Basudev Dutta vs The State Of West Bengal on 5 December, 2024

Author: J.K. Maheshwari

Bench: J.K. Maheshwari

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2024 INSC 940 REPORTABL

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 13919 OF 2024
(Arising out of SLP (C) No.8026 of 2024)

BASUDEV DUTTA ... APPELLANT(

VERSUS

THE STATE OF WEST BENGAL & ORS. ... RESPONDENT

JUDGMENT

R.MAHADEVAN, J.

Leave granted.

2. Assailing the final judgment and order dated 16.08.2023 passed by the High Court of Calcutta1 in W.P.S.T. No. 106 of 2013, the appellant has come up with this appeal. Vide the said order, the High Court set aside the order dated 28.08.2012 passed by the West Bengal State Administrative Tribunal at Calcutta2 in O.A.No.331 of 20113, in which, the order of termination passed against the appellant herein was set aside, however, the authority concerned was granted liberty to proceed against the appellant in accordance with law, following the Hereinafter shortly referred to as “the High Court” Hereinafter shortly referred to as “the Tribunal” Basudev Dutta v. The State of West Bengal and Others principles of natural justice.

3. According to the appellant, when he was aged about 16 years, he along with his father by name Harianand Dutta, came to India from East Pakistan (now Bangladesh) and his father was issued with a Migration Certificate being No.D/65/69 dated 19.05.1969 by the authority concerned. Subsequently, the appellant joined Bangabasi College, Calcutta and passed the Pre-University

Examination in Science in May, 1971 under the University of Calcutta. Thereafter, he got admission in Regional Institute of Ophthalmology, Calcutta and successfully completed Ophthalmic Assistant Course in 1984. Later, he participated in the selection process and was appointed as Para Medical Ophthalmic Assistant by the Director of Health Services, Government of West Bengal, vide order dated 21.02.1985 and in terms of the said appointment order, the appellant joined at Kadambini Block Primary Health Centre, Monteswar, Burdwan on 06.03.1985. The Department received satisfactory report of the medical examination and Police Verification Roll from the concerned authorities. He continued in service and was granted yearly increment and other consequential service benefits. While so, based on the secret verification report dated 25.05.2010 of the Government of West Bengal, which was communicated by the police to the department on 07.07.2010, the appellant was served with a memo dated 23.08.2010, stating that he is 'unsuitable' for employment and directing him to submit his defense, within 10 days from the date of receipt of the memo. In response, the appellant sent the details of his candidature on 09.09.2010. However, by order dated 11.02.2011 passed by the Director of Health Services, Government of West Bengal, the appellant was terminated from service with immediate effect without any enquiry. Challenging the said order of termination, the appellant preferred Original Application No.331 of 2011, which was allowed by the Tribunal, by order dated 28.08.2012. Aggrieved by the same, the State filed a writ petition being W.P.S.T.No.106 of 2013 and the High Court by the order impugned herein, allowed the same by setting aside the order passed by the Tribunal and affirming the order of termination passed by the authority concerned. Therefore, the appellant is before us with the present appeal.

4. The learned counsel for the appellant strenuously argued that on the basis of migration certificate issued in favour of the appellant's father, in which, the appellant's name also finds place, the appellant is a citizen of India with effect from 19.05.1969; he was issued with ration card, Voter Identity Card and Aadhaar Card by the Government of India and he participated in all local Assembly and Parliamentary elections; and he is also an assessee under the Income Tax Act and is regularly submitting his returns. Adding further, it is contended that upon participating in the selection process, the appellant was appointed as Ophthalmic Assistant, on 21.02.1985 and he joined the service upon submission of the satisfactory report of medical examination and police verification roll. After having rendered 26 years of unblemished service, the appellant was terminated from service, based on the secret verification report of the Government. While passing such order, the appellant was not given an opportunity of personal hearing and was not furnished the alleged verification report. Therefore, the order of termination passed against the appellant is arbitrary, illegal and in violation of the principles of natural justice.

4.1. The learned counsel for the appellant also emphatically submitted that it is mandatory on the part of the police authority to submit the police verification report within a period of three months from the date of appointment. Whereas, in the present case, though the appellant joined the service on 06.03.1985, the verification report was communicated by the police to the department only on 07.07.2010, that too, just two months prior to the date of retirement of the appellant. Hence, there was inordinate delay on the part of the police authority for submission of verification report to the appointing authority. 4.2. Ultimately, the learned counsel for the appellant submitted that considering the facts and circumstances of the case, the Tribunal rightly set aside the order of

termination. However, the High Court erred in allowing the writ petition filed by the State by setting aside the order of the Tribunal. Therefore, the learned counsel prayed for allowing this appeal by setting aside the order of the High Court.

5. On the contrary, the learned senior counsel for the respondent(s) submitted that except the migration certificate, the appellant did not produce any document to prove that he is an Indian national. Migration certificate does not recognize him as a citizen of India and he has to register his citizenship with the authority concerned. Though the appellant stated that he applied for citizenship certificate and the Government of West Bengal issued no objection certificate to him with respect to his citizenship, no such document was placed on record. The Aadhaar Card, voter ID and Pan Card are not the conclusive proof of evidence for citizenship or nationality as held by this Court. Thus, the appellant being a non- citizen, he cannot claim employment against the post reserved for the Indian citizen.

5.1. Elaborating further, the learned senior counsel for the respondent(s) submitted that it was clearly stated in the appointment order that the same is subject to satisfactory reports of police verification and medical examination; though the appellant cleared the medical examination, his police verification report was still awaited; upon receipt of the communication from the Deputy Inspector General of Police, Intelligence Branch, Kolkata, vide Memo No.1899/S.231-04/SA-I/VR dated 07.07.2010, pursuant to the secret verification report dated 25.05.2010 of the Government, to the effect that the appellant was considered as 'unsuitable' for employment to the post in question, the Director of Health Services, Government of West Bengal, issued a show cause notice by way of memo dated 23.08.2010, calling upon the appellant to submit his defence; accordingly, the appellant submitted his reply on 09.09.2010; being dissatisfied with the same, the authority concerned terminated the appellant from service with immediate effect on 11.02.2011. Thus, according to the learned counsel, only after receipt of the reply submitted by the appellant and upon considering the same, the termination order came to be issued and hence, there was no violation of the principles of natural justice.

5.2. Referring to the decisions of this court in Nirma Industries Ltd. v. Securities and Exchange Board of India4; State of UP v. Sudhir Kumar Singh5; and Dharampal Satyapal Ltd v. Deputy Commissioner of Central Excise, Gauhati and Others6, wherein, it was observed that 'the principles of natural justice means, a fair hearing should be given to the concerned person and the same would not necessarily imply oral hearing', the learned senior counsel for the respondent(s) submitted that merely because the appellant was not given an opportunity of hearing, that by itself is not sufficient to quash the proceedings, unless and until it is pointed out by him that he was prejudiced by the order, which was passed behind his back and therefore, the denial of personal hearing before passing the termination order would not amount to violation of the principles of natural justice.

5.3. Adding further, the learned senior counsel for the respondent(s) submitted (2013) 8 SCC 20 (2021) 19 SCC 706 (2015) 8 SCC 519 that police verification is essential for joining any service and it is a settled principle of law that any act contrary to law cannot be given the sanctity of being legal under law by mere passage of time and hence, the delay in submission of the verification report, cannot be a ground to quash the termination order passed against the appellant.

5.4. Therefore, the learned senior counsel for the respondent(s) submitted that the High Court correctly set aside the order of the Tribunal and restored the termination order passed against the appellant herein, by a reasoned order, which does not call for any interference by this court.

6. By way of reply, the learned counsel for the appellant submitted that the grandfather of the appellant was a permanent resident of Calcutta and the father of the appellant was born in the year 1911 at Calcutta and through migration certificate, the appellant came to India along with his father in the year 1969, before creation of Bangladesh (Formerly East Pakistan) and hence, he is a citizen of India. Further, the police department has no authority to neutralize the citizenship of a person. However, based on the information provided by the police authority and without ascertaining the veracity of the same and without any report / order following the provisions of the Citizenship Act, 1955 and the Foreigners Act, 1946 (31 of 1946) and the Foreigners (Tribunal) Order, 1964, the authority concerned terminated the appellant from service with immediate effect, that too, without affording an opportunity of hearing to the appellant to adjudicate his claim of nationality. Though the Tribunal set aside the said order of termination, the High Court erred in reversing the same, by the order impugned in this appeal. It is also submitted by the learned counsel that the right guaranteed under Articles 14 and 21 of the Constitution of India is seriously violated, in view of the State not taking proper steps to continue the service of the appellant and in failing to sanction and disburse the pensionary benefits to him, after having served nearly 26 years of service.

7. Heard the learned senior counsel/counsel appearing for the parties and also perused the materials available on record.

8. It cannot be disputed that as per the interim order of the High Court, the appellant received the amount of general provident fund, group insurance and leave Salary. However, the authority concerned did not disburse the pension, gratuity and arrears of salary.

9. As indicated earlier, by order dated 11.02.2011, the appellant was terminated from service after rendering 26 years of service, based on the police verification report that he was considered as ‘unsuitable’ for employment to the post of Ophthalmic Assistant. The said termination order was set aside by the Tribunal, by order dated 28.08.2012 in O.A.No.331 of 2011. However, the High Court reversed the order of the Tribunal and restored the order of termination passed by the authority concerned, by the order impugned herein.

10. The contentions raised by the learned counsel for the appellant, assailing the order of termination passed by the authority concerned, as affirmed by the High Court, are three-fold, though interlinked and intertwined. Firstly, the appellant claimed his nationality as Indian on the strength of the migration certificate dated 19.05.1969 issued in favour of his father. Secondly, in the show cause notice, there was no mention as to why the appellant was declared as ‘unsuitable’ for employment to the Government service; the alleged secret police verification report was not served on the appellant; and no opportunity of personal hearing was provided to the appellant to defend his stand and hence, there was total violation of the principles of natural justice. Thirdly, the appellant joined the service in the year 1985, but the police verification report, which was supposed to have been filed, within a period of three months from the date of appointment, was submitted to the

department only in the year 2010 and thus, there was inordinate and unexplained delay on the part of the police authority in submission of the same.

ANALYSIS

11. Let us consider the first contention. According to the appellant, he is an Indian citizen. Section 9 of the Foreigners Act, 1946 mandates that the onus of proving citizenship of a person is upon that person who claims to be a citizen of India. For better appreciation, Section 9 of the Foreigners Act, 1946, is extracted below:

> "9. Burden of proof.—If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), lie upon such person." 11.1. In Sarbananda Sonowal v. Union of India7, this Court pointed out that 'there is good and sound reason for placing the burden of proof upon the person concerned who asserts to be a citizen of a particular country. In order to establish one's citizenship, normally he may be required to give evidence of his date of birth, place of birth, name of his parents, their place of birth and citizenship.

Sometimes the place of birth of his grandparents may also be relevant. All these facts would necessarily be within the personal knowledge of the person concerned and not of the authorities of the State'.

11.2. In Lal Babu Hussein v. Electoral Registration Officer8, it was held by this Court that 'the question whether a person is a foreigner, is a question of fact which would require careful scrutiny of evidence since the enquiry is quasi-judicial in character'.

11.3. In the instant case, the appellant claimed that his grandparents are Indian (2007) 1 SCC 174 (1995) 3 SCC 100 citizens because of their birth. The provisions relating to citizenship are enshrined in Part II of the Constitution of India under Articles 5 to 11. Section 4 of the Indian Citizenship Act, 1955, entitles the appellant's father to be treated as a citizen by descent. The appellant is also entitled to citizenship by registration as per Section 5 of the Act. As per Section 5 (1) (a), a person of Indian origin who has been an ordinary resident in India for seven years prior to the application and as per 5(1)(b), a person of Indian origin who is an ordinary resident of any country or place outside undivided India is entitled to citizenship. "Undivided India" has been defined in Section 2 (h) as "India, as defined in the Government of India Act, 1935" as originally enacted. The intention of the Central Government to award citizenship to minorities from neighboring countries has been spelled out by way of amendment to Section 2, by introducing Proviso in Section 2 vide Amendment Act No.47 of 2019 with effect from 10.01.2020, which states that the persons like the appellant herein are not be treated as "illegal migrants". Once an application has been submitted, the authority concerned has to take appropriate decision within a reasonable time by taking into consideration all

the applicable laws and the documents produced by the appellant. However, no decision has been taken against the appellant. Therefore, we answer the first contention in favour of the appellant.

12. Qua the second contention, we have carefully considered the documents placed before us. Vide Memo No.944-P.S. dated 25.05.2010, the Assistant Secretary to the Government of West Bengal, Home (Political) Department, Secret Section, Kolkata, informed to the Additional Director General of Police, Intelligence Branch, West Bengal, Kolkata, that the Government considered the appellant 'unsuitable' for employment to the post of Ophthalmic Assistant under the Chief Municipal Officer of Health, Burdwan. Vide Memo No.1899/S.231- 04/SA-I/VR dated 07.07.2010, the said information was communicated by the Deputy Inspector General of Police, Intelligence Branch, West Bengal to the Chief Municipal Officer of Health, Burden. Subsequently, by memo dated 04.11.2010, the Director of Health Services, Government of West Bengal, Kolkata, informed to the Special Superintendent of Police(C), Intelligence Branch, West Bengal, that the case of the appellant was referred to the Government to decide over the suitability or otherwise of the verification of his employment under the Chief Municipal Officer of Health, Burdwan, because the nationality of the appellant could not be determined as Indian national, during enquiry; and finally, the appellant was considered 'unsuitable' by the Government. Pursuant to the same, the Director of Health Service, West Bengal, sent the show cause notice styled as 'Memorandum' dated 23.08.2010 directing the appellant to submit his defense within a period of 10 days. For better appreciation, the contents of the said Memorandum are reproduced below:

> "Whereas Shri Basudev Dutta, S/o.Hari Ananda Dutta of 30/C Buildings, Bonhooghly, Alambazar, Kolkata-700035 was offered appointment to the post of "Ophthalmic Assistant" vide order No.A 6012 dated 21-02-1985 along with 32 other incumbents subject to satisfactory reports of Police Verification and Medical Examination;
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> And whereas the said Shri Basudev Dutta joined in the forenoon of 06- 03-1985 at Kadambini P.H.C., Monteswar, Burdwan;
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> And whereas the Dy. Inspector General of Police, Intelligence Branch, 13, Lord Sinha Road, Kolkata -71 in his No.1899/S. 231-04/SA-I/VR dated 07- 07-2010 has informed that the Government under his No.944-PS dated 25-05- 2010 of Home (Pol) Department, Government of West Bengal has declared Shri Basudev Dutta "UNSUITABLE" for employment to the post of Ophthalmic Assistant;
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> And whereas the case of Shri Basudev Dutta, Ophthalmic Assistant, attached to Kurmun B.P.H.C., Burdwan, has since been reviewed in the light of terms and condition laid down in the order of appointment bearing No.A 6012 dated 21-02-1985 and also declaring Shri Basudev Dutta "UNSUITABLE" for employment to the Government service;
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> And as such, on going through the relevant papers / documents in respect of the case of Shri Basudev Dutta and applying my full mind on to it, I, the D.H.S., West Bengal,

being the appointing and disciplinary authority in respect of the post held by Shri Basudev Dutta, Ophthalmic Assistant, hold the view that the said Shri Basudev Dutta does not have any right to continue further in Government service and accordingly propose that the service of Shri Basudev Dutta may be terminated with immediate effect;

Shri Basudev Dutta is hereby directed to say, if any, in his defence within 10 (ten) days from the date of receipt of the memorandum through the C.M.O.H., Burdwan, positively failing which it may be presumed that he has nothing to say and decision will be taken against him without any further reference to him." 12.1. Curiously, in all these documents, including the show cause notice, no reason was mentioned as to why the appellant was considered as 'unsuitable' for employment to the post of Ophthalmic Assistant. Furthermore, the alleged police verification report was not served on the appellant. As such, the appellant was unable to make his defense with supportive materials. Resultantly, he was terminated from service vide order dated 11.02.2011 of the Director of Health Services, West Bengal. Even in the termination order, there was nothing about the unsuitability of the appellant for employment to the Government service.

12.2. It is settled law that every administrative or quasi-judicial order must contain the reasons. Such reasons go a long way in not only ensuring that the authority has applied his mind to the facts and the law, but also provide the grounds for the aggrieved party to assail the order in the manner known to law.

In the absence of any reasons, it also possesses a difficulty for the judicial authorities to test the correctness of the order or in other words, exercise its power of judicial review. In this context, it will be useful to refer to the judgment of this Court in Kranti Associates (P) Ltd. v. Masood Ahmed Khan9, wherein after a detailed analysis of various judgments, it was held as follows:

"27. In Rama Varma Bharathan Thampuram v. State of Kerala [(1979) 4 SCC 782: AIR 1979 SC 1918] V.R. Krishna Iyer, J. speaking for a three-Judge Bench held that the functioning of the Board was quasi-judicial in character. One of the attributes of quasi-judicial functioning is the recording of reasons in support of decisions taken and the other requirement is following the principles of natural justice. The learned Judge held that natural justice requires reasons to be written for the conclusions made (see SCC p. 788, para 14 : AIR p. 1922, para 14).

28. In Gurdial Singh Fijji v. State of Punjab [(1979) 2 SCC 368 : 1979 SCC (L&S) 197] this Court, dealing with a service matter, relying on the ratio in Capoor [(1973) 2 SCC 836 : 1974 SCC (L&S) 5 : AIR 1974 SC 87], held that "rubber-stamp reason" is not enough and virtually quoted the observation in Capoor (supra), SCC p. 854, para 28, to the extent that:

> "28. ... Reasons are the links between the materials on which certain conclusions are based and the actual conclusions." (See AIR p. 377, para
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> 18.)
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> 29. In a Constitution Bench decision of this Court in H.H. Shri Swamiji of Shri Amar Mutt v. Commr., Hindu Religious and Charitable Endowments Deptt. [(1979) 4 SCC 642 : 1980 SCC (Tax) 16 : AIR 1980 SC 1] while giving the majority judgment Y.V. Chandrachud, C.J. referred to (SCC p. 658, para
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> 29) Broom's Legal Maxims (1939 Edn., p. 97) where the principle in Latin runs (2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852 : 2010 SCC OnLine SC 987 as follows:
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> "Cessante ratione legis cessat ipsa lex."
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> 30. The English version of the said principle given by the Chief Justice is that :
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> (H.H. Shri Swamiji case [(1979) 4 SCC 642 : 1980 SCC (Tax) 16 : AIR 1980 SC 1] , SCC p. 658, para 29) "29. ... 'reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself'." (See AIR p. 11, para 29.) .....
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> 33. In Star Enterprises v. City and Industrial Development Corpn. of Maharashtra Ltd. [(1990) 3 SCC 280] a three-Judge Bench of this Court held that in the present day set-up judicial review of administrative action has become expansive and is becoming wider day by day and the State has to justify its action in various fields of public law. All these necessitate recording of reason for executive actions including the rejection of the highest offer. This Court held that disclosure of reasons in matters of such rejection provides an opportunity for an objective review both by superior administrative heads and for judicial process and opined that such reasons should be communicated unless there are specific justifications for not doing so (see SCC pp. 284-85, para 10).

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46. The position in the United States has been indicated by this Court in S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 :

> (1991) 16 ATC 445 : AIR 1990 SC 1984] in SCC p. 602, para 11 : AIR para 11 at p. 1988 of the judgment. This Court held that in the United States the courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as "the courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review". In S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 :

(1991) 16 ATC 445 : AIR 1990 SC 1984] this Court relied on the decisions of the US Court in Securities and Exchange Commission v. Chenery Corpn. [87 L Ed 626 : 318 US 80 (1942)] and Dunlop v. Bachowski [44 L Ed 2d 377 : 421 US 560 (1974)] in support of its opinion discussed above.

47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-

making process as observing principles of natural justice by judicial, quasi- judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision- making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37]).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process"." 12.3. That apart, before passing the termination order, no opportunity of personal hearing was provided to the appellant to defend his stand effectively. In Mazharul Islam Hashmi v. State of U.P.10, it was categorically held by this Court that 'personal hearing should be given, before termination of employee from service'. The relevant paragraph of the same is quoted below for ready reference:

> "25. It was observed in that case that it is a fundamental rule of law that no decision must be taken which will affect the rights of any person without first giving him an opportunity of putting forward his case. The main requirements of a fair hearing, as pointed out by this Court earlier, are: (i) A person must know the case that he is to meet; and (ii) he must have an adequate opportunity of meeting that case. These rules of natural justice, however, operate in voids of a statute. Their application can be expressly or implicitly excluded by the legislature. But, such is not the case here. On the contrary, the two circulars issued by the State Government, to which a reference has been made earlier, expressly imported these principles of natural justice and required that in all cases in which the services of an officer or servant were to be determined on the ground of his unsuitability, they must be given an opportunity of personal hearing by the Committee. The whole purpose of the personal interview was that, when it was proposed to declare an official unsuitable for absorption, the Committee had to afford him an opportunity to appear before it and clear up his position. Since it is nobody's case that such an opportunity was afforded to the appellant, we would hold that the order dated August 26, 1967 (of termination of his services passed by the State) suffers from a serious legal infirmity and must be quashed. He will, therefore, have to be treated as having continued in service till the age of superannuation and entitled to all the benefits incidental to such a declaration.

12.4. In S.Govindaraju v. Karnataka State Road Transport Corporation11 again, this Court held thus:

"7.....There is no dispute that the appellant's services were terminated on the ground of his being found unsuitable for the appointment and as a result of which his name was deleted from the select list, and he forfeited his chance for appointment. Once a candidate is selected and his name is included in the select list for appointment in accordance with the Regulations, he gets a right to be considered for appointment as and when vacancy arises. On the removal of his name from the select list serious consequences entail as he forfeits his right to employment in future. In such a situation even though the Regulations do not stipulate for affording any opportunity to the employee, the principles of natural justice would be attracted and the employee would be entitled to an opportunity of explanation, though no elaborate enquiry would be necessary. Giving an opportunity of explanation would meet the bare minimal requirement of natural (1979) 4 SCC 537 (1986) 3 SCC 273 justice. Before the services of an employee are terminated, resulting in forfeiture of his right to be considered for employment, opportunity of explanation must be afforded to the employee concerned. The appellant was not afforded any opportunity of explanation before the issue of the impugned order; consequently the order is rendered null and void being inconsistent with the principles of natural justice..." 12.5. This Court in Aureliano Fernandes v. State of Goa12, in an unequivocal terms observed as follows:

"73.....This Court has repeatedly observed that even when the rules are silent, principles of natural justice must be read into them.

74. In its keen anxiety of being fair to the victim / complainants and wrap up the complaints expeditiously, the Committee has ended up being grossly unfair to the appellant. It has completely overlooked the cardinal principle that justice must not only be done, but should manifestly be seen to be done. The principles of audi alteram partem could not have been thrown to the winds in this cavalier manner." 12.6. It is manifestly clear from the above judgments that reasons are heartbeat of every order and every notice must specify the grounds on which the administrative or quasi-judicial authority intends to proceed; if any document is relied upon to form the basis of enquiry, such document must be furnished to the employee; it is only then a meaningful reply can be furnished; and the failure to furnish the documents referred and relied in the notice would vitiate the entire proceedings as being arbitrary and in violation of the principles of natural justice;

and before taking any adverse decision, the aggrieved person must be given an opportunity of personal hearing. In the light of the same, we have no hesitation to hold that the order of termination passed against the appellant is arbitrary, (2024) 1 SCC 632 : 2023 SCC OnLine SC 621 illegal and violative of the principles of natural justice and it cannot be sustained. 12.7. Though we are in agreement with the proposition laid down in the decisions cited on the side of the respondent(s), the same does not apply to the present case, which factually differs.

12.8. Thus, in the ultimate analysis, we find that the Tribunal was right in observing that without following the principles of natural justice and without affording any opportunity to explain his case before the authority, the appellant was terminated and hence, his termination order cannot be sustained in the eye of law; and accordingly, set aside the order of termination. However, the High Court erroneously allowed the writ petition filed by the State and set aside the order of the Tribunal by observing that the action of the authorities in issuing a show cause notice and inviting a reply therefrom and the availing of such opportunity by the appellant, is in adherence with the principles of natural justice. Hence, we are inclined to set aside the order of the High Court and restore the order of the Tribunal to that extent.

13. As far as the third contention is concerned, it appears to us that the appellant joined the post of Ophthalmic Assistant on 06.03.1985 upon production of satisfactory report of medical examination and police verification roll. Yet, the police verification report, which was supposed to have been filed within three months from the date of initial appointment of the appellant, was filed only in the year 2010, i.e., after 25 years of service and just two months prior to the date of his retirement. Placing reliance on such report, he was terminated from service. In view of the enormous delay on the part of the respondent authorities in submission of the verification report, the appellant has been rendered ineligible to receive his pensionary benefits, though he had put in 26 years of unblemished service. The respondents in their reply affidavit categorically admitted about the inordinate delay occasioned to ascertain the unsuitability of the appellant for appointment to the Government service. However, they did not assign any reason much less valid reason for the same. Such a callous and lackadaisical attitude on the part of the respondent authorities cannot be countenanced by us. As held by us in paragraph 12.6 supra, the order of termination passed against the appellant is arbitrary, illegal and in violation of the principles of natural justice and it cannot be sustained. In view of the same, the second limb of the order of the Tribunal granting liberty to the authority to proceed against the appellant in accordance with the principles of natural justice, after a period of 14 years from the date of retirement, would not serve any purpose. Hence, the appellant is entitled to receive all the service benefits that are duly payable to him. 13.1. The given factual matrix would also compel this Court to issue a direction to the police official(s) of all the States to complete the enquiry and file report as regards the character, antecedents, nationality, genuineness of the documents produced by the candidates selected for appointment to the Government service, etc., within a stipulated time provided in the statute / G.O., or in any event, not later than six months from the date of their appointment. It is made clear that only upon verification of the credentials of the candidates, their appointments will have to be regularized so as to avoid further complications, as in the case on hand.

14. With the aforesaid observations and directions, this appeal is allowed and the order of the High Court is set aside. As a sequel, the service benefits which remain unpaid as on date, be paid to the appellant within a period of three months from the date of receipt of a copy of this judgment. There is no order as to costs. Pending application(s), if any, shall stand closed.

.....J. [J.K. Maheshwari] .....J. [R. Mahadevan] NEW DELHI;

DECEMBER 05, 2024.