exemption is silent about the date of its effectiveness. It is because of the reason that the rule itself lays down that any exemption granted under this rule shall operate prospectively. In case the stand of the learned counsel for the petitioners is to be accepted that the exemption to them,—*vide* Annexure P.2 is to be operative with effect from the respective dates of their promotions or, in other words, retrospectively, it will not only be contrary to the clear language of the rule but will also render the last words "shall operate prospectively" as totally superfluous and redundant. It is one of the established principles of interpretation of statutes that no word of a statute can possibly be treated as superfluous or devoid of any meaning. Therefore, the stand of the learned counsel for the petitioners cannot possibly be accepted. The exemption granted to the petitioners,—*vide* Annexure P.2 has to operate prospectively, i.e. with effect from the date the order was passed i.e., May 2, 1985. With the rejection of this stand of the petitioners, there is hardly any other argument on their behalf which needs to be met to uphold the consequential impugned orders or the action of the State Government. With this conclusion of ours, we also do not feel called upon to go into some of the technical matters raised on behalf of the respondents with regard to the non-impleading of the necessary of proper parties etc.

(14) For the reasons recorded above, we find no merit in either of these two petitions. The same are thus dismissed but with no order as to costs.

R.N.R.

Before : G. C. Mital & K. P. Bhandari, JJ.

DR. LAL SANGA,—*Appellant.*

versus

THE POST GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH, CHANDIGARH AND ANOTHER,—*Respondents.*

Letters Patent Appeal No. 2104 *of* 1989.

30th August, 1990.

Constitution of India, 1950—*Arts.* 14 & 226—*Admission for post graduate course—Appellant eligible for admission—Minor conceal-*

ment in admission form—Unintentional mistake having no material bearing on admission—Disqualification of candidate—Legality of—Admitted student—Whether can be disqualified.

Held, that the mistake has no material bearing for his admission to the post-graduate course. Neither this mistake shows any lack of moral standard on the part of the appellant. In our opinion, as per the provisions contained in the booklet which empower the Director to debar a candidate from admission, the concealment of information should be such which was intentional and which had a material bearing on the prospects of the candidate for admission to the said courses in the matter of preparation of the merit list. Here in this case, the appellant did not give any incorrect information regarding his qualifications, experience or the eligibility. He was admitted to the course on merit.

(Para 6)

Held, that the punishment awarded to the appellant in the present case, is highly arbitrary, harsh and disproportionate. The Director of the Institute, who himself is an eminent doctor, should have been more liberal in treating the case of the appellant who is also a doctor, as the mistake, if any, on his part was not so grave so as to mar all his career. For this reason also, we are of the opinion that the order of the Director imposing the aforesaid punishment on the appellant, cannot be sustained and must be struck down as being violative of Article 14 of the Constitution.

(Para 10)

Held, that the provisions contained in the booklet only empower the Director of the Institute to debar a student from admission or he may take any other appropriate action. This power was intended to be exercised only at the time of admission. Once a candidate had studied in the Institute for nearly three years and has attended his course, the Director, cannot take help of the provisions contained in the booklet to justify his action. It was the duty of the respondent to process the case for admission as thoroughly as they could at the relevant time. If they have admitted a candidate and allowed him to continue his studies, they are estopped from removing his name from the rolls of the Institute and disqualifying him from appearing in the examination and further disqualifying him from appearing in any future selection of residents from the Institute.

(Para 7)

Constitution of India, 1950—*Art.* 226—*Petitioner's name removed from rolls and disqualified from appearing in examinations—Power to prescribe imposition of penalty is a legislative function—Punishment under administrative instructions—Institute not framing statutory regulations—Punishment in absence of statutory regulations—Whether legally sustainable.*

Held, that no punishment can be awarded to a candidate merely by executive instruction. Punishment of removal of the name of a candidate from the rolls of the institute or to declare him not eligible to appear in the examination of disqualifying him from any future selection in the Institute are serious punishments. Before imposition of such punishments, the power must be conferred by some law on the Director and a procedure must be laid down by law before punishment is inflicted upon a candidate.

(Para 12)

Held, that power to prescribe the imposition of penalty is essentially a Legislative function. Either the Legislature may itself prescribe a penalty for any act or omission or it may by law delegate the functions to be performed by any other authority by rules and regulations. The Legislative sanction to prescribe a penalty is a condition precedent before a citizen can be made to suffer for any act or omission. It is for this reason all the Universities in the country have made ordinances for exercising the powers as to what punishments are to be imposed on the students and the procedure which are to be followed before such punishments are imposed. But in the present case no such statutory regulations have been brought to our notice. Merely on the strength of the executive instructions, contained in the booklet, there is no authority vested on the respondents to impose the impugned punishment on the appellant. For this reason also the impugned order of the respondents imposing various punishments on the appellant cannot be sustained because the said order is not backed by a legal authority.

(Para 14)

Constitution of India, 1950—Art. 226—Disqualification of student after issuing show cause notice—No enquiry—Punishment held to be violative in the interest of natural justice.

Held, that the Director in the present case simply issued a show cause notice to the appellant. He did not hold any enquiry into the allegations made in the application. In the case of the present type, it was obligatory on the part of the Director of the Institute in the interest of natural justice, to hold an enquiry before imposing the punishment upon the appellant.

(Para 15)

Letters Patent Appeal under Clause X of the Letters Patent against the order dated 26th May, 1989, *passed by Hon'ble Mr. Justice J. V. Gupta, in C.W.P.* No. 7933 of 1987.

K. S. Saini, Advocate with Miss Anju Saini, Advocate, *for the Appellants.*

D. S. Nehra, Sr. Advocate with Arun Nehra, Advocate, *for the Respondents.*

JUDGMENT

K. P. Bhandari, J.

(1) This is a letters patent appeal against the judgment and order dated 26th May, 1989 passed by the learned Single Judge in Civil writ petition No. 7933 of 1987. Briefly, the facts of the case are as follows:—

(2) The appellant is a member of Scheduled Tribe. After passing his M.B.B.S. examination from the North Eastern Regional Medical College, Imphal (Manipur) in the year 1980, he was appointed as Demonstrator in Bio-Chemistry in the aforesaid College. The appellant applied for admission to the Post Graduate Institute of Medical Education and Research (hereinafter referred to as the 'P.G.I.') Chandigarh, for the post graduate course in the departments of Surgery, Gynaecology Pathology, etc.,—*vide* his application dated 28th March, 1984 for the session commencing from July, 1984. In the application form in column 13 (C) relating to experience, if any, the appellant stated that he was holding the post of Bio-Chemist in R. M. College and Hospital, Imphal, at Rs. 700 per month and allowances for the period June 1982 to June, 1983. Against column 18 of the said application where he was required to intimate the date from which he was employed in Government/Semi-Government Institute/Hospital, If he was in service, the appellant mentioned 'nil'. In the booklet of information regarding postgraduate and postdoctoral courses, the following warning was indicated:—

> 'In case, any candidate is found to have supplied false information or certificate etc. or is found to have concealed or withheld some information in his/her application form, he/she shall be debarred from admission. Any other action that may be considered appropriate by the Director of the Institute may also be taken against him/her".

From the letter of the Principal, Regional Medical College. Manipur, dated 27th April, 1987, it came to the notice of the P.G.I. that Dr. Lal Sanga had concealed certain information from the Institute. On the basis of said letter Annexure R-1, a show cause notice Annexure R-2 was issued to the appellant on 3rd June, 1987 requiring him to explain the position. He submitted his reply Annexure P-4 on 12th June, 1987. Therein, he stated that he was serving in the Regional Medical College, Imphal, as a Demonstrator in Bio-chemistry, but as his interest was for surgery, he wanted to do further studies in surgery. In order to do so, he applied for extra-ordinary leave

without pay and no body raised any objection to the same. According to the appellant, he thought that extraordinary leave without pay and with no sponsorship could qualify his candidature as an open reserved category. According to him, he did not realise its importance and implications when he filled up the present form. He further submitted in the reply : 'Now Sir, I realise my mistake when I am completing my three years residency in Surgery. I have no wish to continue nor do I have future with my previous employment and I have taken necessary steps for my resignation. Therefore, I pray you and your good offices to kindly give a sympathetic consideration to my condition and further career and to have mercy on me and forgive my ignorance'.

(3) After considering the aforesaid explanation, the impugned order Annexure P-5 was passed by the Director of the Institute. The appellant again represented,—*vide* Annexure P-6, wherein he submitted that he tried for sponsorship from his State but could not get it and then before filing the application form for Junior Residency, he applied for extraordinary leave which he could hardly expect to get and he, therefore, mentioned in the application that if the leave was not granted for the required period, it may be treated as a resignation. The appellant also relied upon a letter of the Chief Minister of the Government of Manipur, copy Annexure P-8 in this behalf. The matter was again considered by the Director of the Institute. However, the Director of the Institute, showed his regrets to do anything in the matter. Thereupon, the appellant filed a writ petition in this Court. The said writ petition No. 7933 of 1987 came up before the learned Single Judge, who after hearing the learned counsel for the parties, dismissed the same.

(4) As already mentioned, the appellant is a member of the Scheduled Tribe. He got admission to the postgraduate course in the Institute as a member of the Scheduled Tribe. There is no dispute about his eligibility to apply and he was allowed admission on the basis of his merit. He practically studied for three years in the Institute. Under orders of the motion Bench, he was allowed even to appear in the examination.

(5) The operative portion of the order of the Director of the Institute dated 12th June, 1987 reads as follows :—

"(1) The name of Dr. Lal Sanga is removed from the rolls of the Institute with immediate effect.

(ii) Dr. Lal Sanga shall not be eligible to appear in M.S. (Surgery) examination to be held by the Institute in future.

(iii) Dr. Lal Sanga is disqualified from appearing in any future selection of residents from this Institute".

(6) The provisions contained in the booklet of information regarding postgraduate and postdoctoral courses are not intended to empower the Director to remove the name of a candidate from the rolls of the Institute for any unintentional wrong statement of facts in the application form. The purpose of provisions is to debar a candidate from admission who does not fulfil the eligibility for admission to the said courses. The appellant was admitted on the basis of his qualifications on merits. He did not appreciate the legal implication while filling application form, for grant of extraordinary leave and in which he requested the authorities that if extraordinary leave was not granted, it be treated as his resignation. He treated that applicatoin to be his resignation from service. The appellant had not derived any monetary benefits on account of this unintentional mistake. His resignation has been accepted,—*vide* order dated 14th July, 1987 with effect from 1st March, 1984. In this regard, the order passed by the Action Secretary, North Eastern Regional Medical College Society, Manipur, reads as under :—

> "In pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Services (Temporary Service) Rules, 1965, the Hon'ble Chairman, North-Eastern Regional Medical College Society, Manipur, is pleased to terminate the service of Dr. Lal Sanga, Demonstrator Biochemistry Department with effect from 1st March, 1984 and direct that he shall be entitled to claim pay plus allowance for 1 (one) month at the same rate at which he was drawing immediately before the termination of his services".

It is clear from this order that the appellant's resignation had been accepted from 1st March, 1984. Thus, according to this order, on the date of the application, the appellant ceased to be in the service of the Government. It is very difficult to appreciate the drastic action taken against the appellant who is a student of M.D. course for this unintentional mistake. This mistake has no material bearing for his admission to the postgraduate course. Neither this mistake shows any lack of moral standard on the part of the appellant. In our

opinion, as per the provisions contained in the booklet which empower the Director to debar a candidate from admission, the concealment of information should be such which was intentional and which had a material bearing on the prospects of the candidate for admission to the said courses in the matter of preparation of the merit list. Here in this case, as already discussed, the appellant did not give any incorrect information regarding his qualifications, experience or the eligibility. He was admitted to the course on merit. The question regarding, whether he was in employment on a particular date is not of such a nature which should attract the penal provisions given in the booklet. In our opinion, the action of respondent in passing the punishment against the appellant is outside the scope of the provisions contained in the booklet which enables the Director of the Institute to debar a candidate for admission.

(7) There is another aspect of the matter. The provisions contained in the booklet only empower the Director of the Institute to debar a student from admission, or he may take any other appropriate action. This power was intended to be exercised only at the time of admission. Once a candidate had studied in the Institute for nearly three years and has attended his course, the Director, cannot take help of the provisions contained in the booklet to justify his action. It was the duty of the respondents to process the case for admission as thoroughly as they could at the relevant time. If they have admitted a candidate and allowed him to continue his studies, they are estopped from removing his name from the rolls of the Institute and disqualifying him from appearing in the examination and further disqualifying him from appearing in any future selection of residents from the Institute.

(8) It is also important to note that no power is conferred, according to the provisions of the booklet, on the Director to remove the name of a candidate from the rolls of the Institute and to declare that a candidate will not be eligible to appear in the examination and further disqualifying him from any future selection of respondent-Institute. No such power can be spelt out from the provisions of the booklet. The provision in the booklet is limited to debar a candidate from admission to the course. Therefore, in our opinion, properly interpreted, the order of the Director falls outside the scope of the provisions contained in the booklet. It may also be

noted that in the booklet, which provides for debarring a candidate from admission, no procedure is laid down for the guidance of the Director of the Institute. This institute is an instrumentality of State for the purpose of Article 12 of the Constitution of India. "We have given our anxious consideration to the order of punishment passed against the appellant, by the Director of the Institute. For a very small lapse on the part of the appellant, the Director has passed a punishment which is very harsh, unreasonable and disproportionate.

(9) In *Shankar Dass* v. *Union of India* (1), a Government servant was dismissed from service for embezzlement of a small amount of Rs. 500. Considering the question in the light of Article 14 of the Constitution of India, the Supreme Court held that the punishment awarded is arbitrary, unreasonable and disproportionate and struck down the order of removal from service.

(10) Applying the ratio of the aforesaid decision of the Supreme Court, in our opinion, the punishment awarded to the appellant in the present case, is highly arbitrary, harsh and disproportionate. The Director of the Institute, who himself is an eminent doctor, should have been more liberal in treating the case of the appellant who is also a doctor, as the mistake, if any, on his part was not so grave so as to mar all his career. For this reason also, we are of the opinion that the order of the Director imposing the aforesaid punishment on the appellant, cannot be sustained and must be struck down as being violative of Article 14 of the Constitution.

(11) The Post Graduate Institute of Medical Education and Research, Chandigarh, is an Institute of national importance. It has the status of a University. It came into existence under Act No. 51 of the Parliament known as The Post Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 (hereinafter referred to as the 'Act'). According to Section 31 of the 'Act' The Central Government is empowered, after consultation with the Institute, by notification in the official gazette, to make rules to carry out the purposes of this Act. The power to make regulations is conferred on the Institute Body, to be exercised with the approval of the Central

---

(1) A.I.R. 1985 S.C. 772.

Government. In this regard provisions of Section 32 of the Act may be read as under :—

"32. Power to make regulations.—(1)The Institute may, with the previous approval of the Central Government, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act and without prejudice to the generality of this power, such regulations may provide for—

(a) the summoning and holding of meetings, other than the first meeting of the Institute, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum;

(b) the manner of constituting the Governing Body and standing and *ad hoc* committees, the term of office of, and the manner of filling vacancies among, the members of, the Governing Body and standing and *ad hoc* committees;

(c) the powers and functions to be exercised and discharged by the President of the Institute and the Chairman of the Governing Body;

(d) the allowances, if any, to be paid to the Chairman and the members of the Governing Body and of standing and *ad hoc* committees.

(e) the procedure to be followed by the Governing Body and standing and *ad hoc* committees in the conduct of their business, exercise of their powers and discharge of their functions;

(f) the tenure of office, salaries and allowances and other conditions of service of the Director and other officers and employees of the Institute including teachers appointed by the Institute.

(g) the powers and duties of the Chairman of the Governing Body;

(h) the powers and duties of the Director and other Officers and employees of the Instt.

(i) the management of the properties of the Institute.

(j) the degrees, diplomas and other academic distinctions and titles which may be granted by the Institute;

(k) the professorships, readerships, lecturerships and other posts which may be instituted and persons who may be appointed to such professorships, readerships, lecturerships and other posts;

(l) the fees and other charges which may be demanded and received by the Institute;

(m) the manner in which, and the conditions subject to which, pension and provident funds may be constituted for the benefit of officers, teachers and other employees of the Institute;

(n) any other matter for which under this Act provisions may be made by regulations."

(2) xx xx xx xx."

As noted above, clause 32(j) deals with the powers of the Institute to grant degrees, diplomas and other distinctions etc. whereas clause 32(k) empowers the Governing Body of the Institute to create various posts and the persons who may be appointed to such posts.

(12) The Institute Body is empowered to make statutory regulations to streamline admissions of the candidates to different courses in the Institute. It may provide for disqualification or expulsion of students for any misconduct committed by him. We called upon Mr. D. S. Nehra, Sr. Advocate, learned counsel for the respondents to furnish information whether the booklet of information regarding postgraduate and postdoctoral courses has been issued by the Institute Body in exercise of its power to make regulations. He has made a statement at the Bar that P.G.I. has not framed any statutory regulations to deal with the punishment to be awarded to the students. It is thus clear that booklet has not got the status of a regulation. Therefore, it cannot be considered a regulation made by the Institute Body. Every University makes statutory ordinances to regulate the imposition of penalty of disqualification from appearing the examination or expulsion from the University. A detailed

procedure is laid down for consideration of such cases by the Standing Committee of the University. The Standing Committee holds proper enquiries and give full opportunity to defend to the candidates. For illustration Panjab University Calendar Volume II 1984 Chapter 2 contains such a detailed procedure, for imposition of any punishment on a candidate. No punishment can be awarded to a candidate merely by the executive instruction. Punishment of removal of the name of a candidate from the rolls of the Institute or to declare him not eligible to appear in the examination or disqualifying him from any future selection in the Institute are the serious punishments. Before imposition of such punishments, the power must be conferred by some law on the Director and a procedure must be laid down by law before punishment is inflicted upon a candidate.

(13) In *U.S.* v. *Eaton* (2), it has been laid down that the power to make an act a criminal offence is essentially an exercise of legislative power which cannot be delegated. Any penalties for the violation of administrative rules and regulations must be fixed by the Legislature itself. In *Sethia Properties* v. *Bhavnani* (3), the Calcutta High Court has laid down that Legislature may delegate the power of rule-making and provide the penalty for violation of the rules. But instead of prescribing the precise penalty, it may lay down the limit or the standard, leaving it to the administrative body to prescribe the penalty within such limits or in accordance with the standard laid down.

(14) From the foregoing discussion, it is clear that power to prescribe the imposition of penalty is essentially a Legislative function. Either the Legislature may itself prescribe a penalty for any act or omission or it may by law delegate the functions to be performed by any other authority by rules and regulations. The Legislative sanction to prescribe a penalty is a condition precedent before a citizen can be made to suffer for any act or omission. It is for this reason all the Universities in the country have made ordinances for exercising the powers as to what punishments are to be imposed on the students and the procedure which are to be followed before such punishments are imposed. But in the present case no such statutory regulations have been brought to our notice. Merely on the strength of the executive instructions, contained in the booklet,

(2) (1892) 144 U.S. 677.
(3) (1960)64 C.W. 899 (930).

there is no authority vested on the respondents to impose the impugned punishment on the appellant. For this reason also the impugned order of the respondents imposing various punishments on the appellant cannot be sustained because the said order is not backed by a legal authority.

(15) The Director in the present case simply issued a show-cause notice to the appellant. He did not hold any enquiry into the allegations made in the application. In the case of the present type, it was obligatory on the part of the Director of the Institute in the interest of natural justice, to hold an enquiry before imposing the punishment upon the appellant. In any case after the Director received an order dated 14th July, 1987 from the Acting Secretary, accepting the resignation of the appellant with effect from 1st March, 1984 it was obligatory on the part of the respondents to reconsider the matter and hold a proper enquiry into the matter. Once the resignation of the appellant is accepted with effect from 1st March, 1984, it means that on the date he was admitted to the postgraduate course by the respondents, he was not in service of the Government. For this reason also the order of the respondents imposing the aforesaid punishment on the appellant is illegal being in viloation of principles of natural justice.

(16) In view of the above discussion we are unable to agree with the learned Single Judge in upholding the punishment imposed upon the appellant by the respondents. Accordingly, this appeal is accepted and the judgment and order of the learned Single Judge is set aside. A writ of certiorari is issued thereby quashing the impugned order Annexure P-5 passed by respondent No. 2. The respondents are directed to declare the result of the appellant forthwith. There will, however, be no order as to costs.

P.C.G.

Before : A. L. Bahri, J.

RAM NATH KAPOOR,—*Petitioner.*

versus

CHOTTU RAM,—*Respondent.*

Civil Original Contempt Petition No. 411 *of* 1990.

24th September, 1990

Contempt of Courts Act (70 *of* 1971)—*Ss.* 2(*b*), 11 & 12—*Code of Civil Procedure,* 1908 (*Act V of* 1908)—*O. XIII, Rl.* 3—*Suit dismissed*