
(2011) 06 MAD CK 0371
In the Madras High Court
Case No : Writ Petition No. 35638 of 2007

K. Ithayaganthan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 22-06-2011

Acts Referred:

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17, 2, 36, 36(2), 8

Tamil Nadu Government Servants Conduct Rules, 1973 — Rule 19, 20B

Citation : (2011) 06 MAD CK 0371

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : C. Selvaraj for S. Mani, for the Appellant; V. Jayaprakash Narayanan, Additional Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

P. Jyothimani, J.—The brief facts of the case necessary to dispose of this writ petition are as under:

1.1. The writ Petitioner has joined as a Junior Assistant on 18.11.1974 and was promoted as Assistant in the year 1982 and further promoted as Superintendent on 15.6.1996 and the next avenue of promotion is to the post of Personal Assistant (Administration). During that time, a charge memo dated 27.5.2005 was framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 (for brevity, "the Rules") and later on it was converted into one under Rule 17(a) of the Rules on 28.6.2005, based on the representation of the Petitioner. The charges framed against the Petitioner are as follows:

i. Reprehensible conduct in having sent the mercy petition dated: 10.9.2002 of Tr. Hilbert Tara Chand, Additional Superintendent of Police, Armed Reserve, Chennai East District to cancel a punishment awarded on 20.11.93 when he was Inspector of Police, Armed Reserve to Deputy Inspector General of Police, Training, Chennai for consideration as appellate authority against the provisions

of TNPSS(D&A) Rules, fully knowing that DIG, Training was not competent to dispose of the time barred appeal after a lapse of 10 years with ulterior motive of helping the Petitioner to get the punishment cancelled by suppressing facts and to get his promotion as Deputy Commissioner of Police, Armed Reserve by restoring his original seniority in an improper manner.

ii. Reprehensible conduct in having put up a misleading note to DGP in file No. 203328/G.B.III(1)/2002 on 27.8.2003 without affixing his signature and responsible for sending a wrong proposal to Government in order to withheld the promotion of Tr. G. Purushothaman, Assistant Commissioner of Police, Armed Reserve Chennai City as Additional Superintendent of Police, Armed Reserve, in contravention of TAT directions, in O.A. No. 4868/02, resulting in rejection of his promotion by the Government.

iii. Reprehensible conduct in having forwarded the time barred appeal petition dated 20.6.2001 of Tr. Narayanan, Additional Superintendent of Police, Armed Reserve (Retd.) for consideration of the COP, Chennai City in Chief office memo dated 13.3.2003 in spite of the fact that his appeal and mercy petitions were already rejected by the Director General of Police and the Commissioner of Police, Chennai was not competent to dispose of the petition after 10 years with ulterior motive to assist Tr. S. Narayanan, to get the punishment cancelled by suppressing facts and to get his promotion to higher post in an improper manner.

iv. Negligence and dereliction of duty in not guiding the Informal Promotion Committee properly while considering the Inspectors fit for promotion as Deputy Superintendent of Police (AR) for the year 2002-2003 while recommending the name of Tr. Ilayaperumal, Inspector of Police, AR for inclusion in the panel, though he was having a punishment at the check period because of which he was not fit for inclusion in the panel for the year 2002-2003.

1.2. For the said charges converted under Rule 17(a) of the Rules, the Petitioner has submitted his explanation on 11.8.2005 and by following the procedure under Rule 17(a) of the Rules, the third Respondent has imposed the punishment of Censure. The appeal filed against the said order before the Additional Director General of Police was rejected on 10.10.2005.

1.3. As against the said order dated 10.10.2005, the Petitioner filed a revision before the second Respondent on 24.10.2005. The second Respondent, instead of considering the revision, has issued a show cause notice as to why the charges should not be reconverted into one under Rule 17(b) of the Rules from Rule 17(a) of the Rules. The Petitioner has submitted his explanation on 30.12.2005 and thereafter, the second Respondent has passed the order on 23.2.2006 by restoring the charges under Rule 17(b) of the Rules and imposing the punishment of withholding of Petitioner's next increment for a period of three years without cumulative effect.

1.4. It was against the said order of the second Respondent, the Petitioner has filed a review to the Government on 14.6.2006 and after the Petitioner filed W.P.

No. 6716 of 2007 before this Court, the Government, after receiving the opinion of the Tamil Nadu Public Service Commission, has passed the impugned order in G.O.(2D) No. 484, Home (Police-V) Department, dated 23.7.2007 rejecting the review.

1.5. The impugned orders of the first and second Respondents are challenged on the following grounds:

(i) that by converting the charges under Rule 17(a) of the Rules as that under Rule 17(b) of the Rules and imposing the punishment of withholding of increment for three years without cumulative effect, the second Respondent has acted without jurisdiction and according to the Petitioner, after converting the charges to one under Rule 17(b) of the Rules, for the purpose of following the procedure contemplated under Rule 17(b) of the Rules for conducting enquiry, the matter must have been remanded to the appointing authority and the second Respondent, being the revisional authority, cannot straight-away pass such orders foreclosing the Petitioner's right of further appeal and therefore, the impugned orders are vitiated for want of following the procedure;

(ii) that even on the face of the charges, they are not liable to be proceeded with under Rule 17(b) of the Rules and therefore, the very conversion of the charges under Rule 17(a) of the Rules as that under Rule 17(b) of the Rules is improper; and

(iii) that in respect of the incident which is stated to have taken place in the year 1993, the charge memo was issued on 27.5.2005 and the delay has not been explained.

2.1. In the counter affidavit filed by the Respondents, it is submitted that the Petitioner was issued a charge memo on 27.5.2005 under Rule 17(b) of the Rules in respect of the four charges elicited above. The Petitioner has submitted his explanation on 14.6.2005 requesting to convert the charges framed under Rule 17(b) of the Rules into that of Rule 17(a) of the Rules. The third Respondent has considered his representation and converted the charges into that of Rule 17(a) of the Rules in the proceedings dated 28.6.2005 and the Petitioner was asked to submit his explanation within 15 days. The Petitioner has submitted his explanation on 11.8.2005. After considering the explanation, the third Respondent has taken a lenient view and imposed a punishment of censure in the order dated 29.9.2005.

2.2. It was against the said order dated 29.9.2005, the Petitioner has submitted an appeal on 5.10.2005 to the Additional Director General of Police (Administration) and that was rejected on 10.10.2005. The Petitioner has preferred a revision to the second Respondent on 24.10.2005 against the punishment of censure. After referring to the records, the second Respondent has issued a show cause notice to the Petitioner on 19.11.2005 as to why the charges should not be restored as one under Rule 17(b) of the Rules. The Petitioner has submitted his explanation on 30.12.2005 and after consideration

of the entire records, the second Respondent, by proceedings dated 23.2.2006, has enhanced the punishment of censure into that of withholding of his next increment for a period of three years without cumulative effect and the enhanced penalty has been inflicted by withholding the Petitioner's next increment accrued on 1.4.2006 for a period of three years. The review preferred by the Petitioner to the Government on 14.6.2006 was rejected after obtaining the views of the Tamil Nadu Public Service Commission, which has stated that all procedural formalities have been followed.

2.3. It is stated that for converting the charges framed under Rule 17(a) of the Rules to that of Rule 17(b) of the Rules adequate opportunity was given to the Petitioner and, in fact, the Petitioner has given his explanation and thereafter, the impugned order came to be passed. It is stated that the second Respondent, being the revisional authority, is empowered to convert the charges and enhance the punishment. It is stated that the Petitioner has filed W.P. No. 6716 of 2007 against the enhanced punishment and subsequently he withdrew the said writ petition on 24.9.2007 and even before that, on 23.7.2007, the Government has issued order confirming the punishment and rejecting the review.

2.4. It is also denied that the Petitioner was only the Superintendent in the office administration and therefore, the charges are not referable to him. It is stated that there have been procedural lapses committed by the Petitioner in the supervisory capacity. It is stated that the charges are relating to violation of statutory rules and the disciplinary authority has taken a very lenient view in imposing the punishment of censure and the second Respondent is empowered to enhance the punishment and in fact the second Respondent has analyzed the entire issue threadbare and by application of mind, the order came to be passed by the second Respondent, which was confirmed by the Government. It is stated that the second Respondent has got such revisional power under Rule 36(2) of the Rules and by exercising the said power, the impugned order came to be passed. It is stated that for the purpose of imposing the enhanced punishment there is no necessity to remand the matter to the original authority, especially when a reasonable opportunity was given at every juncture.

2.5. It is further stated that the enhanced punishment awarded by the second Respondent is covered under Rule 17(a) of the Rules only and the same is maintainable. In respect of the first count of charge, it is stated by the Respondents that by the note put up by the Petitioner, he has misled the authorities. It is also stated that due to currency of punishment the Petitioner's name was passed over for movement to selection grade in the post of Superintendent and for next level promotion of Personal Assistant (Administration) and it is stated that the punishment period will come to an end on 1.4.2009.

3. On the facts of the present case, it is clear that the original charge memo issued to the Petitioner on 27.5.2005 in respect of the four charges elicited above was framed under Rule 17(b) of the Rules. The Petitioner has admittedly given

explanation and requested for conversion of the charges as one under Rule 17(a) of the Rules and that came to be accepted by the third Respondent and by following the procedure contemplated under Rule 17(a) of the Rules, the punishment of censure was ordered. The appeal filed by the Petitioner was rejected and the revisional authority, namely the second Respondent, on filing of the revision, intended to increase the punishment and accordingly, the impugned order came to be passed by imposing the punishment of withholding of increment for three years without cumulative effect in the order dated 23.2.2006, which was confirmed by the Government in the impugned government order dated 23.7.2007.

4. Admittedly, the service conditions of the Petitioner are governed by the Tamil Nadu Civil Service (Discipline and Appeal) Rules, 1955. The second Respondent while considering the revision filed by the Petitioner has converted the charges under Rule 17(a) of the Rules to one under Rule 17(b) of the Rules and modified the order of censure passed by the third Respondent as that of withholding of increment for three years without cumulative effect. As a revisional authority, the second Respondent is empowered either to confirm or modify the order. But in cases where the revisional authority seeks to modify the order of punishment passed by the original authority, which will result in imposing of punishment under Clauses (iv), (v)(c), (vi), (vii) and (viii) of Rule 8 of the Rules, which are the major penalties, he must see that the requirements of Rule 17(b) for conducting enquiry for major penalties must be followed. Rule 36 of the Rules is as follows:

Rule 36. REVISION

(1) Notwithstanding anything contained in these rules -

(i) the State Government; or

(ii) the Head of the Department directly under the State Government, in the case of a Government servant serving in a department or office under the control of such Head of the Department, or departments; or

(iii) the Appellate Authority, other than the State Government, within six months of the date of the order proposed to be revised; or

(iv) any other Authority specified in this behalf by the State Government by a general or special order, and within such time as may be prescribed in such general or special order ; may at any time, either on their or its own motion or otherwise call for the records of any inquiry and after consultation with the Tamil Nadu Public Service Commission, where such consultation is necessary and revise any order made under these rules, may -

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or

(d) pass such other orders as they or it may deem fit;

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government Servant concerned has been given a reasonable opportunity of making his representation against the penalty proposed and where it is proposed to impose any of the penalties specified in Clauses (iv), (v) (c), (vi), (vii) and (viii) of Rule 8 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under Sub-rule (b) of Rule 17 has not already been held in the case no such penalty shall be imposed except after an inquiry in the manner laid down in the said Sub-rule (b) of Rule 17 which shall be subject to the provisions of Sub-rule (c) thereof, and except after consultation with the Tamil Nadu Public Service Commission, where such consultation is necessary:

Provided further that no power of revision shall be exercised by the Head of the Department, unless -

(i) the authority which made the order in appeal, or

(ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.

(2) No proceeding for revision shall be commenced -

(a) where no appeal has been preferred, before the expiry of the period of limitation for an appeal, or

(b) where an appeal has been preferred, before the disposal of such appeal.

(c) an application for revision shall be dealt with in the same manner as if it were an appeal under these rules.

On a reading of Rule 36 of the Rules, it cannot be said that the second Respondent, as a revision authority, had no authority to modify the order of punishment passed by the original authority, viz., the third Respondent. The only impediment to the revisional authority is that if, as a revisional authority, he intends to modify the punishment as one of the major penalties, then the procedure contemplated under Rule 17(b) of the Rules has to be followed.

5. Rule 8 of the Rules contemplates nine types of punishments in a departmental enquiry. Rule 8 of the Rules is as follows:

Rule 8. The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed upon every person who is a member of the civil service of the State and every person holding a civil post under the State specified in Rule 2, namely:

(i) Censure;

(ii) Fine (in the case of persons for whom such penalty is permissible under these rules) ;

(iii) Withholding of increments or promotion;

Provided that the penalty of withholding of increment shall not be imposed on a Government servant, if the said penalty cannot be given effect to fully while in service:

Provided further that in cases where the penalty of withholding of increment cannot be given effect to fully for any contingency that arose after the penalty of withholding of increment is imposed, the monetary value equivalent to the amount of such increments that can not be given effect to shall be recovered from the person:

Provided also that in cases of withholding of increment with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld shall be recovered.

(iv) Reduction to a lower rank in the seniority list or to a lower post not being lower than that to which he was directly recruited, whether in the same service or in another service, State or Subordinate, or to a lower time-scale, not being lower than that to which he was directly recruited, or to a lower stage in a time-scale.

Provided that in cases where the punishment of reduction to a lower stage in a time-scale cannot be given effect to fully, the monetary value equivalent to the difference in emoluments as a result of reduction to such lower stage in the time-scale for the unexpired period of the punishment shall be recovered from the person.

(v) Recovery from pay of the whole or part of any pecuniary loss caused to the State Government or the Central Government or to any Government Company or Organization or Local Authority or to a Local Body, while on deputation, by negligence or breach of orders;

(vi) Compulsory retirement;

(vii) Removal from the Civil Service of the State Government;

(viii) Dismissal from the Civil Service of the State Government; and

(ix) Suspension, where a person has been suspended under Rule 17(e), to the extent considered necessary by the authority imposing the penalty.

The penalties mentioned in items (i) to (iii), (v) and (ix) shall be deemed to be minor penalties and those in items (iv) and (vi) to (viii) shall be deemed as major penalties.

The penalties mentioned in items (vi),(vii) or (viii), as the case may be, shall be imposed on a Government servant for the violation of Rule 19 of the Tamil Nadu Government Servant's Conduct Rules, 1973.

Explanation-I .- The discharge, -

- (i) of a person appointed on probation before the expiry or at the end of the prescribed or extended period of probation; or
- (ii) of a person engaged under contract, in accordance with the terms of his contract; or
- (iii) of a person appointed, otherwise than under contract, to hold a temporary appointment on the expiration of the period of the appointment, does not amount to the removal or dismissal within the meaning of this rule.

Explanation-II - The following shall not amount to a penalty within the meaning of this rule, namely:

- (i) withholding of increments of pay of a Government servant for his failure to pass any Departmental examination in accordance with the rules or orders governing the Service to which he belongs or post which he holds or the terms of his appointments;
- (ii) non-promotion of a Government servant, whether in a substantive or officiating capacity, after consideration of his case, to a service, grade or post for promotion to which he is eligible;
- (iii) reversion of Government servant officiating in a higher service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post or on any administrative ground unconnected with his conduct;
- (iv) reversion of a Government servant, appointed on probation to any other service, grade or post, to his permanent service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or to the rules and orders governing such probation;
- (v) replacement of the services of a Government servant, whose services had been borrowed from a State Government or the Central Government or an authority under the control of a State Government or the Central Government at the disposal of the State Government or the Central Government or the authority from which the services of such Government servant had been borrowed; and
- (vi) compulsory retirement of a Government servant in accordance with the provisions relating to superannuation or retirement.

Explanation-III - The removal of a person from the civil service of the State Government shall not disqualify him for future employment but the dismissal of a person from the Civil Service of the State Government shall ordinarily disqualify him for future employment.

6. While Censure is the first type of punishment, withholding of increments with or without cumulative effect is the third type of punishment. Rule 17 of the Rules in categorical terms states that in cases where it is proposed to impose the punishments in Items (i), (ii), (iii), (v) and (ix) of Rule 8 of the Rules, which are otherwise termed as "minor penalties", the procedure is that only a reasonable opportunity of making a representation must be given and thereafter, the punishing authority can pass order. The proviso to Rule 17(a) of the Rules also makes it abundantly clear that in respect of withholding of increments, if it is without cumulative effect for a period exceeding three years or with cumulative effect for any period, the procedure contemplated under Rule 17(b) of the Rules has to be followed.

7. Now, coming to Rule 17(b) of the Rules, which relates to cases where the disciplinary authority proposes to impose the punishments contemplated under items (iv), (vi), (vii) and (viii) of Rule 8 of the Rules enumerated above, which are otherwise termed as "major penalties", a definite charge must be issued and communicated to the person concerned with a statement of allegation giving reasonable time to put in a written statement of his defense and thereafter, an oral enquiry shall be held if it is desired by the person concerned. He shall be entitled to cross-examine any witness and after conducting enquiry, for sufficient reason to be recorded in writing, after examination of witnesses and before passing final orders, he must be heard again and the report of the Enquiry Officer must be considered with sufficient materials on evidence and thereafter, the order has to be passed. Therefore, in respect of minor penalties the procedure as enumerated under Rule 17(a) of the Rules is only giving reasonable opportunity of making representation and passing orders, while in cases of imposing major penalties a thorough enquiry must be conducted by examination of witnesses by the Enquiry Officer in the manner known to law. For brevity, it is relevant to extract Rule 17(a) and 17(b) of the Rules, which are as follows:

Rule 17. (a) In every case where it is proposed to impose on a member of a service or a person holding a civil post under the State any of the penalties specified in items (i), (ii), (iii), (v) and (ix) in Rule 8 or in Rule 9, he shall be given a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before the order imposing the penalty is passed:

Provided that the requirements of this sub-rule shall not apply where it is proposed to impose on a member of a service any of the penalties aforesaid on the basis of facts which have led to his conviction by a court martial or where the officer concerned has absconded or where it is for other reason impracticable to communicate with him:

Provided further that, in every case where it is proposed, after considering the representation, if any, made by the Government servant, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increments

of pay without cumulative effect for a period exceeding 3 years or to withhold increment of pay with cumulative effect for any period, the procedure laid down in Sub-rule (b) shall be followed before making any order imposing on the Government servant any such penalty.

(b) (i) Without prejudice to the provisions of the Public Servants' Inquiries Act, 1850, (Central Act XXXVII of 1850), in every case where it is proposed to impose on a member of a service or on a person holding a Civil Post under the State any of the penalties specified in items (iv), (vi), (vii) and (viii) in Rule 8, the grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges, which shall be communicated to the person charged, together with a statement of the allegation, on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case. He shall be required, within a reasonable time to put in a written statement of his defense and to state whether he desires an oral inquiry or to be heard in person or both. An oral inquiry shall be held if such an inquiry is desired by the person charged or is directed by the authority concerned. Even if a person charged has waived an oral inquiry, such inquiry shall be held by the authority concerned in respect of charges which are not admitted by the person charged and which can be proved only through the evidence of witnesses. At that inquiry oral evidence shall be heard as to such of the allegations as are not admitted, and the person charged shall be entitled to cross-examine the witnesses to give evidence in person and to have such witnesses called, as he may wish, provided that the officer conducting the inquiry may, for special and sufficient reason to be recorded in writing, refuse to call a witness. Whether or not the person charged desired or had an oral inquiry, he shall be heard in person at any stage if he so desires before passing of final orders. A report of the inquiry or personal hearing (as the case may be) shall be prepared by the authority holding the inquiry or personal hearing whether or not such authority is competent to impose the penalty. Such report shall contain a sufficient record of the evidence, if any, and a statement of the findings and the grounds thereof. Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor or partly recorded by its predecessor and partly recorded by itself:

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore provided:

Provided further that where there is a complaint of sexual harassment within the meaning of Rule 20-B of the Tamil Nadu Government Servants' Conduct Rules, 1973, the Complaints Committee established in each Government Department or

Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the Disciplinary Authority for the purpose of these rules and the Complaints Committee shall hold the inquiry as far as practicable in accordance with the procedure laid down in these Rules.

Provided further that the Government Servant may take the assistance of any retired Government servant to present the case on his behalf but may not engage a legal practitioner for the purpose unless the inquiring authority is a legal practitioner or the inquiring authority, having regard to the circumstances of the case, so permits.

Explanation - The Government servant shall not take the assistance of any retired Government servant who has two pending disciplinary cases on hand, in which he has to give assistance.

(ii) After the inquiry or personal hearing referred to in Clause (i) has been completed, the authority competent to impose the penalty specified in that clause, is of the opinion, on the basis of the evidence adduced during the inquiry, that any of the penalties specified in Rule 8 should be imposed on the person charged, it shall, before making an order imposing such penalty, furnish to him a copy of the report of the inquiry or personal hearing or both, as the case may be, and call upon him to submit his further representation, if any, within a reasonable time, not exceeding fifteen days. Any representation received in this behalf within the period shall be taken into consideration before making any order imposing the penalty, provided that such representation shall be based on the evidence adduced during the inquiry only. It shall not be necessary to give the person charged any opportunity of making representation on the penalty proposed to be imposed;

Provided that in every case where it is necessary to consult the Tamil Nadu Public Service Commission, the disciplinary authority shall consult the Tamil Nadu Public Service Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty:

Provided further that in the case of a person appointed to a post in a temporary department by transfer from any other class or by recruitment by transfer from any other service, the State Government may, at any time before the appointment of such person as a full member to the said post, revert him to such other class or service, either for want of vacancy or in the event of his becoming surplus to requirements or if the State Government are satisfied that he has not got the necessary aptitude for work in the said post, without observing the formalities prescribed in this sub-rule.

8. On the facts of the present case, even though the second Respondent/ revisional authority has given a show cause notice for the purpose of reconverting the charges to Rule 17(b) of the Rules from Rule 17(a) of the Rules, it remains a fact that the punishment imposed on the Petitioner is only withholding of increment for three years without cumulative effect. By applying

the provisions of Rule 17(a) of the Rules, especially, the second proviso, it does not require an elaborate enquiry to be conducted, as it is mandatory in cases of the intended punishment under Rule 17(b) of the Rules. Therefore, the non following of elaborate procedure contemplated under Rule 17(b) of the Rules, in the sense of conducting an enquiry in the form of a personal enquiry and passing orders, in my considered view, does not vitiate the punishment of postponing of increment for three years without cumulative effect. Inasmuch as the procedure contemplated under Rule 17(b) of the Rules is not required to be followed, there is no necessity on the part of the revisional authority, exercising his powers under Rule 36 of the Rules, to remand the matter to the original authority, viz., the third Respondent, for the purpose of following the procedure contemplated therein.

9. On the other hand, if the punishment imposed on revision by the second Respondent was a major penalty or even postponement of increment for more than three years without cumulative effect or postponement of increment with cumulative effect for any period, certainly the contention of Mr. C. Selvaraju, learned Senior Counsel appearing for the Petitioner would hold good, in the sense that in that event it would have been incumbent on the part of the second Respondent to remand the matter to the third Respondent for the purpose of following the procedure contemplated under Rule 17(b) of the Rules scrupulously. Inasmuch as it remains a fact that the punishment imposed under the impugned order does not require such elaborate enquiry, the technicality of non remanding the matter to the third Respondent for following the procedure under Rule 17(b) of the Rules does not vitiate the order of punishment inflicted on the Petitioner.

In such view of the matter, I do not accept any of the contentions of the learned Senior Counsel appearing for the Petitioner. The writ petition stands dismissed. It is made clear that after the expiry of the period of currency of punishment, which even according to the Respondents ends on 1.4.2009, if the Petitioner was eligible for any promotion, he shall be conferred such promotion and even if he has retired, he shall be given monetary benefits due to him accordingly. No costs. Consequently, M.P. No. 1 of 2009 is closed.