

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).7828-7831/2012

VIJAY KUMAR ATRI

APPELLANT(S)

VERSUS

HIGH COURT OF JAMMU AND KASHMIR
THROUGH REGISTRAR & ORS.

RESPONDENT(S)

J U D G M E N T

NAGARATHNA, J.

The appellant herein was a Judicial Officer serving under the supervision and control of the respondent(s)-High Court. The conduct of the said appellant was the subject matter of a departmental enquiry which resulted in his removal from service by order dated 29.08.2000.

The departmental enquiry was conducted by a learned Judge of the respondent(s)-High Court. The removal from service was assailed by the appellant in SWP No.126 of 2001, which was allowed by the learned single Judge of the respondent(s)-High Court by order dated 02.06.2009. Two sets of appeals were filed against the said order, one by the then District and Sessions Judge, Leh and the other by the respondent(s)-High Court.

The Division Bench *vide* impugned order dated

07.12.2009 rendered a split opinion which resulted in the matter being referred to a third Judge, who *vide* order dated 24.05.2011 affirmed removal from service of the appellant. Hence, this appeal.

We have heard Sri Keshav Thakur, learned counsel for the appellant and Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the respondent(s)-High Court.

We have perused the material on record and particularly, the imputation of charges against the appellant herein.

The enquiry report stated that charges Nos.8 and 11 were proved. However, the penalty was imposed under Rule 30(vi) of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 (for short, "CCA Rules"). The appellant was removed from service, which did not disqualify him from future employment. At that stage, the appellant had completed forty eight years of age and had substantial service remaining.

Learned counsel appearing for the appellant submitted that having regard to the allegations imputed against the appellant herein and the allegations which had been proved, the High Court could not have imposed

the harsh and disproportionate punishment of removal from service of the State. As a result, the appellant would not be entitled to any pensionary benefits, even though there may not have been any disqualification from future employment. At that stage, the appellant had already crossed forty eight years of age. Therefore, the High Court could have imposed the punishment of premature retirement on proportionate pension other than that specified under Rule 226(2) of the Jammu and Kashmir Civil Services Regulations (for short, "Regulations"). During the course of submissions, reference has also been made to Regulation 226(2) of the Regulations.

The sum and substance of the submission of learned counsel for the appellant is that having regard to the ripe old age of the appellant, presently seventy nine years of age, and the fact that he has struggled all alone without any income, the punishment of removal from service may be converted to any other lesser punishment by which the appellant would be entitled to certain monetary benefits. In other words, the submission was that for the sustenance of the appellant during his remaining years, having regard to the fact that he is already seventy nine years of age, this Court may, in exercise of its jurisdiction, convert the

punishment so as to enable the appellant herein to receive monetary benefits by way of pension.

Per contra, learned ASG appearing for the respondent(s)-High Court submitted that the long pendency of the litigation cannot enure to the benefit of the appellant herein. Further, the High Court has rightly considered the punishment that has been imposed on him, and in fact, ultimately the Full Court opined that the appellant had to be removed from service, which did not disqualify him from future employment. Therefore, there was no stigma in the cessation of service vis-à-vis the appellant herein. Hence, there is no merit in this appeal and the appeal may be dismissed.

We have considered the facts and circumstances of this case as well as the plight of the appellant herein, who is stated to be about seventy nine years of age. He was removed from service in the year 2000, and even after a quarter of a century, he is in the process of seeking his rights before this Court and he is nearing his eightieth year of age.

Taking note of all these facts and circumstances, we find that having regard to the charges and imputations levelled against the appellant, despite

some of them having been proved, the removal from service was disproportionate. At best, a lesser punishment could have been imposed on the appellant herein.

However, at this stage, since the appellant is approximately eighty years of age, imposition of a minor punishment by way of a reinstatement order does not arise as an option. In the circumstances, we substitute the punishment of removal from service, which does not entitle him to any monetary benefits, to one of premature retirement on proportionate pension other than that specified in Rule 226 of the Regulations i.e., removal from service which would entitle him to a pensionary/monetary benefit having regard to the applicable pension rules/regulations.

We also opine that in order to enable the appellant herein to be entitled to monetary benefits and pension, he shall be deemed to have completed the requisite number of years of minimum service for entitlement of pension. However, the pensionary benefits shall be extended to him from the year of his attainment of superannuation, had he not been terminated from service.

The respondent(s)-State shall compute the

pensionary benefits that the appellant is entitled to and disburse the same to him on or before 31.03.2026 without constraining the appellant herein to take further steps for seeking disbursement of the same.

The respondent(s) shall continue to pay the pension that the appellant is entitled to on a monthly basis in accordance with the aforesaid directions as per the existing Rules.

Appeals are accordingly disposed of in the aforesaid terms.

....., J.
(B.V. NAGARATHNA)

....., J.
(PRASANNA B. VARALE)

NEW DELHI;
DECEMBER 4, 2025

ITEM NO.105

COURT NO.4

SECTION XI-B

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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RESPONDENT(S)

Date : 04-12-2025 These appeals were called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Appellant(s) : Mr. Keshav Thakur, Adv.
Mr. Amit Pai, AOR
Mr. Priyanshu Pandey, Adv.
Mr. Meherban Singh, Adv.
Mr. Anuj Raina, Adv.
Mr. Prithvi Thakur, Adv.
Ms. Anu Tyagi, Adv.

For Respondent(s) : Ms. Aishwarya Bhati, Sr. Adv.
Ms. Manisha Ambwani, AOR
Ms. Gargie Boss, Adv.
Mr. Anirudh Singh, Adv.
Ms. Mehak Sandhu, Adv.

Mr. Pashupathi Nath Razdan, AOR
Mr. Parth Awasthi, Adv.
Ms. Maitreyee Jagat Joshi, Adv.
Mr. Astik Gupta, Adv.
Ms. Akanksha Tomar, Adv.

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

Appeals are disposed of in terms of the signed
order, which is placed on file.

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

(B. LAKSHMI MANIKYA VALLI)
COURT MASTER (SH)

(DIVYA BABBAR)
COURT MASTER (NSH)