

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 24TH DAY OF FEBRUARY, 1987.

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman

Present: Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 1301/1986.

Shri H.V. Bhat,
Aged 59 years,
Retired Director of Tele-
Communications R/o Door No.26,
7th Cross, 9th Main,
Saraswathipuram,
Mysore-9.

... Applicant.

(Shri S. Ranganatha Jois, Advocate)

V.,

1. The Union of India represented
by its Secretary,
Ministry of Communications
(P&T Board), New Delhi-1.
2. The Director General (Vig),
Ministry of Communications,
(P&T Board) Government of
India, New Delhi-1.
3. Shri Lachhman Singh,
Major, CDI, CVC,
Jamnagar House, Hutments,
Akbar Road, New Delhi.

... Respondents.

(Shri M.S. Padmarajaiah, SCGSC)

This application having come up for hearing to-day
Hon'ble Shri P. Srinivasan, Member (A) made the following.

ORDER

This is a transferred application received from
the High Court of Karnataka.

2. The applicant who was working as Director of Tele-
Communications, Karnataka Circle, Mangalore, retired from

P. Srinivasan

service on 30.6.1983. After his retirement the pension and gratuity due to him were duly computed. But, in the order dated 30.6.1983 permitting him to retire from service, a note was appended to the effect that "he may not be granted gratuity and final pension" and that "he may be granted only provisional pension." By an order dated 4.9.1984 (Annexure-L) the department of posts and Telegraphs conveyed the sanction of the President in exercise of the powers conferred under Rule 9(2)(b)(i) of the Civil Services (Pension) Rules, 1972 ('the Rules') to initiate departmental proceedings against the applicant. It was also stated therein that the proceedings would be conducted in accordance with the procedure laid down in Rules 14 and 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('CCA Rules'). Along with this order, the memorandum of articles of charge and statement of imputations of misconduct were also sent to the applicant. The applicant wants us to strike down Rule 9 of the Rules as unconstitutional and violative of Articles 14, 19(1) and 311 of the Constitution and to quash the order dated 4.9.1984 (Annexure-L) by which disciplinary proceedings were initiated against him. There are other incidental prayers to restrain the respondents from proceeding with the inquiry and to release the gratuity, final final pension and other financial benefits due to

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the applicant on his retirement.

3. We will first consider the legality of the order dated 4.9.1984 in terms of Rule 9 of the Rules as it stands. The material portion of the said rule relevant for deciding the present controversy is extracted below:

"9. Right of President to withhold or withdraw pension:

(1) The President reserves to himself the right to withholding or withdrawing a pension or part thereof, whether permanently or for a specified period, and of ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees sixty per mensem.

2(a) The departmental proceedings referred to sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.

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Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment,

(i) shall not be instituted save with the sanction of the President,

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to the departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service."

The charges in respect of which disciplinary proceedings were initiated against the applicant are reproduced below:

Article-I: That the said Sri H.V. Bhat while functioning as Director Telecom, Mangalore, during the period from 20.11.1982 to 30.6.1983 placed two orders dated 11.1.1983 and 2.3.1983 on M/s Trace Company, Cochin, for supply of 20 km. of 10 pair trace cable (10 km. on each order) without following the prescribed procedure and thus violated rule 60 of P & T Financial Hand Book Vol.I, Rules 264, 203 and 325 of P & T Manual, Vol.X, of and 9(a) and condition (v) under (a) of Schedule II & IIA of Schedule of Financial powers of P&T Officers.

Thus, by his above acts, the said Shri H.V. Bhat committed grave misconduct, exhibited lack of absolute integrity, failed to maintain devotion to duty, and acted in a manner unbecoming of a Government servant, thereby contravening the provisions of Rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rules, 1964.

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Article-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri H.V. Bhat placed eleven orders for supply of 23 power plants each of 50V/5Amps and 50V/12Amps with M/s Electro Sales Associates Bangalore and purchased a few numbers without assessing the actual requirement and without following the prescribed procedure in violation of Rule 60 of P&T Financial Hand Book Vol.I, Rules, 264, 203 & 325 of P&T Manual, Vol.X and instructions contained in D.G. P&T letter No.29/1/82-MMD dated 26.5.82.

Thus, by his above acts, the said Shri H.V. Bhat committed grave misconduct, exhibited lack of absolute integrity, failed to maintain devotion to duty, and acted in a manner unbecoming of a Government servant, thereby contravening the provisions of Rule 3(1) (i), (ii) & (iii) of CCS(Conduct) Rules, 1964.

Article III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri H.V. Bhat, without ascertaining the number of Multimeters available in various divisions and their actual requirement, placed order for the purchase of 34 Multimeters on M/s Electronic Business Machines Private Limited Madras, in violation of Rule 60 of P&T Financial Hand Book Vol.I, Rule 203 of P&T Manual, Vol.X and instructions contained in D.G. P&T letter No.29-1/82-MMD dated 26.5.82.

Thus, by his above acts, the said Shri H.V. Bhat committed grave misconduct, exhibited lack of absolute integrity, failed to maintain devotion to duty, and acted in a manner unbecoming of a Government servant, thereby contravening the provisions of Rule 3(1) (i), (ii) & (iii) of CCS(Conduct) Rules, 1964."

4. Sri Ranganath Jois, learned counsel for the petitioner pointed out that normally no disciplinary proceeding can be initiated against a Government servant after his retirement. But,

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an exception to this rule^{is} provided in the afore-
said Rule 9(1) and any proceeding initiated
thereunder has to be limited to achieve the
object of that Rule. The purpose of Rule 9 is
to empower the Government to withhold or with-
draw any part of the pension of a retired
Government servant in order to recover any pecu-
niary loss that may have been caused to Government
by his grave misconduct or negligence during the
period of his service. In order to enable this
power to be exercised, the rule provides for
initiation of departmental proceedings against a
retired Government servant. Such departmental
proceedings have, therefore, to be confined to
cases where it appears prima facie that Govern-
ment has been put to pecuniary loss by his mis-
conduct. It is not as if disciplinary proceed-
ings can be initiated for any misconduct whatso-
ever, irrespective of whether it could have
caused pecuniary loss to the Government or not.

5. In the present case all the articles of
charge were concerned with certain orders placed
by the applicant while in service either without
proper authority or in excess of requirements.
By doing so, the applicant is alleged to have
exhibited lack of absolute integrity, failed to
maintain devotion to duty and acted in a manner

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unbecoming of a Government servant. There is no allegation anywhere that any pecuniary loss to the Government was occasioned by such misconduct. Therefore, according to Sri Jois, initiation of disciplinary proceedings in this case was violative of Rule 9 of the Rules and the object for which that rule has been framed.

6. Sri. D.V. Shylendra Kumar, learned Central Government Additional Standing Counsel appearing for the respondents strongly refuted the contention of Sri Jois. According to him it was not necessary that the articles of charge should specifically allege that any pecuniary loss had been caused to the Government before disciplinary proceeding could be initiated in terms of Rule 9. Whether any pecuniary loss had occurred could be ascertained only during the inquiry and it could not be anticipated at the beginning of the inquiry itself. What the rule requires is that if there is a prima facie case of grave misconduct or negligence on the part of the Government servant while in service, that would be sufficient to initiate disciplinary proceedings against him. The charges in this case were that the applicant had not followed the proper procedure in placing orders for various articles and that he had effected purchases when there was no need for them. These involve violation of the financial

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Rules and an inference could well be drawn that such violation, if proved, would have resulted in pecuniary loss to the Government. That was all that the rule requires and, therefore, the initiation of the proceedings was in order.

7. We have considered the rival contentions very carefully. It must be remembered at the outset that Rule 9 of the Rules is not directly concerned with initiation of disciplinary proceedings against a Government servant. The CCS (CCA) Rules deal with that subject. As one of the Pension Rules, it seeks to indemnify the Government against any losses caused to it by the misconduct of its officials while in service by empowering Government to recover such loss, from the pension payable to such officials after their retirement. However, before this power can be exercised, it becomes necessary to initiate disciplinary proceedings in respect of the misconduct in order to establish that pecuniary loss had actually taken place thereby which had to be recovered from pension. It is in this indirect manner that the question of initiating disciplinary proceedings arises. Some safeguards have been provided ~~xxxxxxxx~~ in sub-rule 2(b) of Rule 9 extracted above against the misuse of this provision against a retired Government servant. These safe

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guards have been fulfilled in this case. The question that arises for determination is whether this incidental power to initiate departmental inquiry conferred by Rule 9 is an unlimited power and whether all kinds of misconduct can be inquired into under this rule. Normally when a Government servant retires, the "servant" and "master" relationship between him and the Government ^{ceases} ~~ceases~~ to exist and he can no longer be governed by the Rules of discipline. He should be allowed to spend his retirement in peace and should not be pursued by inquiries for alleged misconduct when he was in service. The Government should be alert to detect such misconduct and initiate disciplinary proceedings against him while he is still in service. On the other hand it is equally important that any pecuniary loss brought about by the misconduct of a Government servant is made good by him even after he has retired from service. Reconciling these two objects, it seems to us that only when a prima facie case of pecuniary loss to Government as a result of misconduct of the officer concerned is made out can a disciplinary inquiry be ordered under the aforesaid Rule 9 (2)(b) and not in respect of any misconduct. ⁹⁾ The charge in respect of which the inquiry is contemplated should, on the face of it disclose that Government had been put to loss. A mere speculation that a charge which does not specifically mention

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loss to Government might eventually turn out to be one that has resulted in such loss when the inquiry is completed ^{or} will ^{not} do. We are concerned here only with the position as it stood when the inquiry was initiated and charges framed. We have extracted the articles of charge above. In none of these is there even a remote suggestion that the conduct of the applicant had resulted in loss to the Government. We have gone through the statement of imputations of misconduct attached to the articles of charge and we do not find any such suggestion there also.

Sri Shylendra Kumar, contended that since the charges relate to violations of financial regulations, the question of pecuniary loss to Government cannot be ruled out; in fact such loss can be inferred from the nature of the misconduct. To our mind, no such inference can be drawn. The charge alleges only irregularity of procedure and nothing more. ~~of the~~ ^M ~~Rules.~~ As we have mentioned earlier we do not notice any reference in the charges or in the statement of imputations to possible pecuniary loss to Government. We, therefore hold that the inquiry contemplated against the applicant was not justified in terms of Rule 9 of the Rules.

8. We are fortified in our conclusion by the decision of a Division Bench of the High Court of Karnataka in the unreported case of C. KRISHNAPPA V., STATE OF MYSORE AND 2 OTHERS (Writ Petition No.5040/69 decided on 2.4.1971) interpreting an

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analogous provision, viz., Rule 214 of the Karnataka Civil Services Rules. The decision of a Full Bench of the Kerala High Court in R.P. NAIR V., KERALA STATE ELECTRICITY BOARD (1979 (1) SLR 384) interpreting a similar rule in the Kerala Service Rules also supports the view we have taken.

9. In the view we have taken above, it is not necessary for us to examine the applicant's challenge to the constitutional validity of Rule 9 of the Pension Rules.

10. In the result, the ^{application} ~~app/~~licant is allowed and the order dated 4.9.1984 (Annexure-L and M) initiating disciplinary proceedings against the applicant ~~are~~ ^{is} quashed. Respondents will also settle forthwith all the retirement benefits to which the applicant is entitled under the rules. Parties will bear their own costs.

[Signature]
Vice-Chairman 24/2/1987

[Signature]
Member (A) 24/2/87

D.No. 4186/87/ivA

SUPREME COURT OF INDIA
NEW DELHI.

Dated 5.8.88

From: The Additional Registrar,
Supreme Court of India.

To

The Registrar,
Central Administrative Tribunal
Bangalore-5600038

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 11041 /1987

Petition under Article 136 of the Constitution of India for
Special Leave to Appeal to the Supreme Court from the Judgment
& Order dated 24.2.1987 of the High Court of
Central Administrative Tribunal, Bangalore Bench, Bangalore
in Appln. No. 130.1/1986)

Union of India & Ors

....Petitioner s

H. V.Bhat

Vs.

...Respondent

Sir,

I am to inform you that the petition above -mentioned
for Special Leave to Appeal to this Court was filed on behalf
of the Petitioner above-named from the Judgment and Order
Central Admn. Tribunal, Bangalore ~~Judgment and~~
of the ~~High Court~~ noted above and that the same was ~~was~~
dismissed by this Court on the 11th day of May,
1988.

Yours faithfully,

[Signature]
for Addl. Registrar.

Sec- IV-A.

D.No. 4186/87/iva

SUPREME COURT OF INDIA
NEW DELHI.

Dated 5.8.88

From: The Additional Registrar,
Supreme Court of India.

To

The Registrar,
Central Administrative Tribunal
Bangalore-5600028

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 11041 /1987

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of the ~~High Court of~~ noted above and that the same was/~~XXXX~~
dismissed by this Court on the 11th day of May,
1988.

Yours faithfully,

for Addl. Registrar.

Hon'ble VC
Hon'ble Members

(Shri Ch. RKR, Shri P. S. and Shri L. H. R.)

Registrar.

Circulated for kind

information please.

While the order
under appeal interpet
Rule 9 of the Rules
and has been
confirmed by the
SC, we may probably
send it to being
reported of 17/8/88

Sec IV-A. (Copy to
17/8/88

PTO

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA),
Indiranagar,
Bangalore-560 038.

Dated: 19-3-87

Application No. 1301/86(T)

W.P. No. 17219/84

Applicant
To

H. V. Bhat

VS. UOI, The Secretary, M/communications
& others.

1. Sh. H. V. Bhat,
Ptd. Director of Telecommunications,
R/o D/O No 26, 4th Cross,
9th Main, Saraswathi Puram,
Mysore - 9.

2. The Secretary, UOI,
M/communications,
(P&T Board), New Delhi.

3. The Director General (Vig)
M/communications,
(P&T) Board, New Delhi.

4. Sh. Lachhman Singh,
CDS, CVC, Jamnagar
House, Hutments,
Akbar Road, New Delhi.

5. Sh. S. Ranganatha Iyer,
Advocate
150/36, National High School
Road, Vivekswara Puram,
Bangalore - 4.

6. Sh. M. S. Padmarajiah,
Senior Central Govt. Standing
Counsel,
High Court Building,
Bangalore - 1.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH
IN APPLICATION NO. 1301/86(T)

Please find enclosed herewith the copy of the Order/

~~Interim Order~~ passed by this Tribunal in the above said

Application on 24/2/87.

Encl: As above.

B. V. Venkatesh Reddy
Deputy Registrar
(Judicial)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 24TH DAY OF FEBRUARY, 1987.

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman

Present: Hon'ble Shri P. Srinivasan, Member (A)

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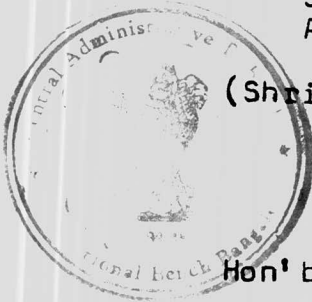
(Shri S. Ranganatha Jois, Advocate)

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... Respondents.

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This application having come up for hearing to-day
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2. The applicant who was working as Director of Tele-
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service on 30.6.1983. After his retirement the pension and gratuity due to him were duly computed. But, in the order dated 30.6.1983 permitting him to retire from service, a note was appended to the effect that "he may not be granted gratuity and final pension" and that "he may be granted only provisional pension." By an order dated 4.9.1984 (Annexure-L) the department of posts and Telegraphs conveyed the sanction of the President in exercise of the powers conferred under Rule 9(2)(b)(i) of the Civil Services (Pension) Rules, 1972 (the Rules') to initiate departmental proceedings against the applicant. It was also stated therein that the proceedings would be conducted in accordance with the procedure laid down in Rules 14 and 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('CCA Rules'). Along with this order, the memorandum of articles of charge and statement of imputations of misconduct were also sent to the applicant. The applicant wants us to strike down Rule 9 of the Rules as unconstitutional and violative of Articles 14, 19(1) and 311 of the Constitution and to quash the order dated 4.9.1984 (Annexure-L) by which disciplinary proceedings were initiated against him. There are other incidental prayers to restrain the respondents from proceeding with the inquiry and to release the gratuity, final pension and other financial benefits due to



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the applicant on his retirement.

3. We will first consider the legality of the order dated 4.9.1984 in terms of Rule 9 of the Rules as it stands. The material portion of the said rule relevant for deciding the present controversy is extracted below:

"9. Right of President to withhold or withdraw pension:

(1) The President reserves to himself the right to withholding or withdrawing a pension or part thereof, whether permanently or for a specified period, and of ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees sixty per mensem.

2(a) The departmental proceedings referred to sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.



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Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment,

(i) shall not be instituted save with the sanction of the President,

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(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to the departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service."

The charges in respect of which disciplinary proceedings were initiated against the applicant are reproduced below:

Article-I: That the said Sri H.V. Bhat while functioning as Director Telecom, Mangalore, during the period from 20.11.1982 to 30.6.1983 placed two orders dated 11.1.1983 and 2.3.1983 on M/s Trace Company, Cochin, for supply of 20 km. of 10 pair trace cable (10 km. on each order) without following the prescribed procedure and thus violated rule 60 of P & T Financial Hand Book Vol.I, Rules 264, 203 and 325 of P & T Manual, Vol.X, of and 9(a) and condition (v) under (a) of Schedule II & IIA of Schedule of Financial powers of P&T Officers.

Thus, by his above acts, the said Shri H.V. Bhat committed grave misconduct, exhibited lack of absolute integrity, failed to maintain devotion to duty, and acted in a manner unbecoming of a Government servant, thereby contravening the provisions of Rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rules, 1964.

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That during the aforesaid period and while functioning in the aforesaid office, the said Shri H.V. Bhat placed eleven orders for supply of 23 power plants each of 50V/5Amps and 50V/12Amps with M/s Electro Sales Associates Bangalore and purchased a few numbers without assessing the actual requirement and without following the prescribed procedure in violation of Rule 60 of P&T Financial Hand Book Vol.I, Rules, 264, 203 & 325 of P&T Manual, Vol.X and instructions contained in D.G. P&T letter No.29/1/82-MMD dated 26.5.82.

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object of that Rule. The purpose of Rule 9 is
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niary loss that may have been caused to Government
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charge were concerned with certain orders placed
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proper authority or in excess of requirements.
By doing so, the applicant is alleged to have
exhibited lack of absolute integrity, failed to
maintain devotion to duty and acted in a manner

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unbecoming of a Government servant. There is no allegation anywhere that any pecuniary loss to the Government was occasioned by such misconduct. Therefore, according to Sri Jois, initiation of disciplinary proceedings in this case was violative of Rule 9 of the Rules and the object for which that rule has been framed.

6. Sri. D.V. Shylendra Kumar, learned Central Government Additional Standing Counsel appearing for the respondents strongly refuted the contention of Sri Jois. According to him it was not necessary that the articles of charge should specifically allege that any pecuniary loss had been caused to the Government before disciplinary proceeding could be initiated in terms of Rule 9. Whether any pecuniary loss had occurred could be ascertained only during the inquiry and it could not be anticipated at the beginning of the inquiry itself. What the rule requires is that if there is a prima facie case of grave misconduct or negligence on the part of the Government servant while in service, that would be sufficient to initiate disciplinary proceedings against him. The charges in this case were that the applicant had not followed the proper procedure in placing orders for various articles and that he had effected purchases when there was no need for them. These involve violation of the financial

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7. We have considered the rival contentions very carefully. It must be remembered at the outset that Rule 9 of the Rules is not directly concerned with initiation of disciplinary proceedings against a Government servant. The CCS (CCA) Rules deal with that subject. As one of the Pension Rules, it seeks to indemnify the Government against any losses caused to it by the misconduct of its officials while in service by empowering Government to recover such loss, from the pension payable to such officials after their retirement. However, before this power can be exercised, it becomes necessary to initiate disciplinary proceedings in respect of the misconduct in order to establish that pecuniary loss had actually taken place thereby which had to be recovered from pension. It is in this indirect manner that the question of initiating disciplinary proceedings arises. Some safeguards have been provided ~~provided~~ in sub-rule 2(b) of Rule 9 extracted above against the misuse of this provision against a retired Government servant. These safe

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guards have been fulfilled in this case. The question that arises for determination is whether this incidental power to initiate departmental inquiry conferred by Rule 9 is an unlimited power and whether all kinds of misconduct can be inquired into under this rule. Normally when a Government servant retires, the "servant" and "master" relationship between him and the Government ^{ceases} to exist and he can no longer be governed by the Rules of discipline. He should be allowed to spend his retirement in peace and should not be pursued by inquiries for alleged misconduct when he was in service. The Government should be alert to detect such misconduct and initiate disciplinary proceedings against him while he is still in service. On the other hand it is equally important that any pecuniary loss brought about by the misconduct of a Government servant is made good by him even after he has retired from service. Reconciling these two objects, it seems to us that only when a prima facie case of pecuniary loss to Government as a result of misconduct of the officer concerned is made out can a disciplinary inquiry be ordered under the aforesaid Rule 9 (2)(b) and not in respect of any misconduct. 4)

The charge in respect of which the inquiry is contemplated should, on the face of it disclose that Government had been put to loss. A mere speculation that a charge which does not specifically mention

P. L. - 48

loss to Government might eventually turn out to be one that has resulted in such loss when the inquiry is completed ^{not} will do. We are concerned here only with the position as it stood when the inquiry was initiated and charges framed. We have extracted the articles of charge above. In none of these is there even a remote suggestion that the conduct of the applicant had resulted in loss to the Government. We have gone through the statement of imputations of misconduct attached to the articles of charge and we do not find any such suggestion there also.

Sri Shylendra Kumar, contended that since the charges relate to violations of financial regulations, the question of pecuniary loss to Government cannot be ruled out; in fact such loss can be inferred from the nature of the misconduct. To our mind, no such inference can be drawn. The charge alleges only irregularity of procedure and nothing more. ~~of the~~ f1

81 ~~Rules~~. As we have mentioned earlier we do not notice any reference in the charges or in the statement of imputations to possible pecuniary loss to Government. We, therefore hold that the inquiry contemplated against the applicant was not justified in terms of Rule 9 of the Rules.

8. We are fortified in our conclusion by the decision of a Division Bench of the High Court of Karnataka in the unreported case of C. KRISHNAPPA V., STATE OF MYSORE AND 2 OTHERS (Writ Petition No.5040/69 decided on 2.4.1971) interpreting an

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analogous provision, viz., Rule 214 of the Karnataka Civil Services Rules. The decision of a Full Bench of the Kerala High Court in R.P. NAIR V., KERALA STATE ELECTRICITY BOARD (1979 (1) SLR 384) interpreting a similar rule in the Kerala Service Rules also supports the view we have taken.

9. In the view we have taken above, it is not necessary for us to examine the applicant's challenge to the constitutional validity of Rule 9 of the Pension Rules.

10. In the result, the ^{application} ~~am/~~ is allowed and the order dated 4.9.1984 (Annexure-L and M) initiating disciplinary proceedings against the applicant ^H ~~are~~ is quashed. Respondents will also settle forthwith all the retirement benefits to which the applicant is entitled under the rules. Parties will bear their own costs.

True copy
Sd/-
Vice-Chairman 24/11

Sd/-
Member (A) 24/11

B.V. Venkatesh Reddy
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
19/13