(2008) 05 GAU CK 0007

Gauhati High Court (Imphal Bench)

Case No: None

L. Mangia	APPELLANT
Vs	
K. Panmei and Others	RESPONDENT

Date of Decision: May 29, 2008

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2008) 4 GLT 251 : (2008) 4 GLT 250

Hon'ble Judges: T. Nandakumar Singh, J; P.K. Musahary, J

Bench: Division Bench

Final Decision: Allowed

Judgement

T. Nandakumar Singh, J.

The challenge in the present writ appeal is to the judgment and order of the learned Single Judge dated 27.09.06 passed in WP (C) No. 514/04 filed by the Principal-Respondents (Writ Petitioners), wherein and whereunder the learned Single Judge quashed the final seniority list dated 15.01.2000, as on 15.01.2000, of the Assistant Directors of the Directorate for Development of Tribals and Scheduled Castes only on the sole ground that it was issued in violation of the principles of natural justice.

2. Heard Mr. Kh. Tarunkumar, Singh, learned Counsel appearing for the appellant, Mr. R.K. Nokulsana, learned Senior counsel assisted by Mr. R.K. Milan appearing for the Principal-respondents (writ petitioners) and also Mr. R.S. Reisang, learned Govt. Advocate appearing for the Proforma-respondents.

3. The core questions to be answered in the present writ appeal are: (1) Whether the principles of natural justice would be only ''useless formality'' in the facts and circumstances of the case or ''doctrine of useless formality'' would be applicable in the present case? (2) Whether the present case has come under the exception in which it would have been a futile exercise to give an opportunity ofbeing heard to

the Principal-respondents before preparing the impugned final seniority list dated 15.01.2000? and (3) Whether in the given fact of the present case issuing a writ directing the Proforma-respondents i.e. the State Respondents to observe the principles of natural justice before issuing the final seniority list of the Assistant Directors of the Directorate for Development of Tribals and Scheduled Castes, Manipur by quashing the impugned final seniority list dated 15.01.2000 would amount to issuing futile writ?

4. For answering the core questions it would be pertinent to re-capitulate the brief fact of the case of the Principal-respondents (writ petitioners) and also that of the appellant hereunder.

5. The facts of the case of the Principal-respondents (writ petitioners) are that the Posts of Research Officer, Special Officer and Assistant Director of the Directorate ofTribals and Scheduled Castes are same in rank carrying the same scale of pay. After entering the service on ad hoc basis since 21.03.83, the Principal-respondent (writ petitioner) No. 1 got his service regularized in the post of Special Officer vide orders of the Govt. of Manipur being No. 10.44/83-TD, Imphal dated 07.01.87 with effect from 24.05.86. The post of Public Relation Officer of the Directorate for Development of Tribals and Scheduled Castes, Govt. of Manipur is lower in rank and the scale of pay to the post of Special Officer/Assistant Director. In order to avail of the higher scale of pay to the post of Public Relation Officer in the Revision of Pay, the Manipur Services (Revised Pay) Rules 1990 had been amended under the Govt. notification No. 2/28/89-PIC dated 11.10.96. The said Manipur Services (Revised Pay) Amendment Rules, 1996 came into force on the 1st day of January, 1986 notionally, although cash payment shall be with effect from 01.05.1994. The Principal-respondents (writ petitioners) further pleaded that the present appellant who was appointed to the post of Public Relation Officer which was upgraded to the rank of Assistant Director as per the said amended Rules notionally from 01.01.86 cannot be treated as an officer equivalent to the rank of Assistant Director before 11.10.96 on which date the said Manipur Services (Revised Pay) Amendment Rules was issued and as such the services of the present appellant as Public Relation Officer prior to 11.10.96 cannot be treated as service in the post equivalent to Assistant Director or its equivalent. Therefore, the Principal-respondent (writ petitioner) No. 1, Sri K. Panmei and Principal-respondent (writ petitioner) No.2, Sri Ngurkaplein who are continuously working as Assistant Director or equivalent from the year 1986 would certainly be senior to the appellant who was initially appointed to the post of Public Relation Officer which was upgraded to the post of Assistant Director or equivalent only from 11.10.96.

6. The Principal-respondents also further pleaded in the joint writ petition that the name of the present appellant was not in the tentative seniority list of Assistant Director/T.D. and equivalent in the Tribal Development Department, Manipur as on 11.07.97 dated 11.9.97 as the appellant was not in the cadre of Assistant Director or

its equivalent at that time. But surprisingly in the final seniority list of Assistant Director or equivalent of the Directorate for Development of Tribals and Scheduled Castes, Manipur as on 15.01.2000, the name of the appellant appeared at SI. No.2 and the names of the Principal-respondent (writ petitioner) No. 1 (writ petitioner) Shri K. Paranei, Principal-respondent (writ petitioner) No.2, Shri Ngurkaplein and Principai-respondent (writ petitioner) No.3 Shri A. Nimai Sharma appeared at SI. Nos. 3,4, and 6 respectively.

7. Being aggrieved by the impugned seniority list, the Principal-respondents filed a joint writ petition being WP (C) No. 514/04 assailing the impugned final seniority list dated 15.01.2000 only on the two grounds:-(1) No opportunity was given to the Principal respondents (writ petitioners) for objecting the impugned seniority list dated 15.01.2000 or in other words, the impugned final seniority list dated 15.01.2000 was issued in violation of the principles of natural justice and (2) also that the appellant who was initially appointed as Public Relation Officer to the post of Public Relation Officer which was upgraded to the post of Assistant Director or equivalent only on 11.10.% cannot be seniorto the Principal-respondents (writ petitioners).

8. The appellant as well as the Proforma-respondents filed their affidavit in opposition stating that the appellant was initially appointed as Public Relation Officer with effect from 01.06.79 in the Directorate for Development of Tribals and Scheduled Castes, Govt. of Manipur. The Deputy Secretary (PIC), Govt. of Manipur issued a notification on 11.10.96 whereby the rule, namely, Manipur Services (Revised Pay) Amendment Rules, 1996 under which the pay scale of the post of Public Relation Officer was revised from Rs. 650-1285/- to Rs. 1640-2900/-p.m. which is the pay scale for the post of Assistant Director, Assistant Project Officer, Special Officer and Research Officer of the Directorate for Development of Scheduled Castes and Scheduled Tribes, Govt. of Manipur notionally with effect from 01.01.1986. The Govt. of Manipur issued orders being No. 3/5/93-TD dated 24.2.98 for redesignating the post of Public Relation Officer of the Directorate for Development of Tribal and Backward Classes, Manipur as Assistant Director with immediate effect with a condition that the past services of Public Relation Officer shall be treated as Assistant Director with effect from 1.1.86. Therefore, the case of the appellant as well as the Pro-forma-respondents i.e. State Respondents were that since the service of the appellant as Assistant Director is to be counted with effect from 01.01.86 under the said order of the Govt. of Manipur dated 24.2.96, the appellant will definitely be senior to the Principal-respondents (writ petitioners) who admittedly started rendering their services as Assistant Director with effect from 24.5.86 in respect of the Principal-respondents (writ petitioner) Nos. 1 and 2 and 16.10.90 in respect of the Principal-respondent (writ peititoner) No. 3. For easy reference the said order of the Govt. of Manipur dated 24.2.88 is quoted hereunder:

GOVERNMENT OF MANIPUR
SECRETARIAT: TRIBAL
DEVELOPMENT DEPARTMENT

ORDER

No. 3/5/93-TD

Imphal, the
24th February, 1998.

The Governor of Manipur is pleased to redesignate the post of Public Relation Officer of Directorate for Development of Tribal and Backward Classes, Manipur as Assistant Director with immediate effect.

2. The past services of Public Relation Officer shall be treated as Assistant Director w.e.f. 1.1.86 i.e. the date from which the scale of pay of Public Relation Officer was notion-ally revised vide Notification No.2/28/89-PIC dated 11.10.1996.

By order & in the name of Governor

Sd/
NGLUIKHAM Secretary (TD)
to the Government of Manipur"

9. In the joint writ petition i.e. WP (C) No. 514/04 filed by the Principal-respondents (writ petitioners), the said order of the Govt. of Manipur dated 24.2.98 which has been quoted above is not challenged nor relief is sought for quashing the said order of the Govt. of Manipur dated 24.2.98.

10. As stated above, the learned Single Judge passed the impugned judgment and order dated 27.9.2006 allowing the writ pe tition No. WP (C) 514/04 by quashing the impugned final seniority list dated 15.1.2000 of the Assistant Director in the Directorate for Development of Tribals and Scheduled Castes, Manipur only on the ground that the principles of natural justice was violated, in asmuch as, no opportunity ofbeing heard was given to the Principal-respondents (writ petitioners) before issuing the impugned final seniority list dated 15.1.2000. In the above fact, this Court has to answer the core questions formulated above.

11. On bare perusal of the said order of the Govt. of Manipur dated 24.2.98, it is clear that the past services of Public Relation Officer shall be treated as Assistant Director w.e.f. 1.1.86 i.e. the date from which the scale of pay of Public Relation Officer was notion-ally revised vide notification No.2/28/89-PIC dated 11.10.96.

12. It is fairly well settled law that a beneficial provision of statute/orders must be liberally construed so as to fulfill the purpose and not to frustrate it. It is also fairly well settled principle of interpretation, rules/orders that the court must proceed on the assumption that the legislature/Government did not make a mistake and that it

did what it intended to do. It is also fairly well settled law that the regulations/orders are made/passed not to be broken but to be obeyed. The court (Constitution Bench) in Kartar Singh v. State of Punjab (1994) 3 SCC 5 held thatlaw is made not to be broken but to be obeyed.

13. The conditions of service of an employee/Government servant are regulated by Rules, Regulations and Orders and also equally the employers are also governed by the Rules and Regulations framed by them as well as by the order issued by them. The Apex Court (Constitution Bench) in Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, held that the regulations framed by the Corporations, i.e. Oil and Natural Gas Commission, Life Insurance Corporation and Industrial Finance Co., basing on which employments were made were binding not only to the Corporation but also to their employees. The Hon''ble Mr. Justice A.R. Ray (as then he was) on his behalf and on behalf of Hon''ble Mr. Justice V.K. Chandrachut and Hon''ble Mr. Justice S.C. Gupta, in Sukhdev Singh''s case (supra) observed that regulations framed by those Companies were intended to be binding up them and were the basis on which the employment were made.

14. The Apex Court in a case arising from this court, i.e. in Dinesh Chandra Sangma Vs. State of Assam and Others, held that it is a cardinal rule of construction that no words should be considered redundant or surplus in interpreting the provisions of a statute or a rule. Again, the Apex Court in Atma S. Berar Vs. Mukhtiar Singh, , held that the scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words, statutory enactments must ordinarily be considered according to its plain meaning and no other words would be added, or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute.

15. Keeping in view of the well settled principles of law discussed above as well as the ratio laid down by the Apex Court in the cases mentioned above, we have given our conscious application of mind to the said order of the Govt. of Manipur dated 24.2.98 and held that the conditions mentioned in the said order of the Govt of Manipur dated 24.2.98 are not only binding to the appellant and the Principal-respondents (writ petitioners) but also to the Proforma-respondents i.e. State Respondents and also that the past services of the appellant as Public Relation Officer shall be treated as Assistant Director w.e.fl.1.86.

16. The Apex Court in S.L. Kapoor Vs. Jagmohan and Others, held that in a case whereon the admitted or indisputable facts only one conclusion is possible, the court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because courts do not issue futile writs. In the present case, it is not disputed that the Government of Manipur issued

the said order dated 24.2.98 for treating the past services of the appellant as Public Relation Officer as Assistant Director w.e.f 1.1.88 and such being the undisputed fact giving an opportunity of being heard to the Principal-respondents (writ petitoners) or observance of natural justice will have no consequences, inasmuch as, the Principal-respondents (writ petitioners) are not assailing the said order of the Govt. of Manipur dated 24.2.98 and as such issuing a writ for observance of natural justice will only be a futile one. Paras 17, 21 and 24 of SCC in S.L. Kapoor (supra) are quoted hereunder:

Para 17. Linked with this question is the question whether the failure to observe natural justice does at all matter if the observance of natural justice would have made no difference, the admitted or indisputable facts speaking for themselves. Where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ to compel the observance of natural justice, not because it approves the non-observance of natural justice but because courts do not issue futile writs. But it will be a pernicious principle to apply in other situation here conclusions are controversial, however, slightly, and penalties are discretionery.

Para 21. In Margarita Fuentes v. Tobert L. Shevin it was said (at P. 574):

But even assuming that the appellants had fallen behind in their installment payments, and that they had no other valid defenses; that is immaterial here. The right to be heard does not depend upon an advance showing that one will surely prevail at the hearing. ''To one who protests against the taking of his property without due process of law, it is no answer to say that in his particular case due process of law would have led to the same result because he had no adequate defense upon the merits.

Para 24. The matter has also been treated as an application of the general principle that justice should not only be done but should be seen to be done. Jackson''s Natural Justice (1980 Edn.) contains a very interesting discussion of the subject. He says:

The distinction between justice being done and being seen to be done has been emphasized in many cases.

The requirement that justice should be seen to be done may be regarded as a general principle which in some cases can be satisfied only by the observance of the rules of natural justice or as itself forming one of those rules. Both explanations of the significance of the maxim are found in Lord Widgery C.J''s Judgment in R.V. Home Secretary, ex.p. Hosenball, where after saying that "the principles of natural justice are those fundamental rules, the breach of which will prevent justice from being seen to be done" he went on to describe the maxim as" one of the rules generally accepted in the bundle of the rules making up natural justice.

It is the recognition of the importance of the requirement that justice is seen to be done that justice the giving of a remedy to a litigant even when it may be claimed that a decision alleged to be vitiated by a breach of natural justice would still have been reached had a fair hearing been given by an impartial tribunal. The maxim is applicable precisely when the court is concerned not with a case of actual injustice but with the appearance of injustice or possible injustice. In Altco Ltd. v. Sutherland Donaldson, J., said that the court, in deciding whether to interfere where an arbitrator had not given a party a full hearing was not concerned with whether a further hearing would produce a different or the same result. It was important that the parties should not only be given justice, but, as reasonable men, know that they had justice or "to use the time hallowed phrase" that justice should not only be done but be seen to be done. In R. v. Thames Magistrates Court, ex.p. Polemis, the applicant obtained an order of certiorari to quash his conviction by a stipendiary Magistrate on the ground that he had not had sufficient time to prepare his defence. The Divisional Court rejected the argument that, in its discretion, it ought to refuse relief because the applicant had no defence to the charge.

It is again absolutely basic to our system that justice must not only be done but must manifestly be seen to be done. If justice was so clearly not seen to be done, as on the afternoon in question here, it seems to me that it is no answer to the applicant to say: ''Well, even if the case had been properly conducted, the result would have been the same''. That is mixing up doing justice with seeing that justice is done (per Lord Widgery C.J. at page 1375).

In our view the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced. As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because courts do not issue futile writs. We do not agree with the contrary view taken by the Delhi High Court in the judgment under appeal.

17. The ratio laid down in Kapoor''s case (supra) was followed by the Apex Court in Dr. J. Shashidhara Prasad Vs. Governor of Karnataka and Another, . The fact in that case was that the appellant Dr. J.S. Prasad was appointed as Vice Chancellor w.e.f. 4.9.1997 vide order of the Chancellor issued on 20.8.1997 but on next date, i.e. 21.8.1997, the appointment order was cancelled on the ground that a criminal case was pending against the appellant. The appellant filed writ petition assailing the said order of the Chancellor dated 21.8.97 mainly on the ground that the Principles of Natural Justice was followed while issuing the said order of the Chancellor dated

21.8.97, inasmuch as, no opportunity was given to the appellant before issuing the impugned order dated 21.8.97. But it is an undisputable fact that at the time of issuing the said order dated 20.8.97 a criminal case was pending against the appellant and such being the situation, giving an opportunity of being heard or observance of the Principles of Natural Justice will have no consequence. As such issuing a writ for observance of Principles of Natural Justice will only be a futile one. Para 17 of SCC in Dr. J.S. Prasad case is quoted hereunder:

Para 17. The next decision referred to is the judgment is S.L. Kapoor v. Jagmohan. Reliance was placed on the following passage in the judgment: (SCC p. 395, Para 24).

In our view, the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It will come from a person who has denied justice that the person who has been denied justice is not prejudiced. As we said earlier, where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ to compel the observance of natural justice, nor because it is not necessary to observe natural justice but because courts do not issue futile writs.

The aforesaid passage itself shows that the court will refuse to issue a writ which will be futile even after there had been failure to observe the principles of natural justice. On the facts of the present case, it is not disputed that the Chancellor has appointed the second respondent as Vice-Chancellor after cancelling the appointment of the appellant. It is also not disputed that a criminal case was pending against the appellant on the date on which the order of cancellation of the appellant was made.

18. The Apex Court is of the similar view in M.C. Mehta Vs. Union of India (UOI) and Others, that--if on the admitted or indisputable factual position, only one conclusion is possible and permissible, the court need not issue a writ merely because there has been a violation of the principles of natural justice, inasmuch as. order enforcing natural justice will only be an empty formality. Paras 19, 20, 21 and 23 of SCC in M.C. Mehta''s case are quoted hereunder:

Para 19. Learned Senior Counsel for Bharat Petroleum contended that once natural justice was violated, the court was bound to strike down the orders and there was no discretion to refuse relief and no other prejudice need be proved.

Para 20. It is true that in Ridge v. Baldwin, it has been held that breach of the principles of natural justice is in itself sufficient to grant relief and that no further de facto prejudice need be shown. It is also true that the said principles have been followed by this Court in several causes but we might point out that this Court has not laid down any absolute rule. This is clear from the judgment of Chinnappa

Reddy, J. in S.L. Kapoor v. Jagmohan. After stating (at SCC p. 395, para 24) that--

Principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference natural justice had been observed.

and that "non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary." Chinnappa Reddy, J., also laid down an important qualification as follows: (SCC p.395 p. para 24).

As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only penalty is permissible, the court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because courts do not issue futile writs.

(emphasis supplied).

Para 21. It is. therefore, clear that if on the admitted or indisputable factual position, only one conclusion is possible and permissible, the court need not issue a writ merely because there is violation of the principles of natural justice.

Para 23. We do not propose to express any opinion on the correctness or otherwise of the ''useless formality'' theory and leave the matter for decision in an appropriate case, inasmuch as. in the case before us. "admitted and indisputable" facts show that grant of a writ will be in vain as pointed out by Chinnappa Reddy, J.

19. The Apex Court in Dharmarathmakara Raibahadur Aroot Ramaswamy Mudaliar Educational Institution Vs. The Educational Appellate Tribunal and Another, held that the opportunity to show cause to adversely affected person will not be necessary in a case where the undisputed fact will not permit the affected person to put up valid defence when opportunity being given by the Court. The fact in that case was that the appellant was permitted leave to undergo M. Phil but instead of undergoing M. Phil, the appellant admitted herself for Ph.D Course and refused to join her service as Lecturer in Chemistry even after the leave for undergoing M.Phil had expired. Accordingly, the appellant was terminated from her service by an order of the authority. The appellant had challenged the order of the authority only on the ground that opportunity was not given to her before issuing the termination orders. The Apex Court held that even, if opportunity was given to the appellant, she would have no plausible explanation. This being the situation, the said termination order shall not be interfered with only on the ground of non-observation of principles of natural justice. Para 8 of SCC in Dharmarathmakara Raibahadur Arcot Ramaswamy Mudaliar Educational Institute (supra) is quoted hereunder:

Para 8. The contention of learned Counsel for the respondent is confined that there was no enquiry in terms of Section 6 of the said Act. There is no submission of any defence on merit. Even before us when we granted learned Counsel an opportunity to give any prima facie or plausible explanations on record to defend her actions,

nothing could be placed before us. Giving of opportunity or an enquiry of course is a check and balance concept that no one''s right be taken away without giving him/ her opportunity or without enquiry in a given case or where the statute requires. But this cannot be in a case where allegation and charges are admitted and no possible defence is placed before the authority concerned. What enquiry is to be made when one admits violations? When she admitted she did not join M. Phil, course, she did not report back to her duty which is against her condition of leave and contrary to her affidavit which is the charge, what enquiry was to be made? In a case where the facts are almost admitted, the case reveals itself and is apparent on the face of the record, and in spite of opportunity no worthwhile explanation is forthcoming as in the present case, it would not be a fit case to interfere with the termination order.

20. The Apex Court also discussed the principles of useless formality or doctrine of useless formality regarding the application of Principles of Natural Justice in a given case in Aligarh Muslim University and Others Vs. Mansoor Ali Khan, and held that in the cases of admitted or indisputable fact leading only one conclusion observance of principles of natural justice will only be an useless formality. Paras 21, 25 and 26 of the SCC in Aligarh Muslim University and Ors. (supra) are quoted hereunder:

Para 21. As pointed recently in M.C. Mehta v. Union of India there can be certain situations in which an order passed in violation of natural justice need not be set aside under Article 226 of the Constitution of India. For example where no prejudice is caused to the person concerned, interference under Article 226 is not necessary. Similarly, if the quashing of the order which is in breach of natural justice is likely to result in revival of another order which is in itself illegal as in Gadde Venkateswara Rao v. Govt. of A.P. It is not necessary to quash the order merely becasue of violation of principles of natural justice.

Para 25. The "useless formality" theory, it must be noted, is an exception. Apart from the class of cases of "admitted or indisputable facts leading only to one conclusion" referred to above, there has been considerable debate on the application of that theory in other cases. The divergent views expressed in regard to this theory have been elaborately considered by this Court in M.C. Mehta referred to above. This Court surveyed the views expressed in various judgments in England by Lord Reid, Lord Wilberforce, Lord Woolf, Lord Bingham, Megarry, J. and Straughton, L.J. etc in, various cases and also views expressed by leading writers like Profs, Garner, Craig, de Smith, Wade, D.H. Clark etc. Some of them have said that orders passed in violation must always be quashed for otherwise the court will be prejudging the issue. Some others have said that there is no such absolute rule and prejudice must be shown. Yet, some others have applied via media rules. We do not think it necessary in this case to go deeper into s/ these issues. In the ultimate analysis, it may depend on the facts of a particular case.

Para 26. It will be sufficient, for the purpose of the case of Mr. Mansoor Ali Khan to show that his case will fall within the exception stated by Chinnappa P. ddy, J., in S.L. Kapoor v. Jagmohan, namely, that on the admitted or indisputable facts, only one view is possible. In that event no prejudice can be said to have been caused to Mr. Mansoor AH Khan though notice has not been issued.

21. The Apex Court in Ashok Kumar Sonkar Vs. Union of India (UOI) and Others, helcl that there cannot be any doubt whatsoever that all the audi alteram partem is one of the basic pillars of natural justice which means no one should be condemned unheard. However, whenever possible the principles of natural justice should be followed. These principles cannot be put in any straitjacket formula. The said principles may not be applied in a given case unless a prejudice is shown. It is not necessary where it would be a futile exercise.

22. In the facts discussed above, it is an indisputable fact in the present case that the Government of Manipur issued the said order dated 24.2.98, which had been quoted above in toto that the service of the appellant as Public Relation Officer shall be treated as Assistant Director w.e.f. 1.1.86. In such indisputable fact, issuing a writ for observance of the principles of natural justice by quashing the impugned final seniority list dated 15.1.2000 will only be a futile one.

23. Keeping in view of the ratio laid down by the Apex Court regarding the observance of principles of natural justice in the given cases, we, with respect to the learned Single Judge, cannot persuade ourselves to concur with the finding of the learned Single Judge in the impugned judgment and order dated 27.9.06 passed in WP (C) No. 514/04. Accordingly, the impugned judgment and order is set aside. In the result the WP (C) No. 514/ 04 is dismissed.

24. The appeal is allowed and the parties are to bear their own costs.