Supreme Court of India
Nyadar Singh & Anr vs Union Of India & Ors on 23 August, 1988
Equivalent citations: 1988 AIR 1979, 1988 SCR Supl. (2) 546
Author: M Venkatachalliah
Bench: Venkatachalliah, M.N. (J)

PETITIONER:
NYADAR SINGH & ANR.

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT23/08/1988

BENCH:
VENKATACHALLIAH, M.N. (J)
BENCH:
VENKATACHALLIAH, M.N. (J)
MISRA RANGNATH

CITATION:
1988 AIR 1979 1988 SCR Supl. (2) 546
1988 SCC (4) 170 JT 1988 (3) 448
1988 SCALE (2)409

ACT:
Central Civil Services (Classification, Control and Appeal) Rules, 1966: Rule Il(vi)-Government servant-Directly recruited to a particular post-Whether can be reduced to a post lower in rank to the one that he was directly recruited.
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Constitution of India, 1950-Article 311(2)-`Reduction in rank'-Whether a government servant by way of punishment/penalty can be reduced in rank to a post lower than that to which he was recruited directly-All reversions from higher post are not necessarily reduction in rank.
Statutory Interpretation: Consequences do not alter statutory language-They only help to fix its meaning.

HEADNOTE:
Pursuant to separate disciplinary proceedings the penalty of `reduction in rank' was imposed on the appellants, Nyadar Singh and M.J. Ninama, reducing each of them to a post lower than the one to which they were directly recruited.
The Central Administrative Tribunals rejected the appellants' challenge to the orders imposing the penalty.
Before this Court, the appellants' contention was that

as a result of the imposition of the penalty, they were reduced in rank to posts lower than the one to which they were initially recruited, which on a proper construction of Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 was not permissible.

The Additional Solicitor General, on the other hand, contended that this limitation which might be appropriate in the case of a `reversion', was inappropriate in a case of `reduction in rank' imposed as a penalty. The argument was that `reduction in rank' had a wider import than `reversion' and there was no reason why the power to impose this penalty which was permissible on the plain language of the Rule, be whittled down by any other consideration.

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Disposing of the appeals, it was,

HELD: (1) The meaning to be given to a particular statutory language depends on the evaluation of a number of interpretative-criteria. Shorn of the context, the words by themselves are `slippery customers'. The general presumption is that these criteria do not detract or stand apart from, but are to be harmonised with, the well accepted legal principles. Considerations relevant to interpretation are not whether a differently conceived or worded statute would have yielded results more consonant with fairness and reasonableness. Consequences do not alter the statutory language, but might only help to fix its meaning. [555H; 556A-B, G-H]

(2) The expression `rank', in `reduction in rank' has, for purposes of Article 311(2), an obvious reference to the stratification of the posts or grades or categories in the official hierarchy. It does not refer to the mere seniority of the Government Servant in the same class or grade or category. [552B-C]

(3) The penalty of `reduction in rank' of a Government servant initially recruited to a higher time-scale, grade, service or post to a lower time-scale, grade, service or post virtually amounted to his removal from the higher post and the substitution of his recruitment to lower post, affecting the policy of recruitment itself. ln conceivable cases, the Government servant might not have the qualification requisite for the post which might require and involve different, though not necessarily higher, skills and attainment. [551B-C, 557G]

[Worthington v. Robin, [1896] 75 Law Times Reports 446, referred to.]

(4) Rule 11 must be read in consonance with general principles and so construed the expression `reduction' in it would not admit of a wider meaning. [557H; 558A]

Babaji Charan Rout v. State of Orissa, [1982] 1 SLJ 496; Shivalingaswamy v. State of Karnataka, [1985] ILR Kar. 1453; approved.

Gopal Rao v. C.I.T., [1976] 2 MLJ 508; Mahendra Kumar v.

Union of India, [1984] 1 All India Ser. Law Journal 34; (1985) 1 SLR 161; S.N. Dey v. Union of India, [1983] 2 SLJ All. 114; C.S. Balakumar v. The lnspecting Asstt. Commissioner of Income Tax, [1987] 1 All India SLJ 18, over-ruled.

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P. V. Srinivasa Sastry v. Comptroller & Auditor General of India, [1979] 3 SLR 509 and Hussain Sasan Saheb Kaldgi v. State of Maharashtra, [1987] AIR SC 1627, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3003 of 1988.

From the Judgment and Order dated 8/9th April, 1986 of the Central Administrative Tribunal, New Delhi in R.A. No. 2 of 1986 in TA No. T-564 of 1985.

AND Civil Appeal No. 889 of 1988.

From the Judgment and Order dated 29.10.86 and 5.11.1986 in the Central Administrative Tribunal, Ahmedabad in O.A. No. 103 of 1986.

J.S. Bali and L.R. Singh for the Appellant in C.A. No. 3003 of 1988.

K.M.K. Nair for the Appellant in C.A. No. 889 of 1988. Kuldip Singh, Additional Solicitor General, A. Subba Rao, C.V.S. Rao and Hemant Sharma for the Respondents. The judgment of the Court was delivered by VENKATACHALIAH, J. The special leave petition and the appeal-by two Central-Government-servants- raise an interesting point of construction of a service Rule whether a Disciplinary Authority can, under Sub-Rule (vi) of Rule 11 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965, (Rules for short), impose the penalty of reduction on a Government Servant, recruited directly to a particular post, to a post lower than that to which he was so recruited; and if such a reduction is permissible, whether the reduction could only be to a post from which under the relevant Recruitment Rules promotion to the one to which the Government servant was directly recruited.

PG NO 549 The petition and appeal are directed against the orders dated 8/9-4-1986 of the Central Administrative Tribunal, Delhi, and the order dated 29.10.1986 of the Central Administrative Tribunal, Gujarat, respectively, affirming the orders of the Disciplinary Authorities imposing on the petitioner and the appellant the penalty of reduction in rank to post lower than the one to which both of them were initially recruited.

There is a divergence of judicial opinion amongst the High Courts on the point: The Division Benches of the Orissa and Karnataka High Courts have held that such a reduction in rank is not possible at all. [See: Babaji Charan Rout v. State of Orissa and Ors., [1982] 1 SLJ 496;

Shivalingaswamy v. State of Karnataka, [1985] ILR Kar. 1453].

However, the Madras, Andhra Pradesh and Allahabad High Courts have held that there is no limitation on the power to impose such a penalty. [See: Gopal Rao v. C.l.T., [1976] 2 MLJ 508; Mahendra Kumar v. Union of India, [1984] 1 All India Ser. Law Jour. 34; S.N. Dey v. Union of India & Ors., [1983] 2 SLJ All. 114]. The Central Administrative Tribunal, Madras, in C.S. Balakumar v. The lnspecting Asstt. Commissioner of Income Tax, [1987] 1 All India SLJ 18 has also subscribed to this view.

There is yet a third view, as typified in P.V. Srinivasa Sastry v. Comptroller & Auditor General of India, [1979] 3 SLR 509 and the one taken by the Central Administrative Tribunal in the case from which the Special Leave Petition arises, that such a reduction in rank is permissible provided that promotion from the post to which the Government servant is reduced to the post from which he was so reduced is permissible, or, as it has been put, the post to which the Government servant is reduced is "in the line of promotion" and is a "feeder-service".

Special leave is granted in SLP (C) 9509 of 1986. Both the cases are taken up for final hearing, heard and disposed of by this common Judgment.

2. A brief advertance to the facts of the cases is necessary.

SLP (C) 9506 of 1986 is by a certain Nyadar Singh, the unsuccessful petitioner before the Central Administrative Tribunal, New Delhi, and is directed against that the Tribunal's order No. T-564/85 (SBCWP No.- 1747/80) dated PG NO 550 28th February, 1986, rejecting his challenge to the order dated 4th Sept., 1976, of the disciplinary authority imposing a penalty of `reduction in rank' reducing the petitioner from the post of Assistant Locust Warning Officer to which he was recruited directly on 31.10.1960 and confirmed on 27.12.1971 to that of Junior Technical Assistant pursuant to certain disciplinary proceedings held against him. In 1974, he was working as an Assistant Locust Warning Officer at Nohar. On 4.11.1975 in respect of certain acts alleged to constitute misconduct on his part certain disciplinary proceedings were initiated against him which culminated in the order dated 4.9.1976 imposing the aforesaid penalty. The statutory appeal before the appellate authority was, dismissed on 24.4.1979. Thereafter he filed a writ petition before the Delhi High Court which, after the coming into force of the Central Administrative Tribunal Act, 1985, stood transferred to and was disposed of by the Central Administrative Tribunal, New Delhi, by its order dated 28.2.1986, now under appeal. It is relevant to mention that in the year 1981, after the period of penalty of five years had spent itself out, the appellant was re-promoted to the post of Assistant Locust Warning Officer. Civil Appeal No. 889 of 1988 is by M.J. Ninama, an Upper Division Clerk in the Post & Telegraph Circle Office, Ahmedabad, preferred against the order No. OA 103 of 1986 dated 29.10.1986 of the Central Administrative Tribunal, Ahmedabad, rejecting appellant's challenge to the legality and correctness of the order dated 15.5.1988 of the Post Master General who in modification of the earlier orders imposing a penalty of compulsory retirement on him, substituted in its place the order imposing the penalty of `reduction in rank' to the post of Lower Division Clerk pursuant to the findings recorded against the appellant on the charge of accepting illegal gratification. Appellant had been directly recruited as an Upper Division Clerk in the Office of

the Post Master General, Gujarat Circle, Ahmedabad. He was reduced to the lower post of Lower Division Clerk until he was found fit after a period of five years from 15.5.1986. However, the appellant's seniority on re-promotion was directed to be fixed at what it would have been, without the reduction.

4. We have heard Shri J.S. Bali, learned counse] for the appellant-Nyadar Singh and Shri K.M.K. Nair, learned counsel for the appellant-Ninama; and Shri Kuldip Singh, learned Additional Solicitor General for the respondents in both the appeals.

5. Rule 11 of the `Rules' enumerates the penalties which may for good and sufficient reasons be imposed on a PG NO 551 Government servant. Sub-rule (vi) of Rule 11 provides:

"11. The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant namely:

Minor penalties: Omitted as irrelevant here. Major penalties:

(v) .....

(vi) reduction to a lower time-scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or Service from which he was reduced, with or without further directions regarding conditions of the restoration to that grade, or post or Service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or Service;"

According to the contention of the appellants' learned counsel, the appellants were, as a result of the imposition of the penalty, reduced in rank to a post lower than the one to which they were initially recruited, which on a proper construction of the Rule, is not permissible. Learned counsel relied upon the decision of this Court in Hussain Sasan Sahed Kaldgi v. State of Maharashtra, [1987] AIR SC 1627.

Shri Kuldip Singh, Additional Solicitor General, however, contended that this limitation which may be appropriate in the case of a `reversion' which, as the very concept implies, could not be to a post which the Government servant did not earlier hold, is inappropriate in a case of reduction in rank imposed as a penalty. Reduction in rank, according to learned Additional Solicitor General, has a wider import than `reversion' and there is no reason why the power to impose this penalty which is permissible on the plain language of the Rule be whittled down by any other consideration. The learned Additional Solicitor General sought to rely upon certain pronouncements of the High Courts.

6. The import of the expression `Reduction in rank' has been examined in the context of the constitutional PG NO 552 protection afforded to Government servants under Article 311(2) in relation to the three major penalties of 'dismissal', 'removal' and 'reduction in rank' and the constitutional safeguards to be satisfied before the imposition of these three major penalties. In

Article 311(2) the penalty of "reduction in rank" is classed along with 'dismissal' and 'removal' for the reason that the penalty of reduction in rank has the effect of removing a Government servant from a class or grade or category of post to a lessor class or grade or category. Though the Government servant is retained in service, however, as a result of the penalty he is removed from the post held by him either temporarily or permanently and retained in service in a lesser post. The expression 'rank', in 'reduction in rank' has, for purposes of Article 311(2), an obvious reference to the stratification of the posts or grades or categories in the official hierarchy. It does not refer to the mere seniority of the Government servant in the same class or grade or category. Though reduction in rank, in one sense, might connote the idea of reversion from a higher post to a lower post, all reversions from a higher post are not necessarily reductions in rank. A person working in a higher post, not substantively, but purely on an officiating basis may, for valid reasons, be reverted to his substantive post. That would not, by itself, be reduction in rank unless circumstances of the reversion disclose a punitiveelement. The submission of the learned Additional Solicitor General in substance, is that while 'reversion' envisages that the lower post to which the Government servant is reverted should necessarily to amongst those earlier held by him and from which he had come on promotion, the idea of reversion being a mere antonym of promotion-the importing of such a limitation into a case of "reduction in rank" imposed as a penalty would be doing, violence of the express statutory language and an unwarranted fettering of the power of the disciplinary authority. The idea of reduction in rank, says the learned Additional Solicitor General, is much wider than the ambit of the reversion and there is no justification to whittle down the ambit of this expression consciously employed by the rule-making-authority. Such a construction would create more difficulties than It might appear to solve and become counter-productive in the sense that even where the disciplinary-authority, desires to retain a Government servant in service, though not in the same post but in a lower one, the Authority would be rendered helpless by such a construction being place of in the Rule.

PG NO 553 The argument in favour of this construction of the Rule is stated by by a learned Single Judge in Gopal Rao's case (supra) thus:

". . . . . ln effect, what the learned counsel says is that there is no difference between the order of reversion and an order of reduction in rank, that it is well established that reversion can be only to a post which a person held earlier and that reduction also can only be to a post or class of service which the person occupied at any time before....."

"'..... In my view, the expression "reduction in rank" covers a wider field than reversion to a lower post. It is true, the word "reversion" always connotes "a return to the original post or place." But the word "reduction" has no such limitation and therefore, reduction in rank extends even to a rank which the officer concerned never held....."

Similar view has been taken by a learned Single Judge of the the Andhra Pradesh High Court in Mahendra Kumar v. Union of India and Anr., [1985] 1 SLR [8] :

"..... The Central Civil Service (Classification, Control and Appeal) Rules provide for several penalties which can be imposed for good and sufficient reasons. One of the major penalties

contemplated by Rule II is "reduction to a lower . . . . . grade, post or service . . . . .", and I see m, reason why this penalty cannot be imposed upon a person who, on the date of imposition of penalty, is continuing in the same post to which he was appointed by direct recruitment. This is not a case of reversion of a Government servant to his substantive post for want of vacancy or otherwise, but this is a case of reduction by way of punishment. I am unable to read any limitation upon the power of the disciplinary authority to impose this punishment on the petitioner, as suggested. No decision has also been brought to my notice supporting this contention It must, however, be observed that in the above case the High Court upheld the challenge of the appellant that there was no misconduct at all. The other observations as to the scope of the Rude were, therefore, unnecessary for the decision of the case.

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7. The opposite view is taken by the Orissa High Court in Babaji Charan Rout v. State of Orissa and Ors., [1982] 1 All India SLJ 496 and by a Division Bench of the Karnataka High Court in Shivalingaswamy v: State ot Karnataka, [l985] ILR Kar. 1453. In the first case, there is no discussion of the matter as the Division Bench merely followed an earlier unreported decision of another Division Bench of the same High Court. In the Karnataka case, a person who had been directly recruited as "Village-Accountant had been reduced by the Disciplinary Authority to the post of "daftarband". The Division Bench interpreting an analogous rule in the State's Service Rules, held the reduction impermissible, observing:

"..... Rule 8 [v] of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, as amended, in our opinion, does not justify such an action. It will lead to most unreasonable results if a person directly recruited to a post is reduced to a post which he never came to hold in service. That is not the scheme of the CCA Rules and therefore we have no hesitation in holding that the Deputy Commissioner had no competence to impose the penalty of reducing the appellant to the post of Daftar- band-Attender when in fact he entered service only as Village Accountant. If the disciplinary authority felt that the gravity of the charges proved warrants that the appellant should be removed from service it was open to the authorities to make an order either dismissing or removing him from service .. . . ."

8. The third view of the matter which while holding such a reduction is permissible, but subject to the post to which the Government servant is reduced being one from which promotion to the post from which reduction is effected is permissible, is to be found in Srinivasa Sastry's, case (supra) where Rama Jois, J. of the Karnataka High Court held:

"..... It is no doubt true that normally penalty of 'reduction in rank' is imposed only so as to bring down a civil servant to a lower time scale, grade, service or post, held earlier by him before promotion and not below the post, grade, service, or time-scale to which a civil servant was directly recruited, and it appears, that it is also PG NO 555 reasonable to do so. The learned counsel, however, could not substantiate the point-with reference to the rule which empowered the disciplinary authority to impose the penalty of reduction in rank as it does not make any such differentiation ....."

[See 1979 3 SLR 509 at 515, para 91.

This is also the view taken by the Tribunal in the first of the appeals now before us. The Tribunal held :

"12. In the light of the aforesaid discussion we find that rule 11 (vi) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, on its true construction permits reduction in rank in the case of a direct recruit if the post to which he is reduced is in the line of promotion i.e. is a feeder service . . . . ." But as against this judicial-opinion in Srinivasa Sastry's case, the learned Judge, as auther, [See 'Services under the State': Indian Law Institute, page 220] expressed the view:

"Therefore, it is reasonable to take the view that a civil servant earns promotion by exhibiting his merit and ability and suffers reduction in rank instead of removal or dismissal for misconduct or inefficiency during his service in the higher post unless he is unworthy of being retained in the service and that the word 'reduction in rank' is used in Article 311 in this sense. It appears that the punishment by way of reduction in rank can be inflicted only against a civil servant who held a lower post and who has been promoted to the higher post; ....."

9. The contention of the learned Additional Solicitor General that when a legislative-authority uses the expression "reduction in rank" without imposing any limitations there is no justification to fetter or otherwise limit the plenitude of the idea of 'reduction', looks, at the first blush, seemingly plausible and even somewhat attractive. The view has commended itself for acceptance to some of the High Courts and Tribunals.

The meaning to be given to a particular statutory language depends on the evaluation of a number of interpretative-criteria. Shorn of the context, the words by themselves are "slippery customers". The general presumption PG NO 556 is that these criteria do not detract or stand apart from, but are to be-harmonised with, the well accepted legal- principles. In a difficult case, the number of relevant interpretative-criteria may be so high that the task of the court in assessing their effect is, correspondingly, difficult. Even the statutory-language apparently free from the sins of semantic ambiguity might not, in the context of the purpose, connote or convey its lexicographic thrust; but would acquire a different shade or colour imparted to it by the variations of the interpretation-criteria. The ambiguity need not necessarily be a grammatical ambiguity, but one of appropriateness of the meaning in a particular context. Francis Bennion in his "Statutory lnterpretation" refers to the nature of the task in weighing the factors:

"......it is necessary for the interpreter to assess the respective weights of the relevant interpretative factors and determine which of the opposing constructions they favour on balance . . . . ."

"We may speak of the factors tending in a certain direction as a bundle of factors. This is figurative, but then so is the idea of factors being 'weighed'. The court is unlikely even to consider the factors one by one, and certainly will not proceed in any mechanistic way . . . . ."

"We find that one bundle of factors favours one of the opposing constructions of the enactment. while the other bundle favours the other construction. [As to opposing constructions see s. 84 of this Code.] .

There may be factors drawn from a single interpretative criterion in both bundles . . . . ."

[See `Statutory lnterpretation' by Francis Bennion. 1984 End.- page 390] It is true that where statutory language should be given its most obvious meaning-to accord with how a man in the street might answer the problems posed by the words'-the Statute must be taken as one finds it. Consideration relevant to interpretation are not whether a differently conceived or worded statute would have yielded results more consonant with fairness and reasonableness. Consequences do not alter the statutory Ianguage, but may only help to fix its meaning.

PG NO 557

10. As to whether a person initially recruited to a higher time-scale, grade or service or post can be reduced by way of punishment, to a post in a lower time-scale, grade, service or post which he never held before, the statutory-language authorises the imposition of penalty does not, it is true, by itself impose any limitations. The question is whether the interpretative-factors, relevant to the provision, impart aNy such limitation. On a consideration of the relevant factors to which we will presently refer we must hold that they do.

Though the idea of reduction may not be fully equivalent with 'reversion', there are certain assumptions basic to service law which bring in the limitations of the latter on the former. The penalty of reduction in rank of a Government servant initially recruited to a higher time-scale, grade, service or post to a lower time-scale, grade, service or post virtually amounts to his removal from the higher post and the substitution of his recruitment to lower post, affecting the policy of recruitment itself. In Worthington v. Robin, [l896] 75 Law Times Reports 446 where a supervisor of Inland Revenue was reduced in rank by statutory authority, referring to the effect of reduction in rank. though in a different context, brought about by the order of the statutory authority, the Court of appeals understood the process as a dismissal from the higher post and reappointment to the Iower post. Rigby. L.J observed:

" . . . . . 1 treat what has happened as a dismissal, because, though in effect he has been reduced to a lower position, his new appointment is in fact a re-appointment. If we could see any point in this action upon which there might be a possibility of his succeeding, we should be most anxious to give him the opportunity . . . . ."

But action was dismissed because the civil servant was holding the office at the pleasure of the Commissioners under the Inland Revenue Regulation Act governing the situation.

There are, therefore, certain considerations of policy that might militate against such a wide meaning to be given to the power. In conceivable cases, the Government servant may not have the qualifications requisite for the post which may require and involve different, though not necessarily

higher, skills and attainments. Here enter considerations of the recruitment-policy. The rule must be read in consonance PG NO 558 with the general principles and so construed the expression `reduction' in it would not admit of a wider connotation. The power should, of course, be available to reduce a civil servant to any lower time-scale, grade, service or post from which he had subsequently earned his promotion.

11. The Second, and perhaps equally relevant, consideration, is the anomaly that a pushing to its logical limits of such power might produce. In Srinivasa Sastry's case, (supra), the learned Judge of the Karnataka High Court visualised these anomalies thus.

". . . . . Acceptance of the contentions urged for the respondents would lead to incongruous and absurd results. To illustrate, could a Doctor be reduced in rank to the post of a Compounder, or an Engineer to the post of a Fitter, or a Teacher in a High School to the post of a Peon, or a Scientific Officer to the post of a ministerial officer, in the absence of any provision in the rules for the consideration of the case of the civil servant concerned, for promotion from the latter category to the former category? It appears to me that on a fair and proper construction of rule II (vi) of the Rules, the condition precedent for the exercise of power under that rule by way of imposing penalty of reduction in rank to a lower post is, that the higher post from which the concerned civil servant is sought to be reduced must be a promotional post in relation to the lower post to which he is sought to be reduced . . . . . [See 1979 3 SLR 509 at 516]."

The argument that the rule enables a reduction in rank to a post lower than the one to which the civil servant was initially recruited for a specified-period and also enables restoration of the Government servant to the original post, with the restoration of seniority as well, and that, therefore, there is nothing anomalous about the matter, does not, in our opinion, wholly answer the problem. It is at best one of the criteria supporting a plausible view of the matter. The rule also enables an order without the stipulation of such restoration. The other implications of the effect of the reduction as a fresh induction into a lower grade, service or post not at any time earlier held by the Government servant remain unanswered. Then-again, there is an inherent anomaly of a person recruited to the higher grade or class of post being asked to work in a lower grade which in certain conceivable cases might require different qualifications. It might be contended that these anomalies PG NO 559 Could well be avoided by a judicious-choice of the penalty in a given fact-situation and that these considerations are more matters to be taken into account in tailoring-out the penalty than those limiting the scope of the punitive power itself. But, an over-all view of the balance of the relevant-criteria indicates that it is reasonable, to assume that the rule-making-authority did not intend to chothe the disciplinary-authority with the power which would produce such anomaious and unreasonable situations. The contrary view taken by the High Courts in the several decisions referred to earlier cannot be taken to laid down the principle correctly.

The pronouncement of this Court in Hussain Sasan Saheb Kaldgi v. State of Maharashtra, [l987[AIR (SC) 1627 relied upon by the appellant is one which deals with a case of 'reversion'. Appellant in that case who, while working as a primary-teacher in the services of the District Local Board, offered himself for and was selected by direct recruitment to the post of the Asst. Deputy Educational Inspector. But after four years he was sought to be reverted to the post of primary-teacher. His suit

for the declaration that the purported reversion was illegal and void was decreed by the trial court, but was dismissed by the High Court in appeal. This court restored the decree of the trial court. As rightly pointed out by the learned Additional Solicitor General, the case dealt with the scope and limitations of the process of 'reversion' and is of no assistance in deciding the point under consideration. But this does not make any difference to the conclusion we have reached.

13. The point now is as to what orders are to be made in these appeals. Appellants in the two appeals have been reduced to posts lower than these to which they were initially directly recruited. As these penalties cannot be sustained in the view we take of the rule, in the normal course the penalties imposed would require to be set aside and the disciplinary authority directed to re-consider which other penalty which it would now choose to impose. But, we are of the opinion that it would be somewhat unfair that at this distance of time the matters are re-opened. We think, having regard to all the circumstances of the cases the orders that commend themselves appropriate in the two cases are in terms following:

(i) In the first of the appeals, appellant-Nyadar Singh, has, after the period of the reduction in rank has spent itself out, been restored to the original position. It would, therefore, be sufficient to set aside the penalty imposed on him and direct that the period of service in the PG NO 560 reduced post be treated as service in the post held by him prior to imposition of the penalty, subject to the condition, however, that the appellant shall not be entitled to any difference of salary for and during the period of reduction. In view of this, we think that the proceedings taken against him should come to an end and there is no need to remit the matter to the Disciplinary-Authority for selection and imposition of a fresh penalty.

(ii) In the case of M.J. Ninama the penalty of reduction in rank is set aside and he shall be restored to the post which he held before the imposition of the penalty. However, for the period, if any, served by him in the lower post pursuant to the penalty imposed on him, he shall not be entitled to the difference of salary. It will also not be necessary to remit his case for fresh consideration of the choice of the penalty having regard to the lapse of time. It is ordered and the appeals disposed of accordingly. No costs.

R.S.S. Appeals disposed of.