

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 4505 OF 2014

SRI VENUGOPAL **APPELLANT**

VERSUS

UNION OF INDIA **RESPONDENT**

O R D E R

Heard learned counsel for the parties.

2. The present appeal is directed against an order dated 09th December, 2011, passed by the Division Bench of the High Court of Karnataka at Bangalore partly allowing the Writ Petition¹ filed by the appellant herein and reducing the punishment by withholding the pension amount from 30% to 10% of monthly pension admissible to the appellant on permanent basis.

3. The appellant was working under the Department of Telecommunications, Government of India. On 05th January, 2004, a notice was served to him with regard to certain irregularities pursuant to an internal audit. The appellant denied the same by filing a reply. However, the same resulted in a full fledged departmental enquiry, which ultimately culminated in an order of punishment dated 25th September, 2006, by which 30% of his pension was withheld on permanent basis. In the meantime, the appellant

1 Writ Petition No. 10349/2008 (S-CAT)

had superannuated on 30th June, 2005.

4. Learned counsel for the appellant submitted that the order of the disciplinary proceedings is totally misconceived and, in fact, illegal. It was submitted that during the proceedings there was an initial charge sheet given to him, which was later on supplemented and also further documents were put up as evidence on behalf of the department, but his request for supply of such documents was not tendered to, which point he has taken before the Central Administrative Tribunal, Bangalore, as well as before the High Court, but not considered. It was submitted that in the absence of the same, it could not be said that he had a fair opportunity to defend himself. Further, it was contended that though the order has been passed under Rule 9 of the Central Civil Services (Pension) Rules², 1972, but the same is actually under Rule 8 of the said Rules. Learned counsel took the Court to the provisions of Rules 8 and 9 and advanced submissions. At this juncture, she referred to the judgment of this Court in State of West Bengal Vs. Haresh C Banerjee & Ors. [(2006) 7 SCC 651], the relevant being at paragraphs 1 and 7. It was contended that Rule 9 of the said Rules applied to a situation where financial or pecuniary loss is caused to the Government, such action of withholding in part or full or withdrawing of pension could be made, but in the present case there is no financial loss caused as has been recorded in the impugned order of the High Court, where the counsel for the respondent has admitted that no financial loss has been caused. Further, it was contended that in the facts of the present case, Rule 8 is applicable, which would give a right to the appellant to be served a notice with regard to the proposed punishment of withholding of pension, which admittedly has not been

2 For short the "Rules"

done in the present case. On facts, it was contended that during the period for which enquiry was conducted, the appellant was not holding the post and thus the criminal case which was instituted by the CBI has resulted in his acquittal.

5. *Per contra*, learned counsel for the respondent submitted that the order was rightly passed by the authorities under Rule 9 of the Rules. It was submitted that Rule 8 deals with a situation where there is no final order passed in a departmental proceedings, which is proposed or which may have continued, whereas under Rule 9, there is already a finding of misconduct/guilt recorded against the delinquent, and as per the requirement of the Rules, opinion of the Union Public Service Commission was sought, which had opined that 30% deduction in pension would suffice the ends of justice. Learned counsel submitted that the same was both factually and procedurally correct and the appellant cannot have any grievance. Moreover, it was submitted that in the case filed by the appellant before the High Court, he has been granted relief by 30% being reduced to only 10%, for which he cannot have any grievance. It was submitted that the stand as noticed by the High Court with regard to admission of there being no financial loss caused, appears to be erroneous from the records available, as also in the findings of the departmental enquiry.

6. Having considered the matter, we do not find any substance in the submissions of learned counsel for the appellant. From the enquiry it transpires, that the same has been done in a procedurally correct manner and the stand taken that certain documents were not provided cannot be gone into at this stage for the reason that even if it is assumed that there were some documents, which the appellant was entitled to receive, but having

agitated the same before the Enquiry Officer and not being allowed, he did not choose to move before any Court or Forum for procurement of the same. Thus, that said issue cannot be agitated at a subsequent stage. We may also take note of the fact that in the enquiry report itself, there is enough evidence to show that pecuniary loss was caused to the exchequer as items were purchased at much higher prices than the rates prevailing at the relevant point of time. We may further note here that the defence placed by the appellant before the Enquiry Officer and the Court that because of burden and pressure of work, he was not able to fully/properly discharge his job of supervision.

7. Accordingly, we hold that the punishment awarded to the appellant has been correctly done under Rule 9 of the Rules. However, without commenting on the deduction made from 30% to 10% by the High Court, as no cross appeal has been filed, the present appeal stands dismissed.

8. Pending application(s), if any, shall stand disposed of.

.....J.
[AHSANUDDIN AMANULLAH]

.....J.
[SANDEEP MEHTA]

NEW DELHI
FEBRUARY 08, 2024
PS

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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APPELLANT

VERSUS

UNION OF INDIA

RESPONDENT(S)

(IA No. 2/2017 - PERMISSION TO FILE ANNEXURES)

Date : 08-02-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Appellant(s) Ms. Kiran Suri, Sr. Adv.
Mr. S.J. Amith, Adv.
Ms. Aishwarya Kumar, Adv.
Ms. Vidushi Garg, Adv.
Dr. (Mrs.) Vipin Gupta, AOR

For Respondent(s) Mr. Ishaan Sharma, Adv.
Mr. Anmol Chandan, Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. V Chitambresh, Adv.
Mr. Amit Sharma-II, Adv.
Mr. Adit Khorana, Adv.
Mr. Annirudh Sharma-II, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order, which is placed on
the file.

(POOJA SHARMA)
COURT MASTER (SH)

(NAND KISHOR)
COURT MASTER (NSH)