. 400 as illegal gratification. He was not only prosecuted criminally but also departmentally, resulting in his dismissal by the competent authority, and acquittal by the criminal Court. After exhausting the departmental remedies, he approached the Punjab Service Tribunal but his appeal was rejected. The Tribunal held that there was sufficient material to justify the award of punishment of dismissal under the Efficiency and Discipline Rules.

Ch. Muhammad Ashraf Azim, Advocate, the learned counsel for the petitioner stated that being a corruption case, the summary procedure prescribed under sub-rule (3) of Rule 6 of the Efficiency & Disciplinary Rules, should not have been invoked. Instead a detailed inquiry should have been held into his conduct. He has also contended that the acquittal from the criminal Court should have entitled the petitioner to remain in service. Finally, it has been contended that he could not be punished or prosecuted in two forums on the same allegation.

'The departmental proceedings took place in the background of the Magisterial raid and the recovery of Rs. 400 from the petitioner. That could justify the shorter procedure. The rules provide for it. The circumstances justified it.

As regards the sufficiency of the material not only the departmental authorities have examined it, the Service Tribunal has also analytically examined it. There is no apparent infirmity in the appraisal of the material. The departmental proceedings concluded before the competent authority i.e. the Collector on 31-7-1980. The criminal trial resulting in acquittal concluded on 19-1-1982. Even if the reasoning of double jeopardy be allowed, it is not the first order which gets tainted but the second. We want also to make it clear that it is not a case of double jeopardy because the two proceedings are quite different in

