

IN THE HIGH COURT OF DELHI AT NEW DELHI

W. P. (C) 6971/2005

Reserved on: September 1, 2011

Decision on: September 21, 2011

NAND KISHORE SHARMA

..... Petitioner

Through:

Mr. Rajesh Tyagi, Advocate.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through:

Mr. Sudhir Nandrajog, Senior
Advocate with Mr. Rajeev Awasthi
and Ms. Sonia Arora, Advocates for
R-2 to R-5.

Ms. Shobhana Takiar, Advocate
for R-1/GNCTD.

CORAM: JUSTICE S. MURALIDHAR

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the judgment should be reported in Digest? | Yes |

JUDGEMENT
21.09.2011

1. The Petitioner, who was working as Deputy Inspector, Enforcement Staff, the Delhi Society for Prevention of Cruelty to Animals ('DSPCA'), Respondent No. 4, was by an order dated 23rd January 2004 issued by the DSPCA, placed under suspension pending a disciplinary enquiry. Thereafter by an order dated 24th December 2004, the Chairman-cum-Disciplinary Authority ('DA') of Respondent No. 4 imposed the penalty of compulsory retirement on the Petitioner on the ground that the charges have been established against the Petitioner "beyond any doubt". The Petitioner has in this petition challenged the above two orders as well as the memo of charges dated 13th April 2004, the order dated 21st July 2004 appointing the presenting officer ('PO') and order dated 16th August 2004 appointing the Inquiry Officer ('IO').

2. The DSPCA was registered as a society in 1928 under the Societies Registration Act, 1860. It is stated by the Petitioner that after its formal registration Respondent No. 4 claimed affiliation to the Animal Welfare Board ('AWB') at Madras, a body corporate

formed under the Prevention of Cruelty to Animals Act, 1890. After coming into force of the Prevention of Cruelty to Animals Act, 1960 ('PCA Act 1960') the AWB continued to be a body constituted by the Government of India ('GoI'). As far as Respondent No. 4 was concerned it was running on voluntary donations and contributions from its members and non-members, and was controlled by an elected body called the Managing Committee ('MC'). To advance its objectives DSPCA had also developed an enforcement wing comprising of paid employees. It is stated that for this limited purpose the Delhi Administration [and later the Government of the National Capital Territory of Delhi ('GNCTD')] used to confer powers on the officials of DSPCA under the Police Act. DSPCA used to designate some of its volunteers as constables, inspectors etc. The Petitioner was enrolled in DSPCA as Constable in September 1973 under the orders of the Secretary, DSPCA, Respondent No. 3 herein. The powers of the Secretary were exercised in terms of Clause 10 (3) of the Constitution of DSPCA. In February 1976, the Petitioner was conferred police powers by the Lieutenant Governor ('LG') of the Delhi Administration in exercise of the powers under the Police Act.

3. In its counter affidavit the DSPCA has stated that its MC was superseded with effect from 9th January 1990 by the LG and an Administrator was appointed to streamline its functioning. The Administrator was subsequently discontinued and by an order of LG with effect from May 1995 a Board was constituted to manage the affairs of the DSPCA (hereafter 'the DSPCA Board'). A copy of a Notification dated 7th June 2002 issued by the GNCTD extending the tenure of the DSPCA Board for a period of one year from 10th June 2002 to 9th June 2003 has been placed on record. It appears that on the expiry of the above term, the Chief Minister of the GNCTD passed orders on 16th June 2003 on file extending the term of the DSPCA Board "till further orders".

4. The counter affidavit of the Respondents lists out a series of incidents pertaining to the years 1976, 1978, 1979 and between 1985 and 1988 regarding the misconduct of the Petitioner for which the disciplinary action was taken. *Inter alia*, it is stated that on 20th May 1988 the Petitioner was arrested by the Anti-Corruption Branch, GNCTD when he was caught red-handed while accepting a bribe. The Petitioner was placed under suspension soon after his arrest. Later the suspension was revoked with effect from 25th November 1994 pending the final outcome of the trial. The Petitioner was convicted by a Special Judge, Delhi by an order dated 26th August 1998 in FIR No. 7 of

1988 under Section 5 (2) of the Prevention of Corruption Act, 1987 ('PCA') and Section 161 IPC, and sentenced to rigorous imprisonment for three and a half years. Following the above conviction, the Petitioner's services were terminated by an order dated 23rd October 1998. The Petitioner filed an appeal against the aforementioned judgment of the learned Special Judge. By a judgment dated 5th December 2002, this Court reversed the order of the Special Judge and acquitted the Petitioner. Consequently, the Petitioner was reinstated in service with effect from 2nd January 2003.

5. The Petitioner was again placed under suspension with effect from 23rd January 2004 for commission of grave offences and misconduct. In the order dated 23rd January 2004 issued by the Chairman of the DSPCA Board it was stated that the order was being issued in exercise of the powers conferred under Rule 10 (1) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ['CCS (CCA) Rules'] as well as the Notification dated 7th June 2002 issued by the Development Commissioner, GNCTD and the order dated 16th June 2003 of the Chief Minister, GNCTD. Thereafter by a memorandum dated 13th April 2004 the Petitioner was served a charge sheet which contained two articles of charge. The first charge was that while working in the DSPCA as Deputy Inspector, the Petitioner came to its premises on the night of 16th June 2003 and snatched the telephone duty register and gate duty register from the person on duty and forcibly made entries therein to make it appear that he had checked the staff on duty on that date, i.e., 16th June 2003. When the person on duty refused to oblige the Petitioner he was threatened by the Petitioner with physical harm. It was stated that the Petitioner's duty did not involve checking of the persons on night duty as the Petitioner's working hours were from 9:30 am to 6 pm. It was mentioned that the Petitioner was involved in a criminal case arising out of FIR No. 162 of 2003 under Sections 308/34 IPC at Police Station Krishna Nagar. He intended to make entries in the duty register only with a view to create evidence in support of his plea of alibi raised in the said criminal case. The second article of charge was that on 9th August 2003, the Petitioner had taken the attendance register forcibly from the head constable on duty and had marked his attendance for 9th, 10th and 11th August 2003 in advance.

6. The Petitioner wrote to the Chairman of DSPCA on 23rd April 2004 asking for the documents mentioned in the suspension order as well as in the charge sheet. He sent a reminder on 28th April 2004. Meanwhile the IO Dr. K.A. Goel, Assistant Director, W. P. (C) No. 6971 of 2005

Animal Husbandry ('AH'), GNCTD was appointed as the Inquiry Authority ('IA') to inquire into the charges framed against the Petitioner. One K. Raghavan, Superintendent, DSPCA was appointed as the PO. The Petitioner in the meanwhile wrote to Respondent No. 3 on 29th July 2004 and 9th August 2004 seeking copies of the documents. An order was issued by the Secretary on 5th August 2004 stating that all the documents in support of the charges framed against the Petitioner had already been supplied to the Petitioner; the other documents demanded by him were not relevant.

7. The enquiry proceedings were unable to be completed. This is evident from a copy of the letter dated 2nd December 2004 of the IO addressed to the Secretary of Respondent No. 4 enclosing a copy of the report, which has been placed on record as Annexure R-10 to the counter affidavit filed by Respondents 3 to 4. In the said report it has been mentioned that initially the enquiry was commenced by Dr. K.A. Goel who had recorded statements of some of the employees. It also noted that the PO had presented certain documents. The Petitioner was asked to appear before the IO on 8th September 2004 but he did not appear as according to him he had not received the message in time. The Petitioner appeared before the IO on 20th September 2004, 28th September 2004 and 14th October 2004. He had further insisted on being provided copies of certain documents. The IO noted that all the documents relevant to the inquiry were shown to the Petitioner by the PO in the presence of the IO. However, the report ends by observing that "the charged official did not cooperate further insisting that copies of the documents, asked by him, be provided to him. Hence, the inquiry could not be proceeded with further. List of the documents enclosed is placed at Annexure – I." It is, therefore, plain that the inquiry against the Petitioner was unable to be completed.

8. The Petitioner was thereafter issued the order dated 24th December 2004 by the Chairman of DSPCA compulsorily retiring him from service. The said order first set out the charges. It then stated that the IO initially appointed had abandoned the inquiry due to "ill health", and that it was taken over by Dr. Rakesh Singh, who again could not continue the inquiry. The order proceeded to summarize the facts recorded by the IO and then observed as under:

"And whereas in totality of the facts and circumstances of the case, I am of the considered view that the charges have been established against the Charged Official beyond any doubt. He had committed gross misconduct by acting in total disregard to the propriety and procedure, with malafide

interest. I feel that the penalty of compulsory retirement from service is warranted.

Now, therefore, I H.R. Khajuria, Chairman Delhi S.P.C.A. Board order accordingly that Sh. Nand Kishore, Dy. Inspector, Delhi S.P.C.A. Enforcement Staff, be compulsorily retired from service with immediate effect. A cross cheque No. 562490 dated 24.12.2004 amounting to Rs.26,981/- (Rupees Twenty Six Thousand nine hundred eight one only) as advance pay of three months plus subsistence allowance of Nov. and Dec., 2004 is enclosed herewith.”

9. Thereafter a meeting of the DSPCA Board was held on 31st January 2005 in which the disciplinary action against the Petitioner was discussed. The relevant portion of the said minutes reads as under:

“The Chairman apprised the members of the disciplinary action taken against Sh. Nand Kishore, Dy. Inspector for grave offences as shown in the chargesheet. The members had gone through the chargesheet against Sh. Nand Kishore and confirmed the penalty of compulsory retirement awarded by the Disciplinary Authority.”

10. Thereafter the Petitioner filed the present petition seeking the reliefs as noted earlier. On 25th March 2010 the following order was passed by this Court:

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The petitioner, in this writ petition, has challenged the order of his compulsory retirement dated 24.12.2004. He had joined the service with Respondents No. 2 to 5 as a Constable in September, 1973 and in the course of time, he was promoted to the rank of Deputy Inspector held by him at the time of his impugned compulsory retirement. The order of compulsory retirement dated 24.12.2004 that has been impugned in the present writ petition is Annexure P-17 at page 59 of the paper book.

It is not disputed by counsel appearing on behalf of respondents No. 2 to 5 that the impugned order of compulsory retirement has been passed against the petitioner without supplying him the copy of inquiry report. A perusal of the impugned order shows that the petitioner has been retired compulsorily from the service of respondents No. 2 to 5 on the basis of inquiry report dated 04.12.2004. However, Ms. Sonia Arora appearing on behalf of respondents No. 2 to 5 submits that the retirement of the petitioner was not under Rule 56 (j) but it was under 56 (l) of FRSR applicable to the petitioner. Under Rule 56 (l), the petitioner could have been retired compulsorily only if it was so warranted in public interest.

Without going into the merits of this contention that the retirement of the petitioner was allegedly in public interest, Ms. Sonia Arora appearing on behalf of respondents No. 2 to 5 requests for a week's time to take instructions from her clients whether they are agreeable to pass a fresh order as per law after supplying the copy of inquiry report to the petitioner.

At her said request, case is adjourned for 19.04.2010.”

11. Thereafter this Court was informed that the Respondents were not willing to pass a fresh order after supplying a copy of the inquiry report on the Petitioner and wished to contest the matter on merits.

12. This Court has heard the submissions of Mr. Rajesh Tyagi, learned counsel for the Petitioner, Mr. Sudhir Nandrajog, learned Senior counsel with Ms. Sonia Arora, learned counsel appearing for Respondents 2 to 5 and Ms. Shobhna Takiar, learned counsel appearing for the GNCTD.

13. It is submitted by Mr. Tyagi that while the Petitioner was an employee of Respondent No. 4, the order placing him under suspension as well as the impugned order awarding the penalty of compulsory retirement was issued by the Chairman of the DSPCA Board, which had no legal status. He questioned the very constitution of the DSPCA Board by the GNCTD. He pointed out that under the PCA Act 1960, there is no provision enabling a State Government to take over the running of a State SPCA. In any event, it can happen only with the prior approval of the AWB established by the central government under PCA Act 1960. He also referred to the provisions of the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001 [‘PCA Rules’] which did not contain a provision permitting the GNCTD to constitute a Board to take over the affairs of DSPCA. According to him, therefore the entire disciplinary proceedings were without the authority of law. Without prejudice, it is contended that the inquiry proceedings were illegal as the documents sought for by the Petitioner were never supplied to him. He was denied an effective opportunity of participating in the inquiry proceedings. The inquiry proceedings themselves were incomplete and there was no IA returning the finding of guilt against the Petitioner. Consequently, the impugned order of compulsory retirement based on such inquiry report could not have been passed. In any event, it was a penal action and had to conform to the principles of natural justice. It is submitted that the order of compulsory retirement was not in exercise of any provision of the Fundamental Rules (‘FR’) as was sought to be justified in the counter affidavit filed by Respondents 2 to 5. He submitted that even the minutes of the meeting of the Board did not record that the Petitioner was to be retired in ‘public interest’. There was no reference made to FR 56 (I). It was clear therefore that the compulsory retirement

was by way of a penalty and this could not have been done without complying with the principles of natural justice. In any event, the Petitioner was only 48 years of age at the time he was sought to be compulsorily retired. Therefore, FR 56 (j) could not have been invoked. As regards past conduct of the Petitioner, it is submitted that the Petitioner has been acquitted not merely on technical grounds in the criminal case and since that was the only reason for his suspension earlier, he was reinstated in accordance with law. It was not open to Respondents 2 to 5 to again rely on the past record to justify the compulsory retirement of the Petitioner. It is submitted that the legal status of the Board of Respondent No. 4 was itself unclear and the order dated 16th June 2003 of the Chief Minister, Delhi indefinitely continuing the term of the DSPCA Board was of doubtful validity.

14. Mr. Sudhir Nandrajog, learned Senior counsel appearing for Respondents 2 to 5 referred to the Grant-in-Aid Rules which permitted the GNCTD to appoint a Board to manage the affairs of Respondent No. 4. He submitted that FR 56 (l) gave a discretion to the Appropriate Authority to compulsorily retire a Class III employee after completion of thirty years of service by giving him a notice of not less than three months in writing or three months pay and allowances in lieu of such notice. The Petitioner had completed thirty years of service and had received the cheque amount of Rs. 26,981/- in lieu of the three-month notice. Even if the impugned order dated 24th December 2004 on the face of it did not mention that the compulsory retirement was in 'public interest', it would not render the decision bad in law. It had been passed after duly considering the entire service record of the Petitioner. Reliance is placed on the decision in *Registrar, High Court of Madhya Pradesh v. Kumari Rajabai Gorkar* 1995 Supp 3 SCC 202.

15. Mr. Nandrajog submitted that even if the DSPCA Board had not been constituted properly, the order passed by it could not be rendered illegal in view of the *de facto* doctrine. He placed reliance on the decision in *Gokaraju Rangaraju v. State of Andhra Pradesh* (1981) 3 SCC 132. According to him, the impugned order was not of a penal nature. In any event, considering the past service record of the Petitioner, the Petitioner had become a liability to the institution, and Respondent No. 4 was, therefore, within its powers to bring to an end the relationship of employer and employee. The order of compulsory retirement was based on the subjective satisfaction of the DSPCA and did not always have to be a 'speaking order'. Reliance was sought

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to be placed on the decisions in *State of UP v. Abhai Kishore Masta* (1995) 1 SCC 336; *Prabodh Sagar v. Punjab State Electricity Board* (2000) 5 SCC 630; *Union of India v. Dulal Dutt* (1993) 2 SCC 179 and *Baikuntha Nath Das v. Chief District Medical Officer, Baripada* (1992) 2 SCC 299.

16. The principal issue that arises for determination is whether the impugned order dated 24th December 2004 passed by the Chairman of DSPCA acting as DA is legally sustainable. As already noticed, the said order acknowledges that the inquiry proceedings which were taken over from Dr. K.A. Goel by Dr. Rakesh Singh remained incomplete. Although the report of the IO does not return any finding, the order dated 24th December 2004 proceeds to summarize the “brief facts recorded by the I.O.”. The order then sets out the opinion of the Chairman that “in totality of the facts and circumstances of the case, I am of the considered view that the charges have been established against the Charged Official beyond any doubt.” The above conclusion is not preceded by the analysis of any evidence. The only inference possible is that after realizing that the IO had himself not returned any findings, the Chairman took that task upon himself based on “facts” recorded by the IO in his report. To say the least, this was a strange procedure to adopt particularly since the charges were serious and the penalty being imposed was a major penalty. The conclusion arrived at by the Chairman that the Petitioner “had committed gross misconduct by acting in total disregard to the propriety and procedure, with malafide interest” was based on the ipse dixit of the Chairman purportedly based on “facts” and not ‘findings’ recorded by the IO. This by itself is sufficient to hold the order dated 24th December 2004 passed by the Chairman DSPCA to be unsustainable in law.

17. There are other grave procedural lapses that vitiate the impugned order dated 24th December 2004 imposing on the Petitioner the punishment of compulsory retirement. Since the said order was based on the ‘facts’ recorded in the inquiry report, it was incumbent on the Chairman to have furnished the Petitioner a copy of the inquiry report and give him an opportunity of defending himself before imposing the major penalty of compulsory retirement. On the contrary, the admitted position is that this procedure was not followed. Thirdly, the Chairman imposed the penalty after concluding that the Petitioner had committed gross misconduct and acted with *mala fide* interest. It was therefore not an order of termination simpliciter which did not cast any stigma on the Petitioner. Further, the Chairman, SPCA was not the Petitioner’s appointing authority.

Consequently, even on that score, the order dated 24th December 1994 was of doubtful validity.

18. The proceedings before the DSPCA Board held on 31st January 2005 indicate that when the question of confirmation of the order dated 24th December 2004 was taken up, the Chairman apprised the Members of the action taken against the Petitioner “for grave offences as shown in the charge sheet”. The Members then went through the charge sheet and confirmed the penalty of compulsory retirement. Clearly therefore, the Members were not shown and did not discuss the inquiry report. They seemed to have acted only on the basis of the charge sheet. They were not aware or even informed that the order they were confirming was based on an inquiry report which actually returned no findings against the charged official. They were not told that a copy of the said report was not even furnished to the charged official prior to the imposition of the penalty. This was the most unsatisfactory manner of dealing with disciplinary proceedings involving a major penalty. The decision of the DSPCA Board taken on 31st January 2005 stands vitiated on the ground of non-application of mind to the relevant legal requirements and to the factual position.

19. What is also significant is that the Petitioner had throughout kept on demanding documents and according to him these were not supplied by the IO. The IO concluded his proceedings on 2nd December 2004 leaving the inquiry incomplete. This fact was obviously not known to the Petitioner. It was incumbent therefore for the DSPCA to have issued a notice to the Petitioner at that stage if it was proposing to continue with the disciplinary proceedings against the Petitioner. Viewed from any angle, therefore, the procedure adopted for imposing the penalty of compulsory retirement on the Petitioner is unsustainable in law.

20. The submission that the compulsory retirement was in ‘public interest’ under FR 56 (1) is not borne out by the record. The order dated 24th December 2004 does not state that it is passed in ‘public interest’. There is no reference whatsoever to FR 56 (1) either in the said order or in the minutes of the meeting of the DSPCA Board held on 31st January 2005. The attempt made, in the counter affidavit of the Respondents, to justify the order as being in ‘public interest’ is not only contrary to the record but is also impermissible in law particularly when the order on the face of it does not state it to be such. In fact, in the counter affidavit, a conflicting stand has taken by the Respondents

in the following two paragraphs (which are un-numbered sub-paras of para A (xiii) :

“As regards the allegation that the order of compulsory retirement was served on the petitioner even without copy of the inquiry report till date, it is submitted that the compulsory retirement of the petitioner was resorted to since he deliberately did not cooperate with the inquiry with the malafide intention of delaying tactics and to escape from subsequent disciplinary action. It is further stated that in case reported as 1996 (36) DRJ 114 it has been held by the Hon’ble Supreme Court that even if disciplinary proceedings are started against a delinquent yet he can be compulsorily retired in public interest. In the instant case also the petitioner was compulsorily retired in public interest.

It is further stated that although the inquiry against the petitioner was ordered under the CCS (CCA) Rules, 1965, the action of compulsory retirement from service of the petitioner was resorted to under Rule 56(J) FRSR as it was clearly evident that the entire charges against the petitioner were proved and the petitioner deliberately chose to evade inquiry with the sole motive of taking undue benefit of his misgivings and violative actions. As such question of providing him with copy of the inquiry report does not arise.”

21. Respondent No. 4 is itself therefore uncertain whether the action taken against the Petitioner was under FR 56 (j) or FR 56 (l).

22. The decisions relied upon by the learned Senior counsel for Respondents 2 to 5 turned on their own facts. In ***Registrar, High Court of Madhya Pradesh v. Kumari Rajabai Gorkar***, it was observed that even if the order did not state that the action was taken in public interest, it would still be open to the authority to place material before the Court in support of such contention. However, in that case since material was sought to be placed for the first time in the Supreme Court, the order of the High Court quashing the order of compulsory retirement was upheld. In the present case, the documents filed by Respondents 2 to 5 to justify the compulsory retirement is the very inquiry report which does not return any finding against the Petitioner. In ***State of UP v. Abhai Kishore Masta***, the matter was remitted to the High Court by the Supreme Court for examining whether the order of compulsory retirement was “in truth, penal in nature”. In the present case, the very wording of the impugned order dated 24th December 2004 and the minutes of the meeting of the Board held on 31st January 2005 indicate that the order was of penal nature. The facts in ***Prabodh Sagar v. Punjab State Electricity Board*** show that there was no disciplinary enquiry against the employee as in the present case. On appraisal of the service record it was concluded that the employee had been rightly retired in public interest. The facts of the said decision are distinguishable in their application to present case. Likewise, the facts in ***Union of W. P. (C) No. 6971 of 2005***

India v. Dulal Dutt and *Baikuntha Nath Das v. Chief District Medical Officer* do not bear comparison with the facts of the present case.

23. The next issue concerns the legal status of the DSPCA Board. The Respondents have been unable to show the legal basis for the constitution of the DSPCA Board with reference to any provision under the PCA Act 1960 or the PCA Rules. While the appointment of an Administrator can be explained with reference to the role of the Development Commissioner, GNCTD under the Grants-in-Aid Rules, the issuance of a notification by the GNCTD, constituting the DSPCA Board to administer the affairs of the DSPCA cannot be traced to any statutory provision as such. Rule 3(3) of the PCA Rules makes it obligatory for the Society to aid the state Government, the AWB and the local authority in enforcing the provisions of the PCA Act. Rule 3(2) states that the MC of the Society shall be appointed by the State Government or the local authority of a district consisting of a Chairperson “with the concurrence of the Board”. In the present case, it has not been shown that the DSPCA Board was in fact constituted under Rule 3(2) PCA Rules or that there was the concurrence of the AWB to the constitution of such Board. On the other hand, it appears that the DSPCA Board was to function only up to 16th June 2003. Even under Rule 3(5) of the PCA Rules, GNCTD has to consult the AWB before conferring powers and functions on Respondent No. 4 Society. That does not appear to have been done.

24. What is particularly intriguing is the order passed by the Chief Minister on 16th June 2003 extending the term of the DSPCA Board indefinitely “till further orders”. The complete text of the said order reads as under:

“Office of the Chief Minister
Delhi Secretariat

The term of the present Delhi Society for Prevention of Cruelty to Animals (DSPCA) has ended on June 9, 2003. The file for reconstitution (F/DSPCA/96 Sub: Constitution of Delhi SPCA Board) has been submitted to me with certain recommendations of a Committee constituted under the Chairmanship of the Development Commissioner and comments of the Chief Secretary. These are being examined.

The term of the present DSPCA Board is hereby extended till further orders.

Sd/-
Chief Minister, Delhi
16/6/03”

25. It appears that this was done without reference to any statutory provision. The learned Senior counsel for Respondents 2 to 5 was at pains to explain the legal basis of the above order. He could however not explain the basis on which the DSPCA Board which was constituted only for a period of one year from 10th June 2002 to 9th June 2003 by the Notification dated 7th June 2002 could simply continue indefinitely under the orders passed by the Chief Minister of the GNCTD. Consequently, the action taken by such DSPCA Board to ratify the imposition of compulsory retirement on the Petitioner by the Chairman DSPCA was also without the authority of law. In *Gokaraju Rangaraju v. State of AP*, the *de facto* doctrine was invoked to justify the actions taken by a body not properly constituted. However, in the present case the impugned action of awarding the penalty of compulsory retirement was also, as already held, clearly in violation of the principles of natural justice, and therefore cannot be sustained.

26. For the aforementioned reasons the impugned order dated 24th December 2004 passed by the Chairman of DSPCA and the decision of the DSPCA Board taken at its meeting held on 31st January 2005 ratifying such decision are hereby set aside. The Petitioner is directed to be reinstated in service with all consequential benefits.

27. The writ petition is allowed in the above terms with costs of Rs. 5,000/-, which will be paid by Respondents 2 to 5 to the Petitioner within a period of four weeks from today.

S. MURALIDHAR, J.

SEPTEMBER 21, 2011

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