

2.	Stoppage of one increment without future effect	31.12.1992
3.	-do-	23.3.1993
4.	Stoppage of three increments without future effect	12.5.1994
5.	-do	2.6.1994
6.	Stoppage of two increments without future effect	7.11.1994
7.	Stoppage of two increments with future effect	10.11.1995
8.	Stoppage of three increments without future effect	28.8.1998
9.	Reduction by four stages in the present time scale for four years	2.9.1998
10.	Stoppage of two increments without future effect	13.10.1998
11.	Stoppage of three increments with cumulative effect	5.3.1999
12.	Stoppage of three increments without future effect	21.2.2000
13.	Stoppage of one increment without future effect	7.11.2000
14.	-do-	22.5.2001

4. The petitioner desired that the penalties should be given effect to concurrently and not consecutively. The commissioner decided vide order dated 1.8.2003 that the penalties would take effect one after the other and would not be allowed to run concurrently. For unexplainable reasons the Deputy Commissioner passed an order on 2.9.2005 holding to the contrary. When brought to the notice of the Commissioner, he held that since the Deputy

Commissioner exercises delegated powers of the Commissioner, the Deputy Commissioner could not undo the order passed by the Commissioner. Thus, vide order dated 21.4.2006, the Commissioner restored his order dated 1.8.2003.

5. But, since the petitioner was not heard by the Commissioner he challenged the decision taken by the Commissioner MCD by and under WP(C) No.9091/2006 and successfully showed to this Court that a valuable right of the petitioner to be heard before the Commissioner could pass the order in question was violated and hence it was directed that the order dated 21.4.2006 is set aside. The Commissioner was directed to grant opportunity of hearing to the petitioner and pass a fresh order. Thus, a show cause notice was issued to the petitioner and vide order dated 23.2.2009, the Commissioner held that the penalties would not run concurrently. Petitioner's challenge before the Tribunal has failed.

6. It is asserted by learned counsel for the petitioner that if the penalties would run consecutively and not concurrently, petitioner would never earn a promotion and would retire without earning a promotion. Counsel urges that this would mean that the petitioner would work without any incentive; as a demoralized employee which would be prejudicial to public interest. Counsel urges that promotion is given so that employees remain motivated to work.

7. Now, if a Government servant refuses to mend his ways, he cannot claim that his right to be promoted is adversely affected. Indeed, nobody has a right to be promoted. The

only right is to be considered fairly and as per law for promotion.

8. Further we note that not all 14 penalties are capable of being directed to run concurrently. The penalty at serial No.9 noted above is of reduction by four stages in the present time scale for four years. Other penalties are stoppage of increments, some without future effect and some with future effect. Thus, the classification of the penalties would be under three different categories and even on said count it may be difficult to hold in favour of the petitioner.

9. We have asked learned counsel for the petitioner as to what is the legal wrong in the order passed by the Commissioner. Save and accept to state that the petitioner would never earn a promotion, no other argument has been advanced.

10. Since, we find that the Commissioner has passed a speaking and a reasoned order which is in conformity with law, the writ petition is dismissed but without any orders as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(SIDDHARTH MRIDUL)
JUDGE

November 11, 2010
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