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**SooperKanoon Citation** : sooperkanoon.com/819412

**Court** : Chennai

**Decided On :** Jul-11-1957

**Reported in** : (1957)2MLJ515

**Appellant** : P.V.S. Krishnamurthy

**Respondent** : Joint Development Commissioner and anr.

**Judgement** :
ORDER

**Rajagopalan, J.**

1. The petitioner, an emplovee of the Central Government, held a permanent post in the Posts and Telegraphs Department. His services were lent to the Madras Government, and on 1st November, 1954, he was appointed a Block Development Officer. On 15th September, 1956, the first respondent the Joint Development Commissioner, ordered the reversion of the petitioner to his parent department the Posts and Telegraphs Department. The Government of Madras rejected the petitioner's appeal against the order, dated 15th September, 1956.

2. The petitioner applied under Article 226 of the Constitution for the issue of a writ of certiorari to set aside the order of the first respondent, which was eventually confirmed by the second respondent.

3. G.O.No. 2462, dated 16th July, 1956, contained the rules framed by the State Government under Article 309 of the Constitution regulating the service conditions of Block Development Officers and others employed in Community Projects and National Extension Services Schemes. Rule 13 of these Rules provided:

The Madras Civil Services (Classification, Control and Appeal) Rules shall apply to the holders of the posts subject to the modification that in respect of a person belonging to any other class or service who is appointed to any of the posts specified in Rule 1 above, it shall be open to the respective appointing authority, to revert him to his parent department either for want of vacancy or in the event of his becoming surplus to requirements and or when it is considered necessary for or in the event of his replace services at the disposal of his parent department, without observing the formalitiesprescribed in the Madras Civil Services (Classification, Control and Appeal) Rufes No such person shall, however be reverted to his parent department for unsatisfactory conduct or work until he has been given a reasonable opportunity of making any representation that he may desire to make against that reversion in case will amount to the imposition of the penalty of reduction mentioned in Rule 8 of the Madras Civil Services (Classification, Control and Appeal)Rules, and such representation, if any, has been duly considered.

4. The contention of the learned Counsel for the petitioner was that the reversion of the petitioner was really for unsatisfactory conduct or work as Block Development Officer and that the reversion ordered by the first respondent on 15th September, 1956 was in contravention of Rule 13, because admittedly the petitioner had not been given any opportunity to make any representation against the proposed reversion.

5. The plea of the respondent was that the reversion was ordered only on administrative grounds. It was not disputed that the permanent post that the petitioner held in his parent department was lower in rank than that of a Block Development Officer. The specific plea of the respondents was that it was not as punishment that the reversion was ordered, and that the said reversion did not amount to a reduction in rank within the scope of Rule 8 of the Madras Civil Services (Classification, Control and Appeal) Rules. That was reiterated in the.

supplemental affidavit filed by the first respondent where he stated:

As the head of the Department I had occasion to watch the petitioner herein working as Block Development Officer in two different blocks and from my personal knowledge of his work I came to the conclusion that the petitioner did not possess the right aptitute for rural work and missionary zeal which is expected of a Block Development Officer, and therefore decided that he should be replaced by a more suitable Officer.... I submit that it was not my intention to punish the petitioner at all but to send him back to his parent department as he was found to be lacking in the required aptitute expected of him as Block Development Officer.

6. In the order passed by the first respondent on 15th September, 1956, there was a reference to two letters from the Collector, North Arcot District, dated 13th July, 1956 and 30th July, 1956. I can leave out of further account the letter of the Collector dated 30th July, 1956, in which he sought the sanction of the first respondent as the Head of the Department for imposing on the petitioner the penalty of stoppage of increment. Apparently this penalty was never in fact imposed. In his earlier letter, dated 13th July, 1956, addressed to the first respondent the Collector pointed out that the work of the petitioner was unsatisfactory, and requested that he should be replaced by an experienced Block Development Officer. That was the basis for the contention of the learned Counsel for the petitioner, that the reversion ordered by the first respondent on 15th September, 1956 was really for unsatisfactory conduct or work within the. meaning of Rule 13. In the supplemental counter-affidavit filed by the first respondent he stated in effect that this decision to revert the petitioner to his parent department was really independent of the recommendation made by the Collector. The first respondent averred:

This conclusion of mine was strengthened by the D. O. letter and the Memo, of the Colilector .... I state that the said D.O. letter and the memorandum were merely the occasion for my passing the order in question though I had come to the conclusion even previously that the petitioner should be replaced by a more suitable person.

7. I see no reason to decline to accept what the first respondent has stated in his counter-affidavit.

8. Thus the position, is, it was not a case of reduction in rank within the scope of Article 311 of the Constitution. It was not a case of reduction in rank imposed as a penalty within the scope of Rule 13, to which I have referred above. There was really no breach of Rule 13 when the petitioner's reversion to his parent department was ordered. Even if there had been such a breach, that would not by itself justify interference by this Court under Article 226 of the Constitution.

9. The rule nisi is discharged and the petition is dismissed. There will be no order as to costs.

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