



WEB COPY

WP No. 37810 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	14.08.2026
<i>Pronounced on</i>	20.08.2026

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR. JUSTICE KRISHNASWAMY GOVINDARAJAN

W.P.No.37810 of 2024
and WMP.No.40881 of 2024

1. Union of India,
The Secretary,
Ministry of Water Resources, R.D & G.R.,
Shram Shakthi Bhavan, Rafi Marg,
New Delhi - 110 001.
2. The Director/Deputy Secretary,
Ground Water Establishment Section,
Ministry of Water Resources, R.D. & G.R.,
Shram Shakthi Bhavan, Rafi Marg,
New Delhi - 110 001.
3. The Director (Administration),
Central Ground Water Board,
Minister of Water Resources,
Bhujal Bhawan,
NH-IV, Faridabad,
Haryana - 121 001.

..Petitioner(s)

Vs.

K.M.Vedapuri

..Respondent(s)



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, praying to call for the records pertaining to order made in O.A.No.410/2016 dated 04.01.2024 by the Central Administrative Tribunal, Chennai Bench, Chennai and quash the same.

For Petitioner(s): Mr.M.Ramamoorthi,
Senior Panel Counsel

For Respondent(s): Mr.P.Ulaganathan

ORDER

Krishnaswamy Govindarajan, J.

The Union of India (the writ petitioners herein) has filed this writ petition challenging the order dated 04.01.2024 passed by the Central Administrative Tribunal (CAT) in O.A.No.410 of 2016.

2. The respondent herein (the applicant before the CAT) had filed O.A.No.410 of 2016 seeking relief against the denial of his request for promotion to the grade of Senior Hydro Geologist. He further sought retrospective promotion to the grade of Scientist 'D' and Regional Director from the dates his juniors were promoted, asserting that the department failed to follow the prescribed sealed cover procedure.



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3. The respondent was initially appointed in the petitioner's department as an Assistant Hydro Geologist (a Class-II post), by direct recruitment, with effect from 24.05.1971. In continuation of this appointment, he was appointed as a Junior Hydro Geologist (a class-I post), with effect from 01.06.1971. In February 1979, after being relieved by the Government of India, the respondent proceeded on deputation to Algeria for a foreign assignment spanning a term of two years. He was subsequently granted an extension of one year, requiring him to resume his duties on or before 10.02.1982. He failed to resume duty by the deadline and contended that he could not return due to the absence of a formal relieving order from the Government of Algeria, which intended to utilise his services further. He ultimately reported back for duty only in the year 1984.

4. Upon his return, the respondent faced major penalty proceedings under Rule 14 of the CCS (CCA) Rules for his unauthorised overstay from 11.02.1982 to 12.02.1984. The Ministry instituted these proceedings via an Office Memorandum (O.M.) dated 25.08.1982. Based on the inquiry report, the President of India imposed a penalty of compulsory retirement vide order dated 10.06.1988. The respondent challenged the said order before the CAT



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in O.A.No.163 of 1989 and the CAT set aside the penalty by an order dated 31.07.1990.

5. Following the CAT's order, the Disciplinary Authority issued a fresh charge memo dated 27.08.1991; the respondent submitted his explanation and the Inquiry Officer subsequently submitted a detailed report concluding that the 'charges of overstay are not proved'.

6. The Disciplinary Authority, however, chose to disagree with the inquiry report. After providing the respondent an opportunity to make further representations and receiving his explanation, the authority issued a second order of compulsory retirement on 19.05.1997.

7. The respondent challenged this second penalty in O.A.No.264 of 1998. The CAT had set aside the compulsory retirement on 25.01.2000. Aggrieved against the same, the Union of India filed WP.No.19290 of 2000, which was dismissed by the High Court. The subsequent Special Leave Petition (SLP) and the Review Petition filed by the Union before the Apex Court were also dismissed on 14.07.2003 and 07.10.2015 respectively.



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8. Consequently, the respondent was issued with an order dated 09.08.2006, 'setting aside the Ministry's order No.6/4/91 – Vig dated 19.05.1997'. During the pendency of these legal battles, the respondent attained the age of superannuation on 30.06.2004.

9. By applying Rule 9 of the CCS (Pension) Rules, 1972, the disciplinary proceedings were deemed to continue and the respondent remained under deemed suspension with effect from 10.06.1988.

The respondent was subsequently issued with another Office Memorandum dated 09.08.2006, stating that all the charges framed vide Memorandum dated 27.08.1991, against the applicant were fully proved and his explanation was again called for.

10. The writ petitioner issued a consequential order dated 08.06.2011 (i) dropping the proceedings under Rule 9 of CCS (Pension) Rules; (ii) treating the period of "unauthorised absence" from duty w.e.f 11.02.1982 to 12.02.1984 as 'dies non' for all purposes viz. increments, leave and pension etc. The interruption in service caused due to his unauthorised absence will also have the effect of forfeiture of past service under Rule 27 of the CCS



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(Pension) Rules, 1972 and (iii) treating the period of deemed suspension w.e.f. 10.06.1988 to the date of retirement on attaining the age of superannuation on 30.06.2004, as duty for all purposes and he be paid full pay and allowances admissible to him, after adjusting then payment already made to him.

11. Aggrieved by the aforesaid order dated 08.06.2011, the respondent approached the grievance forum of the Government of India, resulting in a clarificatory order dated 04.01.2014, substituting the said obnoxious order with the following:

“The period of his unauthorised absence from duty w.e.f. 11.02.1982 to 12.02.1984 may be treated as ‘dies non’ for all purposes except pension”.

12. It is the case of the respondent that he was promoted to Senior Hydro Geologist on an ad-hoc basis with effect from 21.08.1987, but his regular promotion was turned down by a letter dated 04.06.1991. The respondent claimed that because the sealed cover procedure was not followed, his promotion was denied.



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13. The Union of India filed a detailed counter-affidavit before the CAT and argued that by virtue of Rule 9 of the CCS (Pension) Rules 1972, the disciplinary proceedings were deemed to continue against the respondent. He submitted that the period of the respondent's deemed suspension, stretching from 10.06.1988 until his retirement upon attaining the age of superannuation on 30.06.2004, has already been treated as duty for all purposes and he be paid full pay and allowances admissible to him. The Union of India further submitted that the respondent's period of unauthorised absence from 11.02.1982 to 12.02.1984 was explicitly regularised as 'dies non' for all purposes, except pension and as such, he is not entitled to any further relief.

14. The CAT rejected the arguments advanced on the side of the Union of India and allowed the original application by considering the respondent's seniority from due dates and further directed the Union of India to grant notional promotion with all consequential benefits. Aggrieved against the same, the Union of India has preferred the present writ petition.

15. Heard the learned counsel appearing on either side.



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16. It is the contention of the writ petitioner (Union of India) that the period of the respondent's deemed suspension, from 10.6.1988 to the date of his retirement on attaining the age of superannuation on 30.6.2004, has already been treated as duty for all purposes. Consequently, he is entitled to the payment of full salary and allowances for this period, subject to the adjustment of the compulsory retirement pension and gratuity already drawn by him. The Union of India further admitted that the respondent is entitled to a regular superannuation pension under Rule 35 of the CCS (Pension) Rules, 1972, effective from the date of his retirement upon attaining the age of superannuation on 30.06.2004.

17. The learned counsel for the respondent argued that the order passed by the CAT is a well-reasoned one and absolutely no grounds have been made out to warrant any interference by this Court.

18. A review of the record reveals that the Government of India vide proceedings dated 08.06.2011, after considering the entire history of the respondent's case, came to the conclusion as hereunder:

“NOW THEREFORE, the President, after considering the



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representation received from him vis-a-vis the evidence on record and the advice tendered by Union Public Service Commission (UPSC) has decided to communicate Government displeasure to him on the ground that dropping penalty against him is based purely on extraneous, issues and the decision of imposing no, penalty upon him is not based on merits as proof and evidence against him is still intact and unshakable. Under these circumstances, the President, has therefore, passed the following orders:

(i) In view of the judgements of Hon'ble CAT/ High Court and also the advice of UPSC, Shri Vedapuri be let of without imposition of any cut in pension under the pension Rules. Accordingly, the disciplinary proceedings initiated against him vide this Ministry's Memorandum No. 6(4)/91-Vig dated 27.8.1991 proceedings continued vide this Ministry's Order No. 6/1/2001-Vig(Pt-II) dated 9.08.2006 under Rule 9 of CCS (Pension) Rules may be dropped by communicating Govt. displeasure.

(ii). The period of his unauthorised absence from duty w.e.f. 11.2.1982 to 12.2.1984 may be treated as 'dies non' for all purposes viz. increments, leave and pension, etc. The interruption in service caused due to his unauthorised absence will also have the effect of forfeiture of past service under Rule 27 of the CCS



(Pension) Rules, 1972.

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(ii) His period of deemed suspension w.e.f 10.6.1988 to the date of his retirement on attaining the age of superannuation on 30.6.2004 be treated as 'duty' for all purposes and he be paid full pay and allowance admissible to him, after adjusting the compulsory retirement pension, gratuity, etc. already drawn by him, if any. As laid down in F.R. 54, the payment will be subject to fulfilment of other conditions under which such conditions are admissible.)

(iv) Shri Vedapuri will be entitled to 'superannuation pension' under Rule 35 of the CCS (Pension) Rules, 1972 from the date of his retirement on attaining the age of superannuation i.e. June, 2004. He will also be entitled to payment of gratuity as per CCS (pension) Rules after reckoning the factors of payment of retirement gratuity accordingly.

It is ordered accordingly.

19. In aforesaid extracted portion (ii), it is clearly directed that the period of the respondent's unauthorised absence from duty between 11.02.1982 and 12.02.1984, shall be treated as 'dies non' for all purposes, including the increments, leave and pension etc. carrying the consequential



effect of forfeiture of past service under Rule 27 of the CCS (Pension) Rules,

1972.

20. Concurrently, the respondent was found entitled to a superannuation pension under Rule 35 of the CCS (Pension) Rules, 1972, upon reaching the age of superannuation on 30.06.2004, and he was duly paid his statutory retirement gratuity in accordance with the rules.

21. There is no dispute that the respondent remained under suspension from 10.06.1988 until his retirement, during which time he did not render any active service to the department. Despite his absence from duty, the writ petitioner/Union of India graciously considered the respondent's representations and passed an order treating the entire suspension as duty for all purposes, thereby safeguarding his financial and terminal entitlements.

22. Given that the respondent's service benefits and financial allowances were fully protected and accommodated by the department despite his prolonged absence from service since 1988, his demand for retrospective regular promotions is wholly unacceptable. The Central Administrative Tribunal completely failed to consider these vital legal and



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factual facets. The Tribunal erred in directing the writ petitioner to grant retrospective notional promotions and pensionary benefits, which, in our considered view, is legally unsustainable.

23. In view of the foregoing reasons, the Writ Petition stands allowed. The impugned order passed by the Central Administrative Tribunal in O.A.No.410 of 2016, dated 04.01.2024, is hereby set aside. No costs. Connected miscellaneous petition is closed.

(S.M.S.,J.) (K.G.R.,J.)
20-08-2026

Index: Yes
Speaking order
Neutral Citation: Yes

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