



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No.10858 OF 2024

(@ SLP (C) No. 29718 of 2018)

S. JANAKI IYER

... APPELLANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

J U D G M E N T

AUGUSTINE GEORGE MASIH, J.

1. The challenge in this appeal is to the judgment dated 24.07.2018 passed by the Division Bench of the Bombay High Court upholding the judgment and order dated 29.09.2004 and 23.02.2005 passed by the Central Administrative Tribunal (“CAT”) in the original application and the review petition respectively, whereby the order of dismissal from service of the Appellant was sustained.

2. The primary ground taken for challenge to the Order of the Tribunal as well as the High Court is that Courts failed to appreciate the violation of the principles of natural justice, which were not allegedly adhered to by the Respondents due to the non-supply of the preliminary Inquiry Report, where prima facie the Appellant was found to have violated the rules governing the service i.e. The Central Civil Services (Classification, Control and Appeal) Rules, 1965 ["CCS (CCA) Rules, 1965"].
3. The other ground which has been taken is that the chargesheet as served upon the Appellant is vague, which has prejudiced and adversely affected her defence.
4. The next ground which has been pressed into service is the inordinate delay of nine years during which the inquiry proceedings continued. Not only this, certain documents which were sought by the Appellant were also not provided to her. Yet, another plea which has been taken is that the disciplinary authority although had returned a finding that the transfer order on the

basis of which the Appellant was transferred from Kendriya Vidyalaya, Bangalore to Kendriya Vidyalaya, Mumbai was a fake order, but no findings were returned that the Appellant was in any manner involved in the issuance of the same.

5. Yet, another plea which has been taken is that the disciplinary authority, despite there being no findings against the Appellant in the Inquiry Report as submitted, proceeded to hold the Appellant guilty of the charge merely because she was the beneficiary of the said order and that too without any evidence establishing her connection with procurement of the said transfer order. The violation of the statutory rules, specially Rule 15(2) of the CCS (CCA) Rules, 1965 stands established as this mandatory provision was not complied with. On this basis, prayer has been made for accepting the appeal by setting aside the impugned judgments and the order of dismissal.
6. On the other hand, the Respondents have supported the judgments impugned as well as the order of dismissal by

asserting that the principles of natural justice and statutory rules were duly complied with as there being no prejudice caused to the Appellant. The grounds which have been pressed into service in the present appeal, according to Respondents, would not lead to a situation where the impugned orders could be set aside. They have also asserted that the evidence, both documentary and oral, proves the charges against the Appellant. The principle which has been pressed into service is with regard to the standard of proof, where a preponderance of probability would operate to establish misconduct during the disciplinary proceedings vis-à-vis the proof beyond doubt as in criminal matters. That burden having been discharged, the findings as returned by the Inquiry Officer and thereafter by the disciplinary authority, passes the test as has been laid down in the various judgments of this Court as also the mandate of the Statute. Prayer has thus been made for upholding the impugned orders and dismissal of the appeal.

7. Having considered the submissions made by the Counsel for the Appellant as well as the Counsel for the Respondents, we proceed to decide the present appeal.
8. Facts in brief, which are essential for adjudication of the present matter, are that the Appellant was appointed as a Hindi trained graduate teacher on probation at Kendriya Vidyalaya Sanghathan at Bangalore with effect from 11.01.1989, and as a permanent teacher from 16.04.1992. As her husband was working in Mumbai, she sought her transfer from Bangalore to Mumbai or Pune. A transfer order is alleged to have been served on her dated 01.10.1991 wherein she was transferred from Kendriya Vidyalaya Sangathan, Bangalore to Kendriya Vidyalaya, Mumbai. The said transfer order pertains to twelve teachers which was issued and signed by Mr. VK Jain, Assistant Commissioner (Headquarters) K.V. Sanghathan, New Delhi. In pursuance to the said transfer order, Appellant was relieved on 14.10.1991 and she reported at Mumbai on 18.10.1991. As the said transfer order had not been received by the Principal at

Mumbai, she was asked to wait for some time. Ultimately, she was permitted to join on 24.10.1991 provisionally with an undertaking to the effect that she would report back at Bangalore in case the transfer order was reversed or cancelled.

9. The Appellant found a discrepancy in her transfer order, where she was mentioned as a teacher of Social Studies, whereas she was in fact a Hindi teacher. Accordingly, a letter was sent by her to the Headquarters at New Delhi seeking correction in the transfer order. No response thereto was received, instead an order dated 13.07.1992 was served upon the Appellant placing her under suspension pending disciplinary inquiry.
10. A chargesheet dated 10.02.1993 was issued and served upon her, alleging that the Appellant had managed to get herself transferred from Kendriya Vidyalaya, Bangalore to Kendriya Vidyalaya, Bombay under a fake transfer order.
11. Reply to the chargesheet was filed by the Appellant on 25.06.1993 where the said allegations were denied. The

reply was found not satisfactory leading to initiation of disciplinary inquiry. The Inquiry proceedings thereafter proceeded as per the CCS (CCA), Rules 1965. The said proceedings continued for almost 9 years. A representation was submitted by the Appellant for revocation of the order of suspension after having exceeded the period as has been provided for under the CCS (CCA) Rules, 1965. The said suspension order was eventually revoked and the Appellant was directed to join at Baran, Jodhpur vide letter dated 26.03.2001. The Appellant insisted upon a formal transfer order to Jodhpur before proceeding and as is apparent, she never joined in Jodhpur. The fact remains that the departmental proceedings continued, and she was being paid her subsistence allowance regularly as per the Rules.

12. The disciplinary proceedings concluded, and a communication dated 30.03.2001 was received by the Appellant from the disciplinary authority indicating that the proceedings have concluded on 30.03.2001 and the

findings were to the effect that the transfer order dated 01.10.1991 was fake, and since the Appellant, being the sole beneficiary of the transfer order why should the further proceedings be not held against her and suitable punishment be not imposed specially when all other eleven teachers mentioned in the said transfer order had been transferred under different orders which were found to be genuine. The disciplinary authority, therefore has *prima facie* opined that the charges levelled against the Appellant stood true. The Appellant was called upon to put forth a response to the Inquiry report which was duly supplied along with the said communication dated 30.03.2001.

13. The Appellant submitted a detailed representation dated 09.04.2001 disputing and challenging the findings of the Inquiry Officer that the transfer *qua* Appellant was fake whereas that of the others were genuine. The aspect with regard to the other findings was also challenged, taking the plea of non-compliance of the statutory rules as also the aspect of the conclusion drawn by the Inquiry

Officer not connecting her with the procurement of the said transfer order which was alleged to be fake. The said representation was duly considered by the disciplinary authority but was not accepted rather the disciplinary authority proceeded to hold the Appellant guilty of the charges which she was called upon to face in the Departmental Inquiry and passed the punishment of dismissal from service vide order dated 16.11.2001.

14. The reason assigned in the said order of dismissal, apart from the fact that the said transfer order dated 01.10.1994 was fake, for coming to the conclusion with regard to the charge having been proved against the Appellant was that the Appellant was the sole beneficiary of the said order and except for her no other employee had obtained any undue benefit out of the said order as all the other eleven teachers had been transferred by various other separate orders.
15. Against this order of dismissal, the Appellant preferred a statutory appeal which was considered by the appellate authority and after affording personal hearing

to the Appellant proceeded to reject the same vide order dated 11.02.2002.

16. This led to the institution of an Original Application before the CAT at Mumbai in the year 2002 which was decided vide order dated 29.09.2004 dismissing the same upholding the order of dismissal. The Review Petition preferred by the Appellant was also dismissed on 23.02.2005 leading to the filing of the writ petition before the High Court of Bombay which also ended up in dismissal vide the impugned order dated 24.07.2018.
17. The present appeal is the outcome of the challenge to the said orders, judgments of the CAT and the High Court. The challenge primarily is based upon the basic principle of non-compliance of the principles of natural justice. To press for the said assertion the first plea which has been taken is the vagueness of the chargesheet.
18. A perusal of the chargesheet dated 10.02.1993 would show that not only did it contain the charges against the Appellant but the same was supported by documents as

well. The charge against the Appellant was that she managed to get herself transferred from Kendriya Vidyalaya, Bangalore to Kendriya Vidyalaya, Bombay under a fake transfer order. In this respect, the language of the said chargesheet in our view is very clear and specific. A common man on going through the same, would understand as to what were the charges which an employee was called upon to face and defend. The consequence thereof was obviously that she was the beneficiary of a fake transfer order. It is further apparent and is made clear from the fact in unambiguous terms that she was the sole beneficiary of the said transfer order. The plea therefore with regard to the vagueness of the chargesheet cannot be sustained.

19. The aspect with regard to non-supply of the copy of the Preliminary Inquiry Report again would not hold for long for the simple reason that it was never made the basis for coming to a conclusion in the regular Departmental Inquiry with regard to the guilt of the Appellant. It is an admitted fact that after the preliminary Inquiry,

chargesheet was issued to the Appellant and thereafter a regular Departmental Inquiry was held where both the parties had led their respective evidence and on that basis the Inquiry Officer has returned his findings.

20. The principles of natural justice are founded on three fundamental rules that ensure fairness in legal and administrative proceedings. Firstly, the Hearing Rule (*Audi Alteram Partem*) which mandates that no person should be judged without being given a fair opportunity to present his case. Secondly, the Bias Rule (*Nemo Judex in Causa Sua*) which asserts that no one should act as a judge in its own case, thereby safeguarding impartiality and preventing any form of bias. Lastly, the principle of Reasoned Decision, also known as *Speaking Orders*, requires every decision to be supported by valid and clearly stated reasons to promote transparency and accountability in the decision-making process.
21. No prejudice having been caused because of the non-supply of the preliminary Inquiry Report to the Appellant, the plea of violation of the principles of

natural justice would not be available to the Appellant. As a matter of principle, violation of the principles of justice cannot be on the touchstone of technical infringement made the basis of setting aside the action taken by the authority against an employee unless it is established that grave prejudice has been caused to an employee because of non-supply of a particular document. Nothing has also come on record which would indicate that the Appellant had ever sought for the Preliminary Inquiry Report after the issuance of the chargesheet. Similar would be the position with regard to the other documents also which are alleged to have not been supplied to her as the nature and extent of disadvantage or handicap caused or suffered by the Appellant, in the absence of the documents, is missing in the departmental proceedings or the pleadings.

22. No grounds have been laid down indicating the prejudice which has been caused to her either during the inquiry or at the stage of projecting her response to the show cause notice given by the disciplinary authority. Mere

assertion that some documents have not been supplied or even mentioning the said documents would not be enough unless the consequential prejudice which would or has been caused to a delinquent employee is put forth.

23. The Court is not bound to simply accept an assertion of a delinquent employee and proceed to question the disciplinary proceedings without being satisfied with regard to any prejudice having been caused to the employee.
24. The position in law on this aspect as has been culled out by the Constitution Bench of the Supreme Court in the case of ***Managing Director, ECIL, Hyderabad and Others vs. B. Karunakar and Others***¹ followed and explained thereafter by this Court expounded the doctrines of reasonable opportunity and natural justice to have been conceived and evolved not as a mechanical or a ritualistic formality, but as substantive principles intended to safeguard the rule of law and to facilitate the

¹ (1993) 4 SCC 727

assertion of legitimate rights by individuals. It was categorically held that these principles are not to be invoked as mere procedural sacred words that have magical effect when said on every occasion, irrespective of context. The Court underscored the aspect as to whether prejudice has in fact been occasioned to an employee by the non-supply of the inquiry report which must be assessed with reference to the specific facts and circumstances of each case. Upon such assessment, if it is evident that no different outcome would have emerged even after the inquiry report or documents had been furnished, to reinstate the employee and grant him consequential benefits in such situation would amount to a distortion of justice. In other words, it would amount to conferring a premium upon misconduct and to stretch the doctrine of natural justice to an illogical and unwarranted extent. Such an expansive and indiscriminate application of the principle would, paradoxically, undermine the very concept of justice it seeks to uphold.

25. Similar is the position with regard to the plea of prolongation of the Inquiry for 9 years in concluding the same. The explanation as has been given by the Respondents with regard to the time consumed during the inquiry is fully justified as it had to be and actually was held at different places on different occasions as the matter related to different stations pertaining to the transfer orders of eleven teachers which were in question. The availability of the relevant documents and other aspects including the witnesses so posted etc. at different stations is also taken as a ground in explanation. It is not the case of the Appellant that she was not provided with appropriate subsistence allowances or facilities for attending the Inquiry proceedings which would have in any manner caused hindrance or difficulty to participate in or attend the same.
26. Mere delay during the inquiry proceedings, when it is explained with regard to the time taken for the inquiry to conclude and that too justifying the same with no

prejudice having been caused, cannot be made the basis for vitiating the departmental proceedings. Inordinate or unexplained delay in the departmental proceedings may be a justifiable ground if tampered with prejudice having been established to have been caused to the delinquent employee in the said process for interference by the Court. In the present case, the same is absent and therefore the said plea of delay fails.

27. The other ground which has been pressed into service is with regard to non-compliance of the statutory rules in the departmental proceedings which were held against the Appellant. Specific reference has been made to Rule 15(2), CCS (CCS) Rules, 1965 which reads as follows:

“The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority together with its own tentative reasons for disagreement, if any, with the findings of inquiring authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within fifteen days, irrespective of whether the report is favourable or not to the Government servant.”

28. A perusal of the above rule would show that in case the disciplinary authority disagrees with the findings returned by the inquiry authority, it would, along with the inquiry report forward its own tentative reasons for disagreement with the findings of the inquiry authority calling upon the delinquent employee to submit his representation/response to the disciplinary authority. The said procedure has been duly complied with and followed in the present case. The perusal of the inquiry report indicates that not only has the inquiring authority come to a definite conclusion that the transfer order was fake but has also concluded that the charges have been proved against her meaning thereby that she had managed to get herself transferred. Merely because the person through whom she has been able to procure or manage to secure the fake transfer order has not come in the findings of the Inquiry Officer would not lead to exoneration of the Appellant. There is nothing on record which would indicate that the Inquiry Officer had given a clean chit to the Appellant. It is also apparent from the

records that the Appellant is the sole beneficiary of the said transfer order. It has come on record and in the Departmental Inquiry as well that eleven other teachers whose names find mention in the transfer order in question dated 01.10.1991 had been transferred by different earlier orders and their transfer orders were not dependent solely or relatable to the order in issue. The plea thus of the Appellant on this count is also unsustainable.

29. As regards the submission that the findings as recorded by the Inquiry Officer with regard to the transfer order being fake are based on no evidence which could have been the only ground on which interference by the Court would be permissible also falls flat with an answer to the questionnaire served upon Shri VK Jain, the Assistant Commissioner in Kendriya Vidyalaya Sanghathan (Headquarters), New Delhi who is said to be the person under whose signatures the order dated 01.10.1991 was passed, when he had responded that the signatures on the alleged order dated 01.10.1991 had not been signed

by him and it was not his signature. The said transfer order was fake which assertion when put to test in the cross-examination in the departmental inquiry has not been shaken where again the said fact has been reiterated. When the alleged author himself denying the said signatures on the document and has gone to the extent of saying that he had not issued the said order, the requirements of the statutory rules in a departmental inquiry stand fulfilled. What has been stated above is that these are not criminal proceedings but departmental proceedings where the test with regard to the proof on the basis of evidence is different. The preponderance and probability being the touchstone in the departmental proceedings the same having been fulfilled, the plea as has been sought to be raised by the Appellant cannot sustain.

30. Another argument which has been raised by the Appellant is that the transfer order dated 01.10.1991, which had been issued with an intention to benefit Ms. Sandhya Jain in place of the Appellant at Mumbai at the

behest of Assistant Commissioner Kendriya Vidyalaya Sanghathan, Bombay Region Mr. RK Jain appointed the daughter of Assistant Commissioner, Kendriya Vidyalaya Sanghathan (Headquarters), New Delhi. The Appellant argued that this action was actuated by mala fides and driven by an oblique motive, and therefore, the transfer order was arbitrary and not in accordance with law.

31. The said plea was neither taken before the CAT nor pleaded in the writ petition. The same, when pressed into service orally, was rejected by the High Court on the ground of non-pleading of the same as also non-impleadment of the parties against whom *mala fide* were being pressed into service. For the same reason before this Court the said plea, although having been sought to be projected, cannot be permitted. It would not be out of way to mention that here again in this appeal, the said persons are not parties.
32. In view of the above, there has been no violation of any statutory rules nor has there been violation of principles

of natural justice with their being ample evidence to establish with regard to the transfer order dated 01.10.1991 being fake which fulfilled the requirements as have been laid down in the statutory rules as well as the law finalized by this Court. The Impugned Orders being in accordance with law do not call for any interference.

33. The appeal being devoid of merit stands dismissed.

34. There shall be no orders as to cost.

35. Pending application(s), if any, stand disposed of.

.....J.
[ABHAY S. OKA]

.....J.
[AUGUSTINE GEORGE MASIH]

**NEW DELHI;
MAY 20, 2025**