



W.P.No.8524 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on: 20.08.2025	Pronounced on: 09.09.2025
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CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH**and****THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**W.P.No.8524 of 2024**and**W.M.P.No.9469 of 2024

- 1.Union of India, rep, by
The Revenue Secretary, Ministry of Finance,
Department of Revenue, North Block,
New Delhi – 110 001.
- 2.The Chairman,
Central Board of Indirect Taxes and Customs (CBIC),
North Block, New Delhi – 110 001.
- 3.The Member (Admin),
Central Board of Indirect Taxes and Customs (CBIC),
North Block, New Delhi – 110 001.
- 4.The Under Secretary to the Government of India,
Ministry of Finance, Ad. II Section,
Central Board of Indirect Taxes and Customs (CBIC),
North Block, New Delhi – 110 001. .. Petitioners

Vs.

- 1.V.Kannathasan
- 2.The Central Administrative Tribunal,
Rep by The Registrar, Chennai Bench,
City Civil Court Building,
Chennai – 600 104. .. Respondents



W.P.No.8524 of 2024

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in O.A.310/00416/2022 & MA.310/00470/2023 dated 10.01.2024, quash the same and further allow the petitioner to conclude the disciplinary proceedings initiated in Charge Memorandum.47 of 2016 dated 06.12.2016.

For Petitioners : Mr.AR.L.Sundaresan
Additional Solicitor General
Assisted by
Mr.M.Santhanaraman, SSC

For R1 : Mr.M.Ravi

ORDER

(Order of the Court was made by V.LAKSHMINARAYANAN, J.)

The petitioner seeks for the following relief:

“to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in O.A.310/00416/2022 & MA.310/00470/2023 dated 10.01.2024, quash the same and further allow the petitioner to conclude the disciplinary proceedings initiated in Charge Memorandum.47 of 2016 dated 06.12.2016.”

2.For the sake of convenience, the parties shall be referred to as per their ranks in the Original Application before the Tribunal.



W.P.No.8524 of 2024

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3.The applicant, who is the 1st respondent herein had moved the Central Administrative Tribunal (hereinafter referred to as 'Tribunal') for the following relief:

“To quash the disciplinary proceedings in charge memorandum 47/2016, dated 06.12.2016 (Annexure – 5), on the file of the CBIC Office Memorandum in F.No.C.14011/38/2010-Ad.V and also Order in F.No.32012/25/2018-Ad. II dated 16.08.2021 passed by the 1st respondent and consequently direct the respondents to promote to the grade of Joint Commissioner from 30.06.2015 and to promote to the grade of Additional Commissioner from 07.05.2018 as he has otherwise been found to be fit by the DPC with all the applicable consequential relief and all retirement benefits and pass such other or further orders as this Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.”

4.The case of the applicant is that he had joined the services of the respondents as an Appraiser. He joined duty on 12.08.1994 at the Customs House in Tuticorin. On 22.08.2005, the applicant was



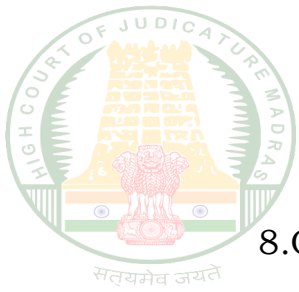
W.P.No.8524 of 2024

promoted to the post of Assistant Commissioner. On 22.11.2010, he was yet again, promoted to the post of Deputy Commissioner.

5.The Central Bureau of Investigation (CBI) registered a case against the applicant in RCMA 1/2009 A/0059 on 18.11.2009. In pursuance of this complaint, a charge sheet was laid against the applicant before the XII Additional Special Judge for CBI Cases, Chennai, in CC.NO.4 of 2013 in RC.No.59/A/2009. The basic charge being that the applicant had acquired assets disproportionate to his known sources of income under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 (hereinafter referred to as “PCA”).

6.On account of pendency of the criminal case, the applicant had not been granted any further promotion. Therefore, he gave a representation on 21.06.2017, requesting promotion to the cadre of Joint Commissioner.

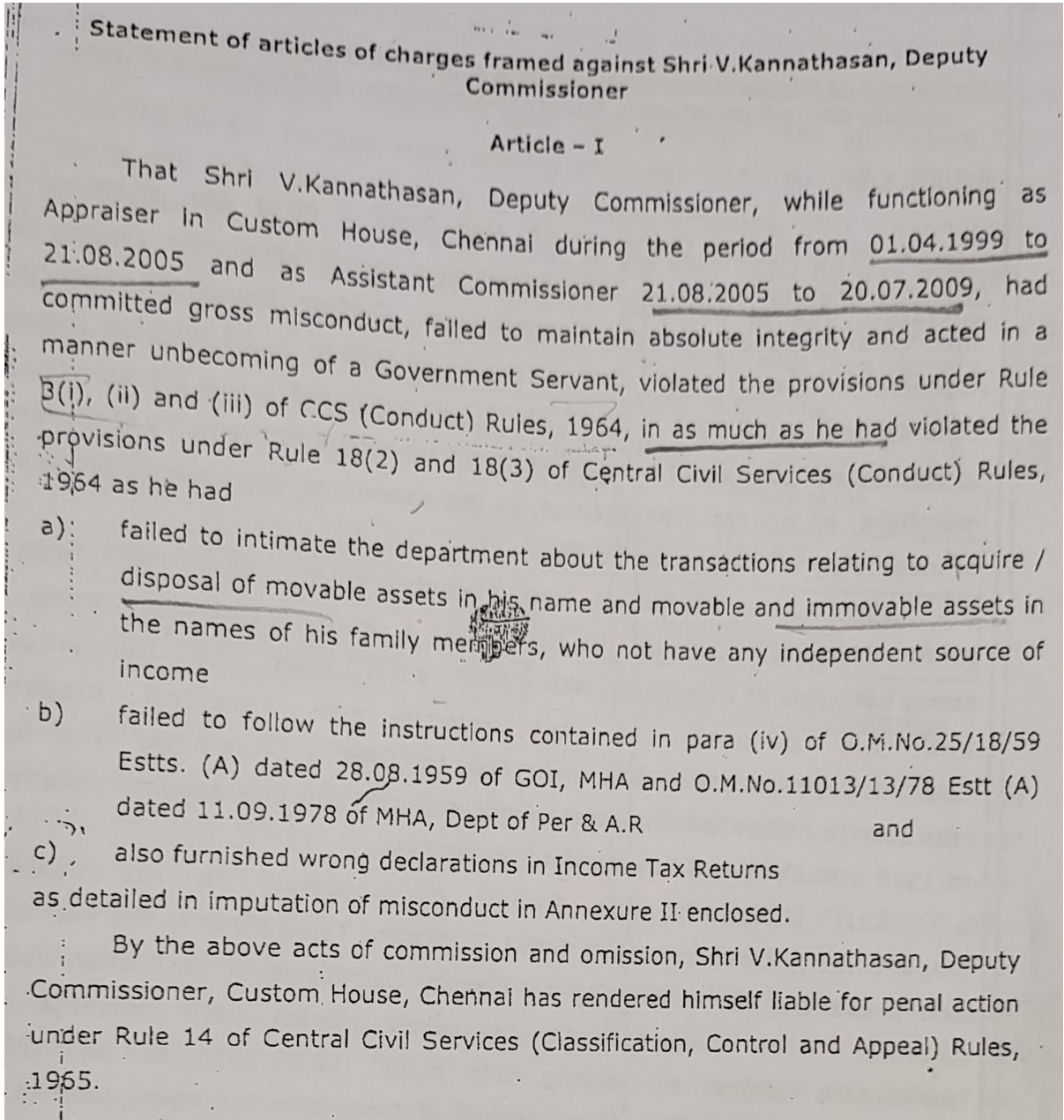
7.In the mean time, the CBI Court proceeded further. After a full fledged trial, the Court acquitted the applicant from all charges on 26.04.2018. It is not in dispute that no further appeal had been preferred against the order of acquittal.



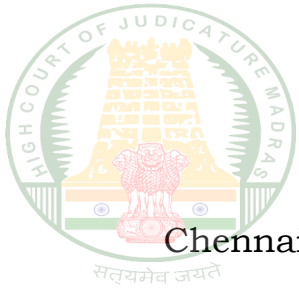
W.P.No.8524 of 2024

8. On 06.12.2016, a charge memo No.47 of 2016 was served on

the applicant, which read as follows:



9. On the basis of this charge memo, an enquiry was conducted by the Additional Director, Directorate of Revenue Intelligence,



W.P.No.8524 of 2024

Chennai. He submitted a report that the charges against the applicant were **“not proved”**.

10.The applicant therefore, submitted yet another representation on 10.09.2018, seeking promotion to the grade of Joint Commissioner / Additional Commissioner, enclosing a copy of the order passed by the CBI Court.

11.On 08.01.2019, the Department issued a reply stating that the applicant's promotion cannot be considered, as disciplinary proceedings are pending. The applicant pleaded by way of a further representation on 10.06.2019, that as the prosecution and departmental action are based on identical facts, and since he had been acquitted by the Criminal Court, the departmental proceedings maybe dropped.

12.However, on 14.11.2019, the disciplinary authority invoked Rule 15(1) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and remitted the matter to the disciplinary authority for further enquiry. It found that the original report which had been submitted by the Enquiry Officer had failed to take into consideration the judgment passed by the CBI Court. Therefore, the

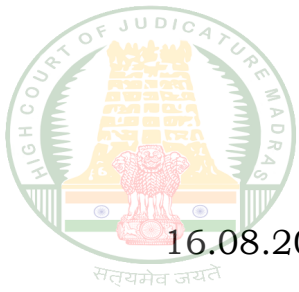


W.P.No.8524 of 2024

disciplinary authority directed the Enquiry Officer to receive the judgment of the CBI Court on record and proceed further in accordance with Rule 14(15) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Accordingly, the Enquiry Officer proceeded further. He submitted a report on 13.08.2020 holding that the charges had been “**proved**” partially. The Disciplinary Authority tentatively agreed with the findings of the Enquiry Officer. As required by law, he forwarded a copy of the enquiry report dated 13.08.2020 to the applicant for submitting his representation on the same. This was by way of proceedings dated 25.06.2021.

13.In the meantime, the applicant had approached the Tribunal by way of an original application in O.A.No.1616 of 2019. In this proceeding, he sought to quash the order dated 08.01.2019, by which his request to open the sealed cover and promote him to the post of Joint Commissioner with effect from 30.06.2015, had been rejected.

14.The Tribunal directed the respondents to pass a speaking order. Taking into consideration the Office Memorandum (OM) dated 24.02.2003 issued by the Department of Personnel and Training. This order by the Tribunal was passed on 05.12.2019. By an order dated

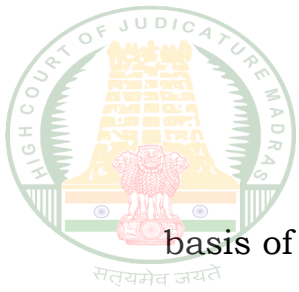


W.P.No.8524 of 2024

16.08.2021, the representation was rejected as disciplinary proceedings were pending. Within a month, on 13.09.2021, the applicant gave a detailed representation to the disciplinary authority. In the said representation, the applicant prayed to the disciplinary authority to exonerate him from the charges, and thereby drop the same. Subsequently, he moved the writ petition before this Court in W.P.No.23723 of 2021 challenging the issuance of charge memo and also proceedings dated 16.08.2021. This Court dismissed the writ petition as not maintainable and stated that the appropriate remedy is to approach the Central Administrative Tribunal. It granted liberty to the applicant to move the Tribunal.

15.Taking advantage of this liberty, the applicant filed OA/310/00416/2022, before the Tribunal for the reliefs we have set forth earlier. The Tribunal took the application on file and directed the respondents to file a detailed counter. The Department also filed a counter.

16.On 19.06.2023, the Tribunal passed an interim order directing the finalization of the disciplinary proceedings within a period of four weeks. It further made clear that in case the orders are not passed, the Tribunal would proceed with the application on the



W.P.No.8524 of 2024

basis of available records.

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17.Despite this direction, as the proceedings were not concluded, the Tribunal took up the application for disposal. The Department also filed an application in M.A.No.338 of 2023, seeking extension of time to complete the disciplinary proceedings by ten months from 17.07.2023. The applicant filed a detailed counter to the same. The Tribunal took up the miscellaneous application and the OA and allowed the OA. Aggrieved by the same, the present writ petition.

18.We heard Mr.AR.L.Sundaresan, Additional Solicitor General of India for Mr.M.Santhanaraman, SSC for the writ petitioners and Mr.M.Ravi for the 1st respondent / applicant.

19.Mr.AR.L.Sundaresan, urged that the charge memo should not be quashed as an enquiry had been conducted, and it had culminated into a report. He pleaded that the Tribunal ought to have allowed the proceedings to be carried on to its logical end. He argued that the applicant had not disclosed the acquisition of property in the name of his family members and thereby, had violated Rule 18(2) and 18(3) of the Central Civil Services (Conduct) Rules, 1964. On account of this fact, he argued that the applicant had committed grave



W.P.No.8524 of 2024

misconduct, and had failed to maintain absolute integrity, and had acted in a manner unbecoming of a Government servant. He pointed out the Tribunal had erred in coming to the conclusion that there has been a violation of principles of natural justice. He added even if there was a violation as found by the Tribunal, the remedy is not to quash the disciplinary proceedings in its entirety, but to restore the proceedings and to direct it to continue in accordance with law. He pleaded that as the order of the Tribunal is perverse, the same requires interference at our hands.

20.Per contra, Mr.M.Ravi pointed out that the applicant had suffered at the ignominy of having been overlooked by his juniors and had lost two promotional opportunities. He pointed out that there is a huge delay in the commencement and conclusion of the proceedings. He added that the applicant had been permitted to retire without any condition and therefore, the continuation of disciplinary proceedings is an abuse of process of law. He also invited our attention to the circular issued by the Central Vigilance Commission on 26.02.2001, to point out that failure to intimate the Department regarding the assets should only be treated as a technical lapse, and such lapses should ordinarily attract censure / administrative warnings.

21.On the interpretation of the Rules, he urged that in case the



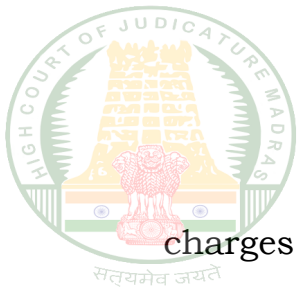
W.P.No.8524 of 2024

disciplinary authority did not agree with the findings of the enquiry officer, the only remedy is to proceed under Rule 15(2) of the Rules, and not resort to 15(1) of the Rules. For the said proposition, he relied upon the judgment of the Supreme Court in ***K.R.Deb Vs. Collector of Central Excise, Shillong, AIR 1971 SC 1447***. Mr.M.Ravi urges that Rule 15(1) would apply only when there is a defect in the enquiry, and the disciplinary authority not having found any such defect could not have resorted to the same. On the merits of the case, he points out that the judgment of the CBI Court ended in his favour and took us through the findings in the said judgment in order to substantiate his plea. Mr.M.Ravi also added that the charges are vague, and that he can raise this objection at any stage of the proceedings.

22.In response, Mr.AR.L.Sundaresan produced the order of the Central Board of Indirect Taxes and Customs dated 27.05.2022, to point out that the applicant had not been permitted to retire, but had been relieved from duty subject to the finalization of the disciplinary proceedings.

23.We have heard both sides and have gone through the records.

24.From the facts set forth above, it becomes clear that the



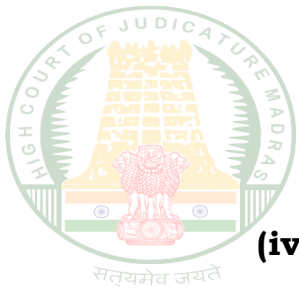
W.P.No.8524 of 2024

charges had been framed against the applicant on the ground of non-disclosure of the transactions relating to acquisition of immovable properties by the brother of the applicant, one, Mr.V.Thinakaran, his sister, Ms.V.Parimala, his mother-in-law, Smt.V.Avadaiammal, and wife, K.Shyamala. The charges also stated that the applicant had not disclosed the purchase of State Bank of India (Taxable Bonds) 2003 to the writ petitioners and several other items. By his report dated 28.08.2018, the Enquiry Officer held that the charges had not been proved. In the revised report, he has pointed out the following:

(i) That the non intimation of the immovable properties in the name of his brother V.Thinakaran, and sister V.Parimala stood “**proved**”;

(ii) Non-intimation of movable properties in his name, as well as in the name of his family members was “**not proved**”;

(iii) Properties acquired in the name of his wife, K.Shyamala and mother-in-law, V.Avadaiammal has “**not proved**”;



W.P.No.8524 of 2024

WEB COPY

(iv) Allegation of wrong declaration in the income tax returns was “**not proved**”.

25. The disclosure under Rules 18 (2) and 18(3) of the Central Civil Services (Conduct) Rules, 1964, would arise only when the family members of the Government servant are solely dependant upon the Government servant. This is clear from a combined reading of the said Rule, and the definition of 'members of family' under Rule 2(c) of the Central Civil Services (Conduct) Rules, 1964. For ready reference, they are extracted hereunder:

“18.Movable, immovable and valuable property

(1)

(2) No Government servant shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealing with him.

(3) Where a Government servant enters into a transaction in respect of movable property either in his own name or in the name of the member of his family, he shall, within one month from the date of such transaction, report the same to the prescribed authority, if the value of such property exceeds two



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W.P.No.8524 of 2024

months' basic pay of the Government servant:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealings with him.

2.Definitions

(a)...

(b)...

(c) "Members of family" in relation to a Government servant includes:-

(i) the wife or husband as the case may be, of the Government servant, whether residing with the Government servant or not but does not include a wife or husband, as the case may be, separated from the Government servant by a decree or order of a competent Court;

(ii) son or daughter or step-son or step-daughter of the Government servant and wholly dependent on him, but does not include a child or step-child who is no longer in any way dependent on the Government servant or of whose custody the Government servant has been deprived by or under any law;

(iii) any other person related, whether by blood or marriage to the Government servant or to the Government servant's wife or husband, and wholly dependent on the Government servant."

26.A careful perusal of the enquiry report shows that nowhere has the Enquiry Officer come to a conclusion that Ms.V.Parimala and Mr.V.Thinakaran were solely dependent upon the applicant. Therefore, the requirements under Rule 18(2), read with 2(c)(iii) of the Central Civil Services (Conduct) Rules, 1964, have not been satisfied.



W.P.No.8524 of 2024

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27.Yet, it is not for this Court or for the Tribunal to appreciate the Enquiry Officer's report. The enquiry was conducted in terms of Central Civil Services (Classification, Control and Appeal) Rules, 1965, and it is for the disciplinary authority to appreciate the Enquiry Officer's report and come to a conclusion.

28.Mr.M.Ravi had contended that the proceedings suffer from enormous delay. He relied upon the classic judgment of ***P.V.Mahadevan Vs. M.D, Tamil Nadu Housing Board***, in order to press this point. The subtle difference between ***P.V.Mahadevan***'s case and the case at hand is that in the case of ***P.V.Mahadevan***, the details on the basis on which the charge has been framed against the officer were available with the Housing Board, and yet the Housing Board did not proceed with the enquiry immediately. That is not the situation in the present case. The case in itself is that the applicant did not disclose the details to his employer. Unless and until the employer gets to know about the alleged non disclosure of details, we cannot impute knowledge to the employer.

29.As soon as they got to know about the initiation of proceedings by the Central Bureau of Investigation, the disciplinary



W.P.No.8524 of 2024

authority had initiated proceedings. The two distinguishing factors are that the applicant had received the charge memo, submitted a detailed reply, and had participated in the enquiry. He had also been successful in the first enquiry report. After the disciplinary authority had exercised the powers under Rule 15(1) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the applicant had also appeared before the Enquiry Officer and had further submitted his explanation before the second enquiry.

30.The applicant had approached the department for promotion on the basis of acquittal in the criminal proceedings. When that was denied, he filed an original application in O.A.No.1616 of 2019 before the Tribunal. At that stage too, he did not attack the disciplinary proceedings. His prayer was only to set aside the order dated 08.01.2019, which had rejected his request to open the sealed cover and for a consequential direction to promote him to the post of Joint Commissioner. He received a copy of the enquiry report in June, 2021. It was only after a year and three months later, in September, 2022, he approached the Tribunal challenging the charge memo. We have to point out here that the impugned order in O.A.No.416 of 2022 was filed, after he had unsuccessfully challenged the proceedings before this Court. He had participated in both the first enquiry, as well

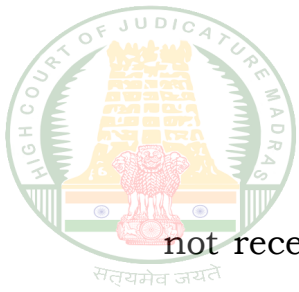


W.P.No.8524 of 2024

as the second enquiry without any demur. It was on the verge of his retirement, that he chose to challenge the enquiry proceedings.

31.The Tribunal had come to the conclusion that there was a violation of principles of natural justice. The normal procedure that should have been adopted by the Tribunal, if it felt that there is violation of principles of natural justice, is to set aside the proceedings and remand the same for fresh disposal. Instead, the Tribunal had quashed the entire proceedings and had given a direction for notional promotion to the applicant. This, in our view, is an erroneous approach adopted by the Tribunal.

32.On the finding that there has been a violation of principles of natural justice itself, we have our own doubts. The disciplinary authority had not accepted the first enquiry report and had sent it back for the purpose of considering the judgment rendered by the CBI Court. This is clear from the proceedings dated 14.11.2019. In paragraph No.6, the disciplinary authority had remitted the case to the inquiry officer in order to place the CBI Court judgment dated 26.04.2018 on record. It had further directed that the defense may be given an reasonable opportunity to place his case in the perspective of the new evidence. Post remitting the case to the enquiry officer, he did



W.P.No.8524 of 2024

not receive any new oral evidence, but only received the judgment of the CBI Court.

33.The judgment having gone in favour of the applicant, the situation of letting in any oral evidence, either by the applicant or by the Presenting Officer did not arise. That being the situation, we are not in a position to understand as to how it is a violation of the principle of *audi alteram partem*.

34.Insofar as the plea of Mr.M.Ravi, that the remittance by the disciplinary authority to the enquiry officer is contrary to Rule 15 is concerned, we are not in a position to agree with the same. This is because, Rule 15(1) empowers the disciplinary authority to remit the case to the enquiry officer for further enquiry and report. To urge that Rule 15(2) is the only available option to the disciplinary authority, and not Rule 15(1), is to read into Central Civil Services (Classification, Control and Appeal) Rules, 1965, a restriction which is not found therein. The judgment relied upon by Mr.M.Ravi in ***K.R.Deb Vs. Collector of Central Excise, Shillong, AIR 1971 SC 1447***, does not advance the case of the applicant for the following reason. It had been rendered by interpreting the Central Civil Services (Classification, Control and Appeal) Rules, 1957, and not the Central



W.P.No.8524 of 2024

Civil Services (Classification, Control and Appeal) Rules, 1965. In

K.R.Deb's case, Rule 15(1) of the 1957 Rules has been extracted.

Comparing the same with the present Rule shows they are not *in pari materia*. In addition, Rule 15(2) and 15(2-A) of the present Rules came into force only on 02.09.2000. Therefore, a judgment rendered based on the previous rules, as it stood before the current relevant rules as applicable to the present case, cannot be used as a precedent. As long as there are no limits or restrictions found in the Rule itself, that is to say that Rule 15(1) and 15(2) are two separate powers and not exercisable together, we cannot read a restriction into the Rules as sought for by Mr.M.Ravi.

35.Mr.M.Ravi further urged that the charges are vague, and relied upon the judgment of this Court in **Government of Tamil Nadu and two others Vs. M.Subramanian in W.A.No.587 of 2008, dated 03.07.2008**. We have to point out that the plea of vagueness was never raised before the Tribunal. Mr.M.Ravi would immediately urge that even though it was not urged before the Tribunal, he can urge the same before this Court. As this Court is exercising a writ of certiorari.

36.We should immediately point out the difference between the



W.P.No.8524 of 2024

nature of power exercised by a writ appellate Court, and the power exercisable by this Court against an order challenging the proceedings of a Tribunal. Insofar as the former is concerned, though the nature of proceedings is termed as a 'writ appeal', it is nothing but a continuation of the very constitutional remedy which was available to the petitioner under Article 226 of the Constitution of India. If a judgment is necessary for this proposition, it is ***Villupuram Market Committee and others Vs. K.Sekar, (2007) 2 L.W. 919***. A writ appellate Court while dealing with an appeal is entitled to re-consider the entire proceedings afresh. However, in a proceeding which challenges order of the Tribunal, we exercise visitorial or supervisory jurisdiction over the Tribunal. We are concerned with the decision making, rather than the decision itself.

37.In any event, we have gone through the charges and do not find them to be vague. In fact, the applicant himself understood the charges and had given a reply running into several pages. This shows that both the parties understood the nature of charge and had joined in issue and had let in evidence before the enquiry officer. Hence, the plea of vagueness stands rejected.

38.Mr.M.Ravi urged that Central Vigilance Commission circular



W.P.No.8524 of 2024

issued on 29.06.1999, as well as the findings of the CBI Court in paragraphs Nos.48 & 56, take away the substratum of the charge sheet. It is indeed true that the Central Vigilance Commission of the Government of India had directed all the Chief Vigilance Officers across the country that failure to intimate should be treated only as a technical lapse, and such a lapse would only attract censure or administrative warnings. It is also true that the findings of the CBI Court are in favour of the applicant. Yet, neither this Court, nor the Tribunal, can convert itself into a disciplinary authority and impose a punishment of censure. That is an act which can only be done by the disciplinary authority.

39.A Writ Court under Article 226 of the Constitution of India certainly has the power to refer to the aforesaid rules and circular and substitute the punishment, had it been imposed. That stage has not yet arrived. The applicant is no soothsayer to predict that the disciplinary authority will ignore the findings of the CBI Court and the circular issued by the Central Vigilance Commission of the Government of India and punish him. In fact, the Union Public Service Commission (UPSC) might accept the plea of the applicant and advise the disciplinary authority to drop all the charges or take into consideration the CVC's direction and impose only a punishment of



W.P.No.8524 of 2024

censure. However wide our powers may be, the God Almighty has not gifted us the power to look into the future.

40. That being the position, the Tribunal should not have taken upon itself the burden of deciding the nature of punishment that the disciplinary authority is entitled to impose. The Tribunal could have gone into that exercise only after a punishment had been imposed by the disciplinary authority and when the said punishment was challenged before the Tribunal.

41. In the light of the above discussion, we are not in a position to sustain the order of the Tribunal impugned before us. The writ petition succeeds with the following directions:

(i) The order of the 2nd respondent in OA/310/00416/2022 dated 10.01.2024 is set aside;

(ii) The respondents shall complete the disciplinary process within a period of three (3) months from the date of receipt of a copy of this order and shall intimate the result of such proceedings to the applicant;



W.P.No.8524 of 2024

WEB COPY **(iii)** Needless to add that at the time of disposing the proceedings, the disciplinary authority shall take into consideration the Rule 18(2) and 18(3) read with Rule 2(c)(i) to 2(c)(iii) of the Central Civil Services (Conduct) Rules, 1964, and the judgment of the CBI Court in C.C.No.4 of 2013 dated 26.04.2018;

(iv) If the disciplinary proceedings go in favour of the applicant, the respondents will not force the applicant to approach the Tribunal again and shall grant him the notional promotion as he is entitled to in accordance with the extant rules in force;

(v) As the applicant is receiving only provisional pension, the respondents shall in the event of the applicant being exonerated, shall also grant him the amounts due at the time of retirement.

42. In the result, this Writ Petition stands allowed with the above directions. Consequently, the connected miscellaneous petition is



W.P.No.8524 of 2024

closed. No costs.

WEB COPY

(M.S.R., J)

(V.L.N., J)

09.09.2025

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To

The Central Administrative Tribunal,
Rep by The Registrar, Chennai Bench,
City Civil Court Building,
Chennai – 600 104.

M.S.RAMESH, J.
and

24 of 25



WEB COPY



W.P.No.8524 of 2024

V.LAKSHMINARAYANAN, J.

krk

W.P.No.8524 of 2024

09.09.2025