

Honnayya (H.) Vs. State of Mysore

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Court : Karnataka

Decided On : Jan-09-1969

Reported in : (1970)ILLJ539Kant

Judge : A. Narayana Pai and ;M. Santhosh, JJ.

Acts : Mysore Civil Services Rules - Rule 212

Appeal No. : Writ Petition No. 1466 of 1966

Appellant : Honnayya (H.)

Respondent : State of Mysore

Judgement :

ORDER

Narayana Pal, J.

1. The petitioner impugns an order reducing his pension by 33 1/2 per cent passed by the State Government, a copy whereof has been produced as Ex. B. The order is passed in exercise of the powers of the Government under rule 212 of the Mysore Civil Services Rules, which reads :

'Government may make such reduction as it may think fit in the amount of the pension of the Government servant whose service has not been thoroughly satisfactory.'

2. It is common ground that no notice was given to the petitioner nor was he provided with any opportunity otherwise to show cause against the order being passed.

3. Apart from the merits of the opinion on which we need not say anything, the only legal defence sought to be made out on behalf of the State is that the order being an administrative order, the petitioner was not entitled to previous notice or to an opportunity to show cause against the same.

4. We do not think that the defence can be sustained at all. Before the Government can exercise the power to reduce the amount of the pension, the reason stated therefor, viz., that the service of the Government servant in question has not been thoroughly satisfactory, must be established. It is not a mere matter of subjective satisfaction on the part of whoever takes the responsibility for making the order. It is an objective fact which has got to be established like any other fact. It is equally clear that an order under the rule adversely affects the Government servant in respect of whom the same is made and involves consequences in the shape of pecuniary loss.

5. That in the cases of orders of this type there exists a duty to act judicially and to observe the rules of natural justice even if the rule in question does not itself in express terms provide therefor, is the legal position as declared by the Supreme Court in *State of Orissa v. Dr. (Miss) Binapani Dei and others* [1967 - II L.L.J. 266] and *Gopalakrishna Nayudu (M.) v. State of Madhya Pradesh* [1968 - II L.L.J. 125].

6. We, therefore, quash the impugned order of the Government reducing the pension of the petitioner. The petitioner is entitled to his costs of this petition from the State Government. Advocate's fee Rs. 100.