



W.P.No.19502 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.19502 of 2019

M.G.Raghuraman

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.

2.The Director of Drugs Control,
Chennai - 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in G.O.(D).No.519, Health and Family Welfare (D2) Department dated 06.04.2016 and quash the same and direct the first respondent to pay interest on the belated payment of retirement benefits and for promotion as Assistant Director of Drugs Control on par with his junior Mr.K.Sundarasamy as contained in the petitioner's representation dated 23.01.2019.



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For Petitioner : Mr.P.Manoj Kumar

For Respondents : Mr.K.Tippusultan, GA

ORDER

This Writ Petition has been filed to call for the records relating to the impugned order of the first respondent in G.O.(D).No.519, Health and Family Welfare (D2) Department dated 06.04.2016 and quash the same and direct the first respondent to pay interest on the belated payment of retirement benefits and for promotion as Assistant Director of Drugs Control on par with his junior Mr.K.Sundarasamy as contained in the petitioner's representation dated 23.01.2019.

2. Heard Mr.P.Manoj Kumar, learned counsel for the petitioner, Mr.K.Tippusultan, learned Government Advocate for the respondents and perused the materials available on record.

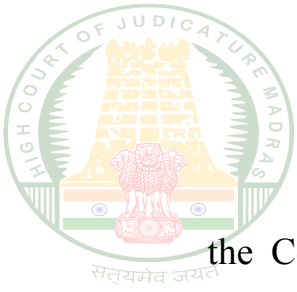
3. The petitioner was working as a Senior Drug Inspector. In view of three departmental proceedings, the charges against the petitioner were held to be not proved and even then, the petitioner was not allowed to retire on 31.07.2007. Hence, the petitioner has submitted a representation on 11.06.2015 seeking permission to retire. But the same was not



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considered. The petitioner has also filed a Writ Petition in W.P.No.21945 of 2015 and in the said Writ Petition, a direction has been given on 22.07.2015. Subsequently, the first respondent issued an order stating that two disciplinary proceedings have been pending against him and hence, he cannot be allowed to retire. Once again, the petitioner has filed an another Writ Petition in W.P.No.485 of 2016, challenging the said order. In the said Writ Petition, the respondents submitted that out of two charges, first charge was partly proved and the second charge was not proved. Thereafter, the suspension was revoked and the petitioner was allowed to retire. However, the petitioner was imposed with the punishment of cut of Rs.200/- per month from the pension for a period of one year.

4. The learned counsel for the petitioner submitted that as per the enquiry report, the first charge against the petitioner was partly proved and the second charge has been dropped. The Government has taken a deviance by concluding that both the charges have been partly proved. On consultation made with the Tamil Nadu Public Service Commission,



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the Commission has submitted a report stating that the Government's decision to impose the punishment of cut in pension of Rs.200/- per month for one year on the delinquent is correct. He further submitted that the report of the Commission was not furnished to the petitioner in order to make his submissions and that, the petitioner's representation to the second showcause notice contemplating the punishment was also not considered.

5. On perusal of the impugned order of punishment, it is seen that the petitioner has been given with an opportunity to make his submissions on the contemplated punishment. The petitioner has also made his representation, but the order does not make any detailed discussion about the representation made by the delinquent officer, but, has simply stated that the delinquent officer has not stated anything on the deviated findings of the Government. There was no discussion with regard to the representation made by the petitioner and the award of punishment.

6. So far as the submission that the report of the Commission was



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not furnished to the petitioner in advance so as to make his submissions and that, it is in non-compliance of the principles of natural justice, reliance was placed on the judgment of the Hon'ble Supreme Court held in the case of ***Union of India and Others Vs. S.K.Kapoor, reported in (2011) 4 SCC 589***. In the said case, it is held as under:

"7. In the aforesaid decision, it has been observed in SCC para 25 that "the provisions of Article 320(3)) of the Constitution of India are not mandatory". We are of the opinion that although Article 320(3)(c) is not mandatory, if the authorities do consult the Union Public Service Commission and rely on the report of the Commission for taking disciplinary action, then the principles of natural justice require that a copy of the report must be supplied in advance to the employee concerned so that he may have an opportunity of rebuttal. Thus, in our view, the aforesaid decision in T.V. Patel case is clearly distinguishable.

8. There may be a case where the report of the Union Public Service Commission is not relied upon by the disciplinary authority and in that case it is certainly not necessary to supply a copy of the same to the employee concerned. However, if it is relied upon, then a



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copy of the same must be supplied in advance to the employee concerned, otherwise, there will be violation of the principles of natural justice. This is also the view taken by this Court in S.N.Narula v. Union of India.

9. It may be noted that the decision in S.N.Narula case was prior to the decision in T.V.Patel case. It is well settled that if a subsequent coordinate Bench of equal strength wants to take a different view, it can only refer the matter to a larger Bench, otherwise the prior decision or a coordinate Bench is binding on the subsequent Bench of equal strength. Since the decision in S.N.Narula case was not noticed in T.V.Patel case, the latter decision is a judgment per incuriam. The decision in S.N.Narula case was binding on the subsequent Bench of equal strength and hence, it could not take a contrary view, as is settled by a series of judgments of this Court."

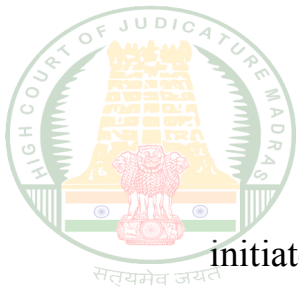
7. The above position of law settled by the Hon'ble Supreme Court has been followed in various other judgments passed by this Court. So, it is claimed that non-furnishing of Commission's report is in violation of principles of natural justice. But in the Kapoor's case, the Hon'ble Supreme Court has held that if the State Commission's report has been



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considered for taking disciplinary action, then the copy of the same should be supplied to the employee in advance in order to make his submissions.

8. In the instant case, the disciplinary action has not been initiated on the report given by the Commission. It appears that consultation has been made with Commission only with regard to the matter of punishment. Even prior to that, the petitioner has been given with the second showcase notice by stating that the respondents are contemplating to impose the punishment of Rs.200/- cut in pension per month for one year. The very same punishment is approved by the Commission as well. So, there is no deviance in the Government's stand or in the Commission's report and it has simply accepted the punishment contemplated by the Government. So in strict sense, non-furnishing of Commission's report in the present situation cannot be called as violation of principles of natural justice. Because there is no prejudice caused to the petitioner due to non-furnishing of the Commission's report before the punishment is imposed. Further, the Government has not



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initiated the action of imposing punishment only in pursuant to the report obtained from the Commission.

9. So far as the other ground is concerned, it is seen that in the show cause notice itself, the contemplated punishment is mentioned. In the order of punishment also there is no discussion as to the submissions made by the petitioner in the matter of punishment. Even while taking a deviance from the enquiry officer's report, there is no specific reasons assigned for the deviation except different version of appreciation of materials. In fact, the petitioner has been deprived to get his terminal benefits subsequent to his retirement and he was allowed to retire only after 9 years. To complete the proceedings which culminated into punishment of cut of Rs.200/- per month from the pension for one year, the respondents have taken 9 long years.

10. When the petitioner's age of superannuation is well known to the respondents, the respondents ought to have expedited the disciplinary proceedings. But, it appears that it went in a lackadaisical manner even



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after the age of attaining superannuation. The petitioner has not been imposed with any other punishment throughout his service except this punishment. The petitioner's complete service records have not been considered while imposing the punishment, that too, by deviating the report of the enquiry officer. As the whole exercise has not been done in a fair manner, I feel a little indulgence be shown in not making the petitioner to suffer further with a punishment for the charges are found to be have not been proved by the Enquiry Officer.

11. In view of the same, this **Writ Petition is allowed** and the impugned order of the first respondent in G.O.(D).No.519, Health and Family Welfare (D2) Department dated 06.04.2016 is set aside and the first respondent is directed to grant all consequential service benefits to the petitioner and pass appropriate orders in this regard within a period of **six weeks** from the date of receipt of a copy of this order. No costs.

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.

2.The Director of Drugs Control,
Chennai - 600 006.

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