

Vikramjit Vs. Union of India and ors.

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Court : Delhi

Decided On : Apr-09-1992

Reported in : 1992(23)DRJ1

Judge : C.M. Nayar, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Civil Writ Appeal No. 1158 of 1987

Appellant : Vikramjit

Respondent : Union of India and ors.

Advocate for Pet/Ap. : S.K. Kaul,; P.S. Shroff,; Ritu Bhalla and;

Judgement :

C.M. Nayar, J.

(1) The present petition is directed against the order of the respondents dated April 6, 1987, removing the petitioner from the office of the Director (Marketing), Indian Drugs and Pharmaceuticals Limited; (for short IDPL) with immediate effect on payment of three months salary in lieu of three months notice.

(2) The petitioner was a permanent grade I officer of the Industrial Management Pool of the Bureau of Public Enterprises, Department of Expenditure, Ministry of

Finance, Government of India, New Delhi. The said Industrial Pool was constituted under the scheme called as 'Industrial Management Pool Scheme'. The said scheme was constituted in the manner provided to serve the needs of the Ministries, having industrial undertakings functioning under them. The Ministries of Steel, Mines and Fuel, Transport & Communications and Commerce and Industry, at the relevant time, participated in the Pool. It was, however, open to any other Ministry concerned with the running of industrial undertakings to join the Scheme with the concurrence of the Controlling Authority of the Pool. It will not be necessary to refer in detail all the particulars of the said scheme and the reference is only made to the features of the Scheme, which are relevant for the present controversy between the parties. Paragraphs 8,9,10 and 11 of the said Scheme may be reproduced as follows:-

'8METHODS Of CRUITMENT: Selections for the Pool will be made on the recommendations of a Special Recruitment Board which would be constituted as follows: (1) Chairman or a Member of the U.P.S.C. Chairman (2) a non-official. (3) Managing Directors and General) Managers of & State Undertakings.) (4) (5) Representatives of participating) Members Ministries & other than those) who are represented by) (6) Managing Directors and General) Members Managers against (3) & (4).)

(3) The recommendations of the Board will be placed before the U.P.S.C. and appointments will be made in consultation with the Commission.

(4) The recruitment need not necessarily be restricted to candidates who apply for absorption in the Pool in response to the advertisements. The Recruitment Board may consider persons who may not have applied but whose names are suggested to the Board by the Ministries.

(5) The annual intake will be Fixed at 5 per cent of the authorised strength and will be reviewed after 2 years of the initial constitution of the Pool. Recruitment against the annual intake as well as against the deficiencies which may exist in the cadre either on account of the increase in. the authorised strength or otherwise will be manned in the manner indicated above by the Special Recruitment Board.

9. TRAINING AND PROBATION: Persons selected for appointment to the Pool will be on probation for a period of two years. If they belong to All India Services, they may thereafter be permanently seconded to the Pool. If they belong to the Central or Provincial Services, they may be either permanently seconded or permanently absorbed in the Pool. The Controlling Authority will have the power to extend or reduce the period of probation in each case. The Controlling Authority will, where it considers it necessary, arrange for the training of the officers in Government Departments and in industrial and commercial undertakings either in the public or the private sector.

10. POSTINGS: The Controlling Authority will arrange for the posting of officers after their training in participating undertakings where their services can be best utilised. While so posted, the officers will be paid by and be under the immediate control of the undertaking in which they are working. All participating undertakings will report all existing or prospective vacancies which may be suitably held by members of the service to the Controlling Authority, but it will not be obligatory on them to accept a member of the service for a particular vacancy; nor will the Controlling Authority be bound to supply a pool officer for every such vacancy. Every officer of the Pool will be entitled, wherever he may be employed, to receive not less than his substantive grade pay in the Pool. It will, however, be ensured that except in exceptional circumstances with the concurrence of the Controlling Authority and the financial advisers of the enterprise, no officer is employed in a post normally to be filled by an officer of a lower grade. If, in the wage structure of the enterprise which he is for the time being serving, the pay of the post which he holds is higher than his grade pay, it will be for the Controlling Authority to decide whether he should be allowed to draw any or all of the difference. An officer of the Pool shall, when appointed to any of the top posts (e.g. Schedule A Rs. 3,500-125-4,000, Schedule B-Rs. 3,000- 125-3-500, Schedule C-Rs. 2,500-100-3,000 and 'Schedule D- Rs. 2,250-100-2750 250-100-2750) included in Annexure Iii to the Cabinet Secretariat (Department of Cabinet Affairs) office memorandum No. 72/45/CF-65, dated the 13.10.1965 as amended from time to time, be entitled to draw pay in the standard scale as applicable to the post concerned in the relevant Schedule in that annexure.

11. DEPUTATION: An officer of the Pool may be posted either for the purpose of acquiring wider experience or for other reasons to a post normally tenable by a

member of the Central Administrative Pool. Similarly, officers of the Central Administrative Pool and officers of the feeder services of that Pool may be sent on deputation to posts normally tenable by the members of the Pool.'

(6) Pursuant to the selection by the Special Recruitment Board, constituted as per para 8 of the Scheme as referred above, the petitioner joined the Industrial Management Pool on July 16, 1959 as Grade VIII Officer. The petitioner was one of the 130 officers recruited to the I.M.P. Cadre from a competitive selection of about 30,000 candidates screened by the Union Public Service Commission not only in India but also abroad. He was promoted from Grade VIII to Grade VII, from Grade VII to Grade VI and so on and lastly to Grade I, in accordance with the merit and outstanding performance w.e.f. 1st August, 1983. The petitioner was appointed as Advisor (Marketing) Ministry of Health and Family Welfare w.e.f. January 1, 1980. He continued in this position, which is equivalent to that of a Joint Secretary for a period of over 5 years till the forenoon of April 9, 1985. As the term of appointment of the petitioner as Advisor (Marketing) in the Ministry of Health and Family Welfare was expiring, the petitioner on March 21, 1985, addressed a representation to the Cabinet Secretary and Chairman Industrial Management Pool Board, requesting that till such time alternative posting arrangement was made for him, he may be continued in the present assignment as Advisor (Marketing) in the Ministry. Alternatively he requested that he may be allowed to continue to hold the post of Chief Executive of the Contraceptive Marketing Organisations on a full time basis, which the petitioner was holding in addition to his duties as Advisor (Marketing). The petitioner further alleged in the petition that on April 1, 1985, Shri Harbans Singh, Director General Bureau of Public Enterprises, wrote a Do letter to Mrs. S. Grewal, Secretary, Ministry of Health and Family Welfare pointing out that the petitioner's placement in the public sector should only be of Board level considering his seniority in the I.M.P. and the fact that he has held a position of Joint Secretary for a period of 5 years. In case, the petitioner's appointment in a Board level post was not possible within a period of two months, the Government might consider petitioner's continuation as Chief Executive of Contraceptive Marketing Organisation, in his existing grade for a period of two months. Despite this, the petitioner was forced to go on leave instead of being accommodated, as suggested by Shri Harbans Singh or being reverted to

the I.M.P. till suitable arrangements are made. The Public Enterprises Selection Board on April 15, 1985, informed the petitioner that the Board will consider his selection for the post of Director (Marketing), I.D.P.L. in Schedule C, scale of pay 3500-100-4000 (revised) and that the Board would like to meet him in this connection.

(7) The petitioner further stated that he personally met Shri P.K.Kaul, the then Cabinet Secretary and apprised him of the facts that he had 3 1/2 years pensionable service left in the Established Central Service Grade I of the I.M.P. and invited his attention to the provisions of para 1 F2 of the Scheme. The petitioner wanted to be sure that on being selected for appointment as Director (Marketing) in the I.D.P.L. he would not have to forego his pensionable services left at his credit. The petitioner further told Shri Kaul that he does not wish to resign from the Pool and his interest should be suitably protected. Shri Kaul assured the petitioner that the Government would fully look into his interest.

(8) The Government of India, Ministry of Chemicals and Fertilisers issued an order on 24th July, 1985, appointing the petitioner as Director (Marketing) I.D.P.L. in Schedule 'C' pay of scale of Rs.3500-100-4000 (revised) on immediate absorption basis, initially for a period of 2 years. The Appointment order was issued in purported exercise of powers, under Article 74(i)(a) of the Articles of Association of the aforesaid I.D.P.L. Limited. The petitioner assumed charge of the post of Director (Marketing) I.D.P.L. on July 25, 1985. He further submitted in the writ petition that he served the organisation with utmost devotion and industry and achieved 93 per cent of his target sale in the very first year of his performance. The then Chairman and Managing Director Shri K.Gajendra Singh appreciated the work of the petitioner and the same is borne out from the letters issued in this regard. The Government of India, Ministry of Finance Bureau of Public Enterprises, vide communication dated September 10, 1985, issued a memorandum conveying the sanction of the President of India to the permanent absorption of the petitioner in the I.D.P.L. on the post of Director (Marketing) and the said absorption was to take place from the forenoon of 25th July, 1985. The notification No. 1/38/59-BPE (I.M.P.) was issued by the Government of India on 19th September, 1985, stating that the President was pleased to permit the

petitioner to retire from the Government of India service on his permanent absorption in I.D.P.L. Limited. The said communication is reproduced as follows:

'THE President is pleased to permit Shri Vikramajit a permanent Grade I (Rs.2500-125/2-2750) Officer of the Industrial Management Pool to retire from Government of India service on his permanent absorption in Indian Drugs & Pharmaceuticals Limited w.e.f. thereafter noon of the 24th July, 1985.'

(9) The petitioner averred that he was doing justice to his job to the best of his ability in the field of Marketing as Director on the Board of I.D.P.L. and quoted certain facts and figures in the writ petition, which are not necessary to be reproduced herein. He further contended that new development took place with the appointment of new Chairman and Managing Director of respondent no.2 Shri K.Venkataramanan, who took over as Chairman and Managing Director of the Company on September 29, 1986. The said Shri Venkataramanan, he alleged, started making baseless remarks on the functions of the marketing division, which earlier to his joining the company had earned appreciation and the petitioner was practically divested of the charge of marketing division and it was directed that the Marketing Division with immediate effect will report to the Chairman and Managing Director. There were obvious differences between the petitioner and the Chairman and Managing Director Mr. Venkataramanan and it will not be necessary to go into any further details except that on March 5, 1987, the petitioner addressed a representation to Shri H.K.Khan, Secretary to the Government of India, Ministry of Industry, Department of Chemicals and Petro Chemicals, New Delhi, wherein he pointed out the achievements, made by the Marketing Division from the date of his joining till up to November, 1986, when he had the real and effective occasion to oversee the functioning of the Marketing Division. The petitioner did not receive any reply to the above said representation and on April 1, 1987, he addressed yet another representation to Shri B.G.Deshmukh, Cabinet Secretary & Chairman, Industrial Management Pool, New Delhi, pointing out his representation to Shri H.K.Khan and expressing apprehension that the Chairman and Managing Director might recommend terminating his service. The petitioner, therefore, requested that he may be allowed to continue in the Industrial Management Pool for the remaining period of 2 years, till he was superannuated on December 31, 1988, and

revised orders of Appointment Committee of the Cabinet may be obtained for that purpose. He also cited the instance of Shri Gajendra Singh Ex-Chairman and Managing Director, who was reverted to the Indian Foreign Service on leaving IDPL. The petitioner did not receive any response to his representation dated April 1, 1987, and no order was made for his repatriation as Grade I permanent officer of the Idpl to which, according to him, he was entitled to continue, till he reached the age of superannuation.

(10) The petitioner was, however, astonished that the officers of respondent no. 1 I.D.P.L., Shri H.P.Singh, holding the rank of Deputy General Manager (Personnel) came to his house around 9 P.M. on April 6, 1987, and said that he brought an order of the petitioner's removal from service from the I.D.P.L. forthwith. The petitioner was amongst his family guests and was badly perturbed and politely requested Shri Singh to come on April 8, 1987. The Chairman and Managing Director Shri Venkataramanan telephoned the petitioner at 10 P.M. on April 6, 1987 and rudely informed him that he was no more the Director. He has been removed from the service by the President of India and that Shri Venkataramanan himself has taken over charge of the Marketing Division forthwith and the petitioner stood relieved. It may be relevant to reproduce the following communication dated April 6, 1987, from (he said Shri Venkataramanan to the petitioner:

'DEAR Shri Vikramajit, I enclose your copy of Ministry of Industry's Order No. 2(I)/85- Dv dated 6th April, 1987. I also enclose a copy of the order issued by me on the subject. I enclose cheque No.866472 dated 6.4.1987 for Rs.15,015.00 drawn on Indian Bank, in payment of three months' salary in lieu of notice. You are requested to arrange to return any Company assets that may be with you and resolve all outstanding payments due to you or to the Company with Accounts Department as early as possible. With kind regards. Yours sincerely, sd/- K.Venkataramanan'

(11) The telephone conversation is also not denied by the respondent no.3 Shri K.Venkataramanan, and the same is borne out from the following telex message, which is also reproduced as under:

'ARISING from your refusal to accept letter of termination of your services sent through Shri H.P.Singh, Deputy Gm (P) on Monday the Sixth April, I confirm having advised you on telephone on Sixth April at 10 P.M. That your services as Director (Marketing) have been terminated under instructions of the President of India in exercise of powers conferred on him under the Articles of Association and spelt out in your letter of appointment (stop) This is to confirm that you stand relieved of all duties and responsibilities with effect from Sixth April, 1987 (Stop) Letter being sent to you by registered post (stop) regards. sd/- (K.Venkataiamanan) Chairman & Managing Director IDPL8.4.1987'

(12) The petitioner has come to this Court impugning the order of removal dated April 6, 1987 and has challenged the same, inter- alia, on various grounds. He contended that the removal has been ordered behind his back without holding any enquiry or service of notice to show cause to enable him to place true facts before the concerned authorities. The removal, as a consequence, is in flagrant disregard of the principles of natural justice. The petitioner having been permanently absorbed in the Idpl by the order of the President of India dated September 10, 1985, has a right to continue as Director(Marketing) till he attains the age of 58 years. The petitioner further stated that the order of absorption was issued appointing him as Director (Marketing) in I.D.P.L. initially for a period of 2 years and he had no option but to accept this appointment and he honestly believed and hoped that his interest would be protected by the Government, as assured by the Cabinet Secretary. The subsequent letter dated November 20, 1985, limiting the period of appointment for 2 years in the first instance was of no significance as his absorption in I.D.P.L. on permanent basis had already been approved.

(13) The respondents have filed reply to the writ petition and it has been contended that the record of the petitioner was not satisfactory and there was adverse entry in his confidential roll and the President was fully justified in removing the petitioner from service in accordance with Article 74 of the Memorandum and Articles of Association of I.D.P.L. Limited. The services were also terminated on the basis of his contract of employment and no fault could be found with the same.

(14) Learned counsel for the petitioner has made various submissions but it will only be necessary for me to refer to the contention that the impugned order of termination is arbitrary and cannot be sustained as it has visited the petitioner with penal consequences and he has not been given any show cause in this regard. The Learned counsel for the respondents, however, have contended that the exercise of power is not arbitrary. The performance of the petitioner has been carefully considered before the impugned order of removal has been passed and there was material and data to support the said order. The appointment was contractual and has been validly terminated in accordance with the Article 74. The said provision may be reproduced as follows:

'74.(I)(C)The President shall have the power to remove any Director including the Chairman, Deputy Chairman, if any, the Managing Director and Functional Director(s) from office at any time in his absolute discretion;'

(15) The above said provision, no-doubt, gives wide powers to the President to remove any Director at any time in his absolute discretion. The petitioner was also appointed on permanent absorption basis for a period of two years w.e.f. July 25, 1985, and the said term automatically would have expired on July 25, 1987. He could be reverted to his parent cadre in Industrial Management Pool after this date.

(16) The law is fairly well settled by the Hon'ble Supreme Court that the order of removal and discharge has to be looked into from the point of view, as to whether, the said order is by way of punishment and that even an innocuously worded order terminating the service may in fact and circumstances of the case establish that an enquiry into allegations of serious and grave character of misconduct involving stigma have been made in infraction of the principles of natural justice. Reference may be made in this connection to the judgment in *Anoop Jaiswal v. Government of India and another* : (1984)ILLJ337SC . The following paragraph in the said judgment may be reproduced as follows:

'It is, therefore, now well settled that where the form of the order is merely a camouflage for an order of dismissal for misconduct it is always open to the Court before which the order is challenged to go behind the form and ascertain the true

character of the order. If the Court holds that the order though in the form is merely a determination of employment is in reality a cloak for an order of punishment, the Court would not be debarred, merely, because of the form of the order, in giving effect to the rights conferred by law upon the employee.'

(17) The above said view was endorsed by the Supreme Court in *Jarnail Singh and others v. State of Punjab and others* : (1986)ILLJ268SC , wherein it has been held that the mere form of the order is not sufficient to hold 'that the order of termination was innocuous and the order of termination of the services of a probationer or of an adhoc appointee is a termination simplicities in accordance with the terms of the appointment without attaching any stigma to the employee concerned. It is the substance of the order i.e. the attending circumstances, as well as, the basis of the order that have to be taken into consideration. In other words, when an allegation is made by the employee assailing the order of termination as one based on misconduct, though couched in innocuous terms, it is incumbent on the Court to lift the veil and to see the real circumstances, as well as, the basis and foundation of the order complained of. In other words, the Court, in such a case, will lift the veil and will see, whether, the order was made on the ground of misconduct/inefficiency or not.'

(18) In *Delhi Transport Corporation v.D.T.C. Mazdoor Congress and others* : (1991)ILLJ395SC , the Hon'ble Supreme Court considered the power of the statutory Corporation to terminate the services of permanent employee, without holding enquiry. The Court was considering the validity of Regulation 9(b) of Delhi Road Transport Authority (Conditions of Appointment and Service) Regulations (1952). The majority view categorically stated that 'the rights of the Government Companies and Public Corporations which are State- instrumentalities within the meaning of Article 14 and their employees cannot be governed by the general principle of master and servant, and the management cannot have unrestricted and unqualified power of terminating the service of the employee. In the interest of efficiency of the public bodies, however, they should have the authority to terminate the employment of unjesirable, inefficient, corrupt,indolent and disobedient employees, but it must be exercised fairly, objectively and independently; and the occasion for the exercise must be delimited with precision

and clarity. Further, there should be adequate reason for the use of such a power, and a decision in this regard has to be taken in a manner, which should show fairness, avoid arbitrariness and evoke credibility.' This view was expressed by Lalit Mohan Sharma, J. Similar view was taken by another Judge of the Bench B.C. Ray, J. and it may be relevant to reproduce the following paragraph from the judgment:

'REGULATION 9(b) which confers powers on the authority to terminate the services of a permanent and confirmed employee by issuing a notice without assigning any reasons in the order and without giving any opportunity of hearing to the employee before passing the impugned order is wholly arbitrary, unanalysed and unrestricted violating principles of natural justice as well as Article 14 of the Constitution. Government Company or Public Corporation being State instrumentalities are State within the meaning of Article 12 of the Constitution and as such they are subject to the observance of fundamental rights embodied in Part III as well as to conform to the directive principles in Part IV of the Constitution. The Service Regulations or Rules framed by them are to be tested by the touchstone of Article 14. Furthermore, the procedure prescribed by their Rules or Regulations must be reasonable, fair and just and not arbitrary, fanciful and unjust. Regulation 9 (b) therefore, confers unbridled, uncanalised and arbitrary power on the authority to terminate the services of a permanent employee without recording any reasons and without conforming to the principles of natural justice. There is no guideline in the Regulations or in the Act, as to when or in which cases and circumstances this power of termination by giving notice or pay in lieu of notice can be exercised. It is now well settled that the 'audi alteram partem' rule which in essence, enforces the equality clause in Article 14 of the Constitution is applicable not only to quasi-judicial orders but to administrative orders affecting prejudicially the party-in-question unless the application of the rule has been expressly excluded by the Act or Regulation or Rule. Rules of natural justice do not supplant but supplement the Rules and Regulations. Moreover, the Rule of Law which permeates our Constitution demands that it has to be observed both substantially and procedurally. Considering from all aspects Regulation 9 (b) is illegal and void as it is arbitrary, discriminatory and without any guidelines for exercise of the power. Rule of law posits that the power to be exercised in a manner which is just,

fair and reasonable and not in an unreasonable, capricious or arbitrary manner leaving room for discrimination. Regulation 9 (b) does not expressly exclude the application of the 'audi alteram partem' rule and as such the order of termination of service of a permanent employee cannot be passed by simply issuing a month's notice under Regulation 9 (b) or pay in lieu thereof without recording any reason in the order and without giving any hearing to the employee to controvert the allegation on the basis of which the purported order is made. Regulation 9 (b) is also void under Section 23 of the Contract Act as being opposed to public policy.'

(19) Adverting back to the facts of the present case, it may be mentioned that the petitioner was holding the post of Director (Marketing) at the Board level in the respondent I.D.P.L. and he was unceremoniously removed from service with immediate effect on April 6, 1987, on payment of 3 months' salary in lieu of 3 months notice. The respondents have contended before me that the record of the petitioner was not good and there was adverse entry in his confidential roll and the President was fully justified in removing the petitioner from service in accordance with Article 74. The record was also shown to me which clearly indicated that the removal of the petitioner was as a result of his alleged inefficiency and it was also contended that the impugned order was passed after carefully considering his overall record. There is, therefore, no denial by the respondents that the removal was actuated by his poor performance as Director (Marketing) of I.D.P.L.

(20) The question now arises, as to whether, the impugned order could be passed which obviously caused a stigma on the petitioner and which was as a measure of punishment without giving reasonable opportunity to the petitioner to explain his case. This opportunity admittedly has not been granted to him and the ground of removal is sought to be justified on the power as conferred by the provisions of Article 74 of the Memorandum and Articles of Association of the Company. The problems of the petitioner arose when Shri Venkataramanan, respondent no.3 herein, took over as the Chairman and Managing Director of I.D.P.L. and he could not get along with him. The respondent addressed the communication to him on April 6, 1987, wherein he enclosed a cheque for Rs.15,015.00 in payment of 3 months salary in lieu of the notice and sent a special messenger to the house of the petitioner to serve him the order of removal on the same day, i.e. April 6, 1987.

The said Shri Venkataramanan further sent to the petitioner a telex message, having advised the petitioner on telephone that his services as Director (Marketing) have been terminated under the instructions of President of India, in exercise of powers conferred on him under the Articles of Association. The next communication sent to the petitioner by respondent no.3 was of April 8, 1987, confirming the order of termination and asking for the return of the Company's car and Government pass forthwith. The respondents, in view of the background of the case, cannot take the plea that the services of the petitioner were terminated in accordance with the conditions of contract and on the basis of the powers conferred in this regard and there is no stigma attached to the impugned order. The least the Authority could do was to have a reasonable Explanationn of the petitioner before passing the order of removal so that the principles of natural justice were not violated. The allegations of serious and grave character were made against the petitioner and they were made the foundation of the order of removal and it would have been in the interest of justice, if a proper enquiry was held and an Explanationn was called for in the circumstances of the present case. The management cannot have unrestricted and unqualified power of terminating the service of an employee as has been clearly stated in the majority judgment in Delhi Transport Corporation (supra). There should be adequate reason for the use of such a power and a decision in this regard has to be taken in a manner which should show fairness, avoid arbitrariness and evoke credibility.

(21) The petitioner was appointed as Director (Marketing) of the respondent company and he had the just expectation that he will superannuate from that position after reaching the age of retirement. He was permanently absorbed in the company and had quit his earlier position in the Industrial Management Pool after his permanent absorption. There was also no response from the respondents to revert him to the Industrial Management Pool for the unexpired period till his superannuation on December 31, 1988.

(22) The Learned counsel for the respondents has referred me to a single Bench judgment of the Jammu & Kashmir High Court in Dr. Ashok Singh v. Chief Secretary Jammu and Kashmir Govt. and others Air 1970 Jam & Kas 184, which states that the contract authorising Government to terminate the service, without

assigning any reason by giving 3 months notice, and the order terminating the service cannot be said to have been passed by way of penalty. Reference is also made to the judgment of the Supreme Court in *Shri Baikuntha Nath Das & another v. Chief District Medical Officer, Baripada and another* : (1992)ILLJ784SC . which dealt with the case of compulsory retirement holding that the order of compulsory retirement is not a punishment nor a stigma and the principles of natural justice are not attracted. The Court, however, did not rule out that in no case, order of compulsory retirement can be assailed. It further held that judicial scrutiny is not excluded altogether. The High Court or the Supreme Court may still interfere, if they are satisfied that the order is passed on (a) malafide or (b) that it is based on no evidence or (c) that it is arbitrary in the sense that no reasonable person would form the requisite opinion on the given material; in short, if it is found to be a perverse order. This judgment will also have no application as it dealt with the case of compulsory retirement and was not dealing with the nature of controversy, which has been raised in the present petition, wherein it is reiterated that the order of removal of the petitioner has tarnished his reputation and he has been given a very harsh treatment and the basis and foundation of order of removal is in fact the ground of his inefficiency. The petitioner, therefore, ought to have been given reasonable opportunity to defend himself. The undue haste and the anxiety to relieve the petitioner further justifies that there is total non application of mind and the order of termination is in reality a cloak for an order of punishment and this Court is not debarred to interfere in the facts and circumstances of the present case. I accordingly hold that the impugned order of removal of the petitioner suffers from the vice of arbitrariness and is violative of the principles of natural justice.

(23) The writ petition, as a consequence, is allowed and the Rule is made absolute. The petitioner has since superannuated on 31st December, 1988. He shall be deemed to be in service till this date and will be entitled to all consequential benefits, as a result of the order of removal dated April 6, 1987, being set aside. The petitioner shall also be entitled to costs, which are quantified to Rs.2,500.00 .

1988 (1) Delhi Law 305

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