

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 04.06.2020**

**CORAM :**

**The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE**

**AND**

**The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.A.No.314 of 2020**  
**and C.M.P.No.5373 of 2020**

The Bharathiar University  
Rep. by its Registrar,  
Coimbatore 641 046.

.. Appellant

-VS-

R.Kumar

.. Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 24.01.2020 passed in W.P.No.22527 of 2019 on the file of this Court.

For Appellant : Mr.C.Vigneswaran

For Respondent : Mrs.Dakshayani Reddy

**JUDGMENT**

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant University and learned counsel for the respondent petitioner.

2.The respondent was punished on 26.06.2019 with an order of compulsory retirement. Prior to that, the respondent petitioner was under suspension during enquiry, but the contention of the respondent petitioner before the learned Single Judge was that the imposition of punishment was abrupt without even supplying copy of the enquiry report. The said contention has been accepted by the learned Single Judge and it has been held that non-supply of the enquiry report has vitiated the entire proceedings. The learned Single Judge has further directed the enquiry to go on, but at the same time, reinstated the respondent petitioner with attendant benefits.

3.Learned counsel for the appellant has urged that there was no prejudice to the respondent and therefore, non-supply of enquiry report does not vitiate the proceedings. We are unable to agree with

this proposition particularly on the basis of the law that has been laid down by the Supreme Court in the case of **Managing Director, ECIL, Hyderabad and Ors. vs. B.Karunakar and Ors., (1993) 4 SCC 727**, which clearly holds that prejudice has to be established. In the instant case, it is undisputed that the very same enquiry report and its contents have been made the basis of compulsory retirement, which is the punishment imposed on the respondent petitioner. This itself is sufficient to constitute prejudice and therefore, the learned Single Judge was fully justified in setting aside the order of punishment on the ground of non-supply of the enquiry report of the delinquent.

4.Coming to the second issue, learned counsel for the appellant contends that even if the enquiry has to be concluded, the respondent petitioner was under suspension and therefore, the enquiry should be concluded treating the respondent petitioner to be under suspension.

5.We have heard learned counsel for the respondent petitioner on this and we are satisfied that once the enquiry has to be concluded in the wake of the allegations made against the respondent petitioner, then the enquiry has to proceed from that stage with the supply of the

enquiry report. The effect, therefore, is that the respondent petitioner would stand reinstated, but he will be treated to be under suspension, which was the stage at which the punishment came to be imposed. Accordingly, the respondent petitioner would be entitled to subsistence allowance, which is payable on being suspended and that amount which is due shall be cleared by the appellant within three weeks from today and shall be paid in future till final orders are passed in the proceedings.

6.The enquiry, as directed by the learned Single Judge, shall be concluded within the period as given therein, which shall restart with effect from today.

The Writ Appeal stands disposed of in the aforesaid terms and the impugned judgment would stand modified accordingly. No costs. Consequently, C.M.P.No.5373 of 2020 is closed.

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(A.P.S., CJ.) (S.K.R., J.)  
04.06.2020

Index : Yes/No  
sra

To

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The Hon'ble Chief Justice  
and  
Senthilkumar Ramamoothy, J.

(sra)



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