
(2008) 08 GAU CK 0050
In the Gauhati High Court

Bhajan Ch. Debnath

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 05-08-2008

Acts Referred:

Constitution of India, 1950 — Article 16, 226

Citation : (2008) 3 GLT 797

Hon'ble Judges : Mutum B.K. Singh, J;B.K. Sharma, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Mutum B.K. Singh, J.—This writ appeal is directed against the judgment and order dated 11.2.2005 passed by the learned Single Judge in the writ petition being WP(C) No. 240/203 dismissing the writ petition.

2. The writ petitioner, the appellant herein who has since retired from service on attaining the age of superannuation with effect from 31.7.2008 was appointed as Upper Division Clerk (UDC) in the Forest Department of Government of Tripura with effect from 6.4.1981. He was superseded by his juniors first in respect of promotion to the post of Accountant in the year 1991 (27.11.1991). and thereafter to the post of Office Superintendent in the year 1998 (9.7.1998).

3. Certain departmental proceedings were drawn up against the petitioner, last one of which is the subject matter of dispute in this proceeding. It will be pertinent to mention here that the petitioner was recommended for promotion to the post of Accountant by the DPC with effect from 27.11.1991. However, he could not be promoted in view of pendency of departmental proceedings. The writ petition being Civil Rule No. 90/1993 filed by the petitioner, being aggrieved by his supersession, was disposed of by judgment and order dated 13.3.2001 with the direction to complete the disciplinary proceeding within four months. It was provided that, on conclusion of the proceeding, if the petitioner was exonerated, the authority would consider his case for promotion to the rank of

Accountant and office superintendent with all consequential benefits.

4. The proceeding, which was the subject matter in Civil Rule No. 90/1993 was in respect of the charge sheet dated 26.10.1992. On conclusion of the proceeding, the petitioner was exonerated from the charge brought against him, however, he could not be promoted in view of pendency of further proceeding initiated against him. The contempt petition filed by the petitioner being Contempt Case No. 30/2002 was disposed of by order dated 29.7.2002 in view of death of the sole respondent against whom charge for willful disobedience of the judgment and order dated 13.3.2001 passed in Civil Rule No. 394/1994 was framed. Be it stated here that Civil Rule No 394/1994 was another writ petition filed by the petitioner, which was disposed of taking into account the order dated 13.3.2001 passed in Civil Rule No. 90/1993.

5. In another contempt case No. 30/2002, filed by the petitioner was disposed of by order dated 11.3.2003 in terms of the order dated 13.3.2001 passed in Civil Rule No. 394/1994 directing the authorities to pass appropriate order within a period of 15 days from the date conclusion of departmental proceeding.

6. The petitioner was promoted to the post of Head Clerk with effect from 7.4.2006 by order dated 6.5.2006, to which he was otherwise entitled to with effect from 27.11.1991 with consequential promotion to the rank of Office Superintendent with effect from 9.7.1998.

7. All the aforesaid facts have been narrated to recoup the background of the case based on which the present proceeding has arisen. The petitioner had occasion to file the writ petition being WP(C) No. 240/2003, when he was imposed with the penalty of stoppage of one increment for a period of two years without cumulative effect by order dated 25.7.2003 pursuant to another departmental proceeding initiated against him under Rule 14 of CCS(CCA) Rule, 1965 vide charge sheet dated 18.9.2000.

8. The aforesaid proceeding was directed to be completed within a period of 45 days from 11.6.2003 by this Court in WP(C) No. 11/2003 filed by the petitioner. It was further provided that in case the proceeding was not concluded within the specified period and the delay was not attributable to any conduct on the part of the writ petitioner, the writ petition would stand revived. The whole controversy relating to the conclusion of the proceeding and imposition of penalty by the aforesaid order dated 25.7.2003 centers around this order passed by this Court.

9. In the writ petition being WP(C) No. 240/2003, filed by the petitioner making a grievance against the said order dated 25.7.2003, the petitioner inter alia contended that the enquiry was conducted in a highly illegal and arbitrary manner. It is an admitted position that the enquiry report was not furnished to the petitioner. It is also an admitted position that the Inquiry Officer prepared the enquiry report on 25.7.2003 and furnished the same to the disciplinary authority on the same date and the disciplinary authority passed the impugned order of penalty on the same date. The petitioner was communicated with the order of

penalty, without first furnishing him with the copy of the enquiry report enabling him to make representation against the same.

10. According to the petitioner, non-furnishing of the enquiry report resulted in great prejudice to his case. Referring to certain other purported illegalities in conducting the enquiry, the petitioner also contended that since as per the direction of this Court the respondents were to complete the proceeding within 45 days with the consequence of revival of the writ petition in case of failure to complete the same within 45 days, to circumvent the consequence of the said order, the disciplinary authority deliberately did not furnish the copy of the enquiry report as the furnishing of the same giving opportunity to the petitioner to make representation against the same would have resulted in failure to complete the proceeding within the stipulated period.

11. Apart from the above, the petitioner also contended that although the enquiry officer by his order dated 9.8.2001 allowed his prayer for additional document at serial No 7(vii), but the same was never furnished. Further ground urged was that although the petitioner submitted written brief detailing various procedural infractions in the enquiry proceeding, but the Inquiry Officer did not deal with the same. Thus, it was contended that the denial of opportunity to make representation against the enquiry report deprived the petitioner to point out such infractions to the disciplinary authority, which caused prejudice to his case.

12. It was also contended that PW 3 and 4 were examined with the condition that if documents were produced at the later date, the petitioner would be given opportunity to cross examine the said witnesses again. According to the petitioner certain documents were produced on a later date on account of which the petitioner prayed for further cross examination of the said two witnesses by filing petition dated 20.6.2003. However, the Inquiry Officer did not allow the petitioner to cross examine the said two witnesses which resulted in serious prejudice to his case. According to the petitioner had he be given opportunity to make representation against the enquiry report, he could have pointed out the illegalities committed by the Inquiry Officer.

13. The petitioner also contended that three documents namely Ext P/6, P/7 and P/8 were admitted to evidence illegally as the same were not relied upon in the memorandum of charge sheet. It was also contended that the defence witness namely one Shri Sanjib Das, UDC of the office was not allowed to be examined.

14. Pointing out of the aforesaid purported illegalities committing by the Inquiry officer, it was contended that non-furnishing of the enquiry report depriving the petitioner to make representation against the same resulted in great prejudice. The petitioner also made allegation of bias on the part of the enquiry officer and in fact the enquiry officer was made party to the writ petition by name.

15. In the affidavit-in-opposition filed by the respondents, the contentions raised in the writ petition was denied. Only contention raised in the affidavit was that no

prejudice was caused to the petitioner by not furnishing the enquiry report. In paragraph 3 of the affidavit, it was stated that although, furnishing of the copy of the enquiry report is a procedural one, though of mandatory character, but the petitioner having failed to show any prejudice being caused to him, same did not result in any injustice to him.

16. In the rejoinder affidavit filed by the petitioner, bringing out the aforesaid purported illegalities on the part of the enquiry officer and the disciplinary authority, the petitioner contended that because of non-furnishing of the copy of the enquiry report resulted in great prejudice to his case.

17. The learned Single Judge, by the impugned judgment and order while dismissing the writ petition has held that no prejudice was caused to the petitioner because of non-Furnishing the copy of the enquiry report. Being aggrieved, the petitioner has filed the instant writ appeal.

18. We have heard Mr. A.K. Bhowmik, learned Sr. Counsel, assisted by Mr. M. Ghosh, learned Counsel for the appellant as well as Mr. S. Deb. Learned Sr. Counsel assisted by Mr. S. Chakraborty, learned Advocate. Learned Counsel for the parties advanced their arguments referring to the aforesaid respective stand of the parties. While Mr. Bhowmik, learned Counsel for the appellant emphasized on the correct interpretation of law laid down in Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., Mr. Deb, learned Counsel for the respondent emphasized on the principle relating to prejudice finds mention in the said judgment itself. He has also placed reliance on the decision of the Apex Court reported in Shadi Lal Gupta Vs. State of Punjab,

19. We have considered the submissions made by the learned Counsel for the parties and so also the materials on record. The decision on which Mr. Deb, learned Counsel for the respondents has placed reliance i.e. Shadi Lal Gupta is to bring home his point of argument that the plea of violation of the principles of natural justice depends upon the circumstances of each case and that non-disclosure of the enquiry report before passing the order of penalty does not always vitiates proceedings in absence of prejudice.

20. The aforesaid submissions made by the learned Counsel for the respondents will have to be considered in the background of each and every case and cannot be accepted as a general rule applicable in each and every case, otherwise, the requirement of furnishing the copy of the enquiry report would have been dispensed with in each and every case. Before the 42nd amendment brought to the constitution of India, there was requirement of issuance of second show cause notice before imposition of penalty. Once the same was dispensed with it became utmost necessity to furnish the copy of the enquiry report to the delinquent. Such requirement in prospective application was mandated in the case of Union of India and others Vs. Mohd. Ramzan Khan, . In the said case, the Apex Court observed thus:

13. ...There is a charge and a denial followed by an inquiry at which evidence is

led and assessment of the material before conclusion is reached. These facets do make the matter quasi-judicial and attract the principles of natural justice. As this Court rightly pointed out, the disciplinary authority is very often influenced by the conclusions of the Inquiry Officer and even by the recommendations relating to the nature of punishment to be inflicted. With the Forty-second Amendment, the delinquent officer is not associated with the disciplinary inquiry beyond the recording of evidence and the submissions made on the basis of the material to assist the Inquiry Officer to come to his conclusions. In case his conclusions are kept away from the delinquent officer and the Inquiry Officer submits his conclusions with or without recommendation as to the punishment, the delinquent is precluded from knowing the contents thereof although such material is used against him by the disciplinary authority. The report is an adverse material if the Inquiry Officer records a finding of guilt and proposes a punishment so far as the delinquent is concerned. In a quasi-judicial matter, if the delinquent is being deprived of knowledge of the material against him though the same is made available to the punishing authority in the matter of reaching his conclusion, rules of natural justice would be effected.

18. We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter.

21. In the instant case a conscious decision was taken to initiate the departmental proceeding against the petitioner under Rule 14 of the CCS (CCA) Rule. When the charge sheet was issued, the punishment to be imposed naturally could not have been virtualized. The charge was that the petitioner misbehaved with one Shri Chandan Kumar Nandi, a typist of the office of the Inquiring Authority. The petitioner was advised by the DFO, working Plan Division No. II to go to the office of the Inquiring Authority on 10.3.2000. He was asked to go there for the purpose of collection of a document. In compliance of the direction, the petitioner visited the office of the enquiring authority at about 11.30 AM and asked said Sri Nandi to hand over the particular document. According to the charge, said Sri Nandi after searching the relevant file found that the letter had already been produced as Ext. P/2 and as such informed the petitioner that unless an order was issued by the Inquiry Officer, copy of the letter could not be delivered and if required, the petitioner might approach the Inquiring Authority. On such refusal, the petitioner started arguing and had altercation with said Sri Nandi. At one point of time, he shouted at Sri Nandi uttering the following:

I am of Agartala. I know everything about the activities in the office. I will also see." (English translation from Bengali).

22. In the charge sheet it was alleged that the aforesaid conduct of the petitioner amounts to misconduct and violation of Rule 3 of the Tripura Civil Services (Conduct) Rules 1988. Although, the charge sheet was issued on 18.9.2000, same was kept pending for quite sometime and eventually, same was concluded by the impugned order dated 25.7.2003 that too as per the direction of this Court dated 11.6.2003 passed in WP(C) No. 11/2003. At this stage, it will be pertinent to mention here that even in respect of other proceedings initiated against the petitioner, there was considerable delay towards completion which naturally resulted in deprivation of the petitioner from his due promotion. For example, the proceeding drawn on 11.12.1990 was concluded after 10 years on 6.6.2001. Another proceeding initiated in 1992 was concluded after 9 years. It is in this context, learned Counsel for the appellant, submitted that somehow the petitioner was not in the good book of the authorities and thus was always with adverse consequences.

23. The learned Single Judge, dealing with the question of prejudice with the resultant finding that the petitioner was not prejudiced because of non-supply of copy of the enquiry report emphasized on official discipline etc. The learned Single Judge has also observed that since the penalty imposed is only a minor one, furnishing of the enquiry report would have no difference to the ultimate punishment given. Further, the learned Single Judge has also observed that the petitioner except stating that the copy of the enquiry report was not furnished with resultant prejudice, nothing has been shown as to how non-furnishing of the enquiry report caused any prejudice to the petitioner.

24. The aforesaid findings recorded by the learned Single Judge will have to be tested in the touchstone of the following:

(I) The enquiry was directed to be completed within 45 days with further direction that non-completion of the same within the stipulated period would revive the writ petition.

(II) It was specifically contended by the petitioner that the illegalities committed by the Inquiry Officer about which mention has been made above could not be brought to the notice of the disciplinary authority, which the petitioner could have done by way of representation against the enquiry report, had it been furnished to him.

25. The plea of prejudice caused to the petitioner ought to have been tested taking into account the aforesaid factual position instead of brushing aside the same on the ground of indiscipline and that the penalty being a minor penalty no prejudice was caused. It is true that minor penalty could be imposed under Rule 16 of the CCS (CCA) Rules without following procedure laid down under Rule 14. However, Rule 16 is subject to the provisions of the Rule 15(3). Apart from the fact that when the Rule 14 charge sheet was issued against the petitioner, there was no virtualisation of imposition of minor penalty, Rule 15(3) provides that after the regular proceeding under Rule 14 of the Rules, the disciplinary authority

having regard to the findings recorded by the Inquiry Officer is entitled to imposed any of the minor penalties prescribed under Rule 11, which is notwithstanding anything contained in Rule 16. Further, Rule 16(1)(b) provides for holding an enquiry in the manner laid down in Rule 14 in every case in which the disciplinary authority is of the opinion that such enquiry is necessary.

26. In the instant case, the petitioner having been issued with the charge sheet under Rule 14 of the Rules and having regard to the provisions of the Rule 15(3) as well as Rule 16(1)(b) referred to above, it does not lie on the mouth of the respondents that since a minor penalty has been imposed on the petitioner, which even other wise also could have been imposed without taking recourse to the procedure laid down in Rule 14, no prejudice was caused to the petitioner by not furnishing the copy of the enquiry report.

27. The Inquiry Officer and the disciplinary authority were aware that in terms of the order passed by this Court on 11.6.2003 in WP(C) No. 11/2003, the proceeding initiated vide charge sheet dated 18.9.2000 was to be completed within 45 days from the date of the order i.e. 11.6.2003. The stipulated period of 45 days was to come to an end on 25.7.2003. It appears that having regard to the target date, the Inquiry Officer prepared the enquiry report on 25.7.2003 and furnished the same to the disciplinary authority, which in turn passed the impugned order of penalty on the same date. In the process, the petitioner was deprived of his right of representation against the enquiry report. Everything was done in quick succession, more particularly, on the last date of the stipulated period i.e. 25.7.2003. It will be pertinent to mention here that the inquiry report runs to 14 pages, which was purportedly prepared on 25.7.2003. On the same date, it was for warded to the disciplinary authority, which in turn passed the impugned order on the same date.

28. We have verified the records pertaining to the enquiry proceeding. The purported illegalities committed by the Inquiry Officer as was contended by the petitioner in the writ petition have been noted above. On perusal of the proceedings of the enquiry, we find that the contentions raised in the writ petition regarding illegality in the enquiry proceeding are correct. After receiving the order dated 11.6.2003 passed by this Court in WP(C) No. 11/2003, the matter was first taken up by the enquiry officer on 19.6.2003. True to the assertion made in the writ proceeding, the petitioner raised objection before the Inquiry Officer in the proceeding held on 19.6.2003 against production of certain documents by the Presenting Officer. Rejecting the objection raised the Inquiry Officer included the documents as Exts., subject to submission in objection by the petitioner.

29. It is also revealed from the proceeding of 19.6.2203 that the petitioner by his application dated 19.6.2003 enclosing therewith a copy of his earlier letter dated 30.5.2003 addressed to the disciplinary authority expressed no confidence against the Inquiry Officer to function as the Inquiring Authority. The proceeding revealed that the petitioner also raised verbal objection against the Inquiry

Officer. The Inquiry Officer considered the application and decided to continue with the proceeding, subject to the decision by the competent authority.

30. After the aforesaid proceeding dated 19.6.2003, the proceeding was taken on 23.6.2003, on which date the petitioner submitted a defence statement and a copy of the letter dated 20.6.2003. The matter was again taken up on 24.6.2003. The letter dated 20.6.2003 was submitted by the petitioner asking for further cross-examination of PW 3 and 4 for which liberty was granted in the earlier proceeding held on 24.3.2003. It was the case of the petitioner that since the documents produced on 19.6.2003 related to PW 3 and 4, in terms of the liberty granted in the proceeding dated 23.4.2003, further cross examination of PW 3 and 4 was a necessity. However, the Inquiry officer by his order dated 24.6.2003 rejected the prayer of the petitioner and continued with the proceeding. Further, in the proceeding held on 2.7.2003, the prayer of the petitioner to allow another defence witness to be examined, was rejected on the ground that the petitioner had already examined 9 witnesses and that the proceeding should not be delayed.

31. The proceeding file and the order sheets do not reveal as to what action was taken in respect of the application filed by the petitioner on 20.6.2003, by which no confidence was expressed against the Inquiry Officer. As noted above, such no confidence was raised firstly by letter dated 30.5.2003 addressed to the disciplinary authority. By the said application, the petitioner also referred to his earlier petitions dated 25.4.2003 and 6.5.2003 raising no confidence against the Inquiry Officer. By the petition dated 30.5.2003, the petitioner specifically raised objection against the appointment of the respondent No, 3 as the Inquiry Officer. He made a request for change of the Inquiry Officer. When nothing was done he made the further representation dated 19.6.2003 to the Inquiry officer, with copy to the disciplinary authority. It is on record that the Inquiry Officer taking note of the objection raised by the petitioner, decided to proceed with the enquiry subject to the decision of the disciplinary authority.

32. From the above, it will be seen that the entire proceeding after J 9.6.2003 was subject to the decision of the disciplinary authority on the no confidence expressed by the petitioner against the Inquiry Officer, who is the respondent No. 3 in the writ petition by name. The disciplinary authority was bound to pass an order either accepting or rejecting the prayer for change of Inquiry Officer made by the petitioner. The Inquiry officer also proceeded with the proceeding subject to the order be passed by the disciplinary authority on the said objection raised by the petitioner. However, neither the disciplinary authority passed any order nor the Inquiry Officer reminded the disciplinary authority about the same and yet proceeded to prepare the enquiry report on 25.7.2003. On the same date the disciplinary authority passed the impugned order.

33. The aforesaid revelations made from the enquiry proceeding file, leave no manner of doubt that prejudice was caused to the case of the petitioner, which he could have highlighted in his representation against the enquiry report had

the copy of the same been furnished to him beforehand. So long as a final decision is not taken in the matter, the enquiry is be deemed to be pending. Mere submission of findings to the disciplinary authority does not bring about the closure of the enquiry proceedings. The inquiry proceeding comes to an end only when the findings are considered by the disciplinary authority and the charges are either held to be not proved or found to be proved and in that event punishment is inflicted upon the delinquent. That being so, the "right to be heard" would be available to the delinquent up to the final stage. This right being a constitutional right of the employee cannot be taken away. In the instant case prejudice caused to the petitioner it writ large and thus it was all the most necessary to furnish the copy of the enquiry report to the petitioner.

34. It was argued that the Writ Court under Article 226 of the Constitution of India will not sit on appeal over the findings of the Inquiry officer and the disciplinary authority. It is no doubt true that the high Court under Article 226 would not interfere with the findings recorded at the departmental enquiry by the disciplinary authority or the Inquiry officer as a matter of course. The Court cannot sit in appeal over those findings and assume the role of the appellate authority. But this does not mean that in no circumstance can the court interfere. The power of judicial review available to the High Court under the Constitution takes in its stride the enquiry proceeding as well and it can interfere with the conclusion reach therein, in certain circumstances such as perversity in the proceeding and finding and if the same is at the dictates of the superior authorities. In the instant case, the illegalities committed during the enquiry have been noted above, coupled with this the petitioner was also not provided with the copy of the enquiry report causing serious prejudice to his defence.

35. The petitioner was deprived of his promotion in view of initiation of proceedings one after another. As noticed above, even after conclusion of the proceeding in his favour, he was deprived of his promotion because of initiation of another proceeding. As has been observed by the Apex Court in *Delhi Jal Board Vs. Mahinder Singh*, , the right to be considered by the Departmental Promotion Committee is a fundamental right guaranteed under Article 16 of the Constitution of India, provided a person is eligible and is in the zone of the consideration. The findings of the disciplinary authority exonerating the officer would have to be given effect to as they obviously relate to the date on which the charges are framed. If the disciplinary enquiry ended in his favour, it is as if the officer had not been subjected to any disciplinary enquiry. The mere fact that by the time the disciplinary proceedings in the first enquiry ended in his favour and by the time the sealed cover was opened to give effect to it, another departmental enquiry was started would not come in the way of giving him the benefit of the assessment by the first Departmental promotion Committee in his favour in the anterior selection.

36. Although, the aforesaid aspects of the matter, may not be the issue in this proceeding, but the same has been referred to having regard to the facts and

circumstances involved in the case and the deprivation of the petitioner of his promotion on the basis of initiation of proceedings one after another. It will be pertinent to mention here that such proceeding never resulted in imposition of any major penalty.

37. In view of the above, we are of the considered opinion that not only the non-furnishing of the copy of the enquiry report to the petitioner/appellant resulted in prejudice to him, but even during the enquiry proceeding prejudice was caused to him by way of denial of the reasonable opportunity of being heard, about which discussions have been made above. When the very prayer of the petitioner for change of the Inquiry Officer on ground of prejudice remained undecided, we are of the considered opinion that the final report prepared by the said Inquiry officer was of no consequence. Coupled with this, the high haste in which the enquiry proceeding was concluded on the last date i.e. 25.7.2003, which stares on the face of it, does not inspire our confidence about the fairness of the enquiry proceeding. Keeping in mind all these aspects of the matter we are of the firm opinion that great prejudice was caused to the petitioner throughout the enquiry proceeding.

Apart from the above, the disciplinary authority had no time to go through the evidence on record towards appreciating the enquiry report and naturally so when it was the determined effort on the part of the Inquiry Officer and the disciplinary authority to see the end of the proceeding against the petitioner on the target date i.e. 25.7.2003. Thus, there was also infraction on the duty cast on the disciplinary authority in passing an order of penalty as per the provisions of the Rules.

38. The charge levelled against the petitioner is noted above. The petitioner of his own did not visit the office of the Inquiring Authority, but he went there as per direction of his superior. The concerned Clerk (Typist) refused to furnish him the required document and insisted for further action on the part of the petitioner. Such refusal enraged the petitioner and resultantly, he allegedly shouted at the Typist with the above quoted sentence, which, however, the petitioner denied. When the petitioner was directed to collect the document from the office of the Inquiring Authority, it was incumbent on the part of the said Typist to give a copy of the same, but instead he refused to do so, which led to the altercation. It is in this context, the learned Counsel for the petitioner submitted that such an incident which was incited by the Typist, ought not to have led to the trauma and sufferings through which the petitioner was dragged on with resultant effect of denial of promotion by way of imposition of penalty pursuant to a perverse enquiry proceeding.

39. All the above aspects of the matter/escaped the notice of the learned Single Judge. The learned Single Judge only confined to the principle relating to prejudice in absence of the copy of the enquiry report, without, however, considering the principle in the background of the fact situation involved in the present case. While it is true that non-supply of the enquiry report does not

always and in all the cases cause prejudice unless the same is shown, but appreciating the principles laid down in ECIL case (supra), we have no hesitation to hold that in the instant case, going by the facts and circumstances, prejudice was caused to the petitioner by way of deprivation of the copy of the enquiry report, which otherwise would have enabled the petitioner to persuade the disciplinary authority, by way of making representation, to take a different view of the matter.

40. For all the aforesaid reasons, we set aside and quash the impugned judgment and order dated 11.2.2005 passed by the learned Single judge in the writ petition being WP(C) No. 240/2003. Consequently, the writ petition stands allowed. The impugned order of penalty dated 25.7.2003 stands set aside and quashed. Consequently, the petitioner/appellant will be entitled to all consequential benefits as admissible under the law.

41. Writ appeal is allowed, leaving the parties to bear their own costs.