



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2026

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 21582 of 2010

and MP.No. 1 of 2010

M. Hariharan

..Petitioner

Vs

The Government of Puducherry
rep by its Special Secretary (Arts and Culture)
and Vice-Chairman BPK,
Secretariat, Puducherry.

..Respondent

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for records relating to the respondents order made in 8937/DAC/Estt/Edn/Bpk/DE/09 dated 8.3.2010 to quash the same and consequently direct the Respondent to extend all benefits of increments and other service benefits forthwith thereto and to pass such further or other orders.

For Petitioner : Mr. Manoj Sreevatsan

For Respondents : Mr.R.Syed Mustafa, Spl.GP (Pondy)

ORDER

The petitioner challenges the order dated 08.03.2010 issued by the first respondent. By the said order, a major penalty was imposed on the petitioner,



whereby his pay was reduced by six stages from Rs.14,625/- to Rs.12,375/- in the time scale of pay of Rs.12,000-375-18,000/- for a period of six years with effect from the date of the order. It was further directed that the petitioner would not earn any increments during the period of reduction and that, on the expiry of the said period, the reduction would have the effect of postponing his future increments.

2. The petitioner, while serving as Officer on Special Duty at Lalith Kala Academy and Sangeeth Natak Academy, was issued a charge memorandum dated 18.11.2008. The substance of the allegations against him was that he had visited the United States of America to deliver guest lectures in certain Universities/Colleges without obtaining prior permission or approval from the competent authority. It was further alleged that he had utilised his entire leave credit of 30 days to perform classical musical concerts at the Greater Atlanta Vedic Temple in the USA. The explanation submitted by the petitioner was found unsatisfactory, necessitating the initiation of disciplinary proceedings. An Enquiry Officer was appointed, who, after conducting a detailed enquiry, submitted a report holding that Charge Nos.1 to 4 were proved and Charge No.5



was not proved. Thereafter, a second show cause notice was issued to the petitioner, to which he submitted a further explanation. The Disciplinary Authority, after considering the enquiry report and the further explanation, accepted the findings of the Enquiry Officer and passed the impugned order of punishment.

3. Learned counsel for the petitioner assailed the impugned order on the ground that the punishment imposed is in excess of what is permissible under Rule 11(iii-a) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as “the Rules, 1965”). It was contended that Rule 11(iii-a), which provides for minor penalties, ought to be read in conjunction with the relevant provisions, and that the penalty imposed travels beyond the scope of the said Rule. Therefore, according to the learned counsel, the impugned order is arbitrary, discriminatory, and liable to be set aside.

4. Per contra, learned counsel for the respondent submitted that apart from the power to impose minor penalties under Rule 11(iii-a), the first respondent was also empowered to impose major penalties under Rule 11(v) of the Rules, 1965. It was contended that the penalty imposed falls within the



ambit of Rule 11(v) and cannot be said to be in excess of the statutory provisions. The learned counsel therefore sought dismissal of the writ petition.

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In support of his submissions, reliance was placed on the judgment of the Hon'ble Supreme Court in *Lalu Prasad Yadav and another v. State of Bihar and another, reported in [(2010) 5 SCC 1]*.

5. Heard the learned counsel on either side and perused the materials available on record.

6. It is pertinent to note that the petitioner has not challenged the findings recorded by the Enquiry Officer and has, in fact, accepted the same, particularly in view of the fact that he retired from service on 12.10.2011 upon attaining the age of superannuation.

7. Before adverting to the issue on hand, it is necessary to extract Sub-Rules (iii-a) and (v) of Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as "the Rules, 1965") for the sake of clarity and convenience.



Minor Penalties:-

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(iii-a). *reduction to a lower stage in the time-scale of the pay for a period not exceeding 3 years without cumulative effect and not adversely affecting his pension;*

...

(v) *save as otherwise provided for in clause (iii-a), reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the period, with further directions as to whether or not the Government Servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;.*

8. In **Lalu Prasad Yadav's** case, the Hon'ble Supreme Court examined Section 378 of the Code of Criminal Procedure (as it stood before the 2005 amendment), which deals with appeals against acquittal.

9. The Apex Court ruled that under Section 378(1), the State Government can direct the Public Prosecutor to file an appeal before the High Court against an order of acquittal. However, the opening words "save as otherwise provided in sub-section (2)" create an exception.



10. Under Section 378(2), in cases where the offence was investigated by the Delhi Special Police Establishment (CBI) or any other agency empowered to investigate offences under a Central Act, the Central Government and not the State Government has the authority to direct the filing of an appeal.

11. The Supreme Court clarified in paragraph 35 that these opening words are meant to exclude the two categories of cases mentioned in sub-section (2) from the scope of sub-section (1). In other words, except for those two specific categories, the State Government has the power to file an appeal against acquittal.

12. A careful reading of Rule 11(v), particularly the expression “save as otherwise provided in clause (iii-a)”, makes it abundantly clear that clause (v) is intended to operate only in cases not falling within the limited ambit of clause (iii-a). Clause (iii-a) specifically contemplates reduction to a lower stage in the time-scale of pay for a period not exceeding three years, without cumulative effect and without adversely affecting pension, and is treated as a minor penalty. The saving clause in Rule 11(v) makes it clear that the authority cannot use clause (v) to bypass the limits fixed under clause (iii-a). In other words, where the nature and extent of the proposed



reduction squarely fall within the parameters of clause (iii-a), the authority must confine itself to that provision. Clause (v) can be invoked only where the punishment travels beyond those limitations, such as reduction for a longer specified period or with cumulative effect, thereby partaking the character of a major penalty.

13. In the present case, the first respondent imposed a penalty reducing the petitioner's pay by six stages from Rs.14,625/- to Rs.12,375/- in the time-scale of Rs.12,000-375-18,000/- with effect from 08.03.2010, and further directed that the petitioner shall not earn increments during the period of reduction and that, on expiry of the said period, the reduction shall have the effect of postponing his future increments. In view of the statutory scheme under Rule 11, such a penalty is permissible, However, considering the facts of the case, the nature of the charge, and the evidence on record, the penalty imposed is disproportionate to the misconduct proved. The punishment appears unduly harsh and therefore warrants modification to a lesser and proportionate penalty. The disciplinary has exceeded his discretionary power in passing the impugned order.



14. Accordingly, the writ petition is ***allowed in part***. The impugned order is modified and substituted as follows;

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Reduction of pay by three stages from Rs.14,625/- to Rs.13,500/- in the time scale of pay of Rs.12,000-375-18,000/- for a period of three years with effect from the date of the order ie., 08.03.2010 and shall not earn increments during the said period .

The respondents are directed to revise the petitioner's pension and other pensionary benefits in accordance with this order and to disburse the arrears arising therefrom within a period of three (3) months from the date of receipt of a copy of this order. It is made clear that the petitioner shall not be entitled to arrears of salary for the period during which the punishment operated. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

10.02.2026

Index : Yes
Internet : Yes
Neutral Citation : Yes/No
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To
The Special Secretary (Arts and Culture)
and Vice-Chairman BPK,
Secretariat, Puducherry.



HEMANT CHANDANGOUDAR, J.

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