

evidence that he was unfairly treated at that time; and upon that branch of the case he failed.

As to the dismissal of the plaintiff in 1914, the alleged order of the Board was not put in, and it was not shewn that the plaintiff was notified of any investigation that was made. There was nothing to shew that the dismissal was justified. The only evidence was the plaintiff's, and what he stated was not sufficient cause for a peremptory discharge. If he was dismissed upon an instigation held without notice to him, that course was contrary to the elementary principles of justice.

Section 13 of the rules and regulations of the defendant society provides that every application for a pension or allowance must come before the committee, when the whole circumstances of the case will be fully gone into, and a report of the case sent in for the sanction of the Board of Police Commissioners; and, in case of a difference between the committee and the commissioners, the committee shall be heard by the commissioners, and, if possible, concurrence arrived at; but, in case of failure to concur, the decision of the commissioners shall be final.

The committee did not go into the circumstances of the case, did not hear, deliberate upon, or independently determine anything. The matter of dismissal was not the same thing as the question of the right to a pension. The commissioners have nothing to do with pensions or allowances except by way of appeal.

The defendants pleaded compliance with this section and rested their defence upon it. The plaintiff was *prima facie* entitled to a pension or allowance based upon a service of upwards of 27 years. The defendants had failed to make out their defence.

The question could not be remitted to the defendants for quasi-judicial consideration, as in *Lapointe v. L'Association de Bienfaisance et de Retraite de la Police de Montréal*, [1906] A.C. 535, for there was no reason to believe that justice would be done.

Judgment declaring that the action of the committee was not in accordance with sec. 13, and does not bind the plaintiff; declaring that the plaintiff had on the 28th April, 1914, completed a service of 27 years, 10 months, and 5 days as a member of the force, and that upon that date he became and now is entitled to receive a half-pay pension for life, plus an addition of one-nineteenth of his salary for each year of his service exceeding 25 years; and adjudging that the defendants pay to the plaintiff the said pension and allowance and the costs of the action.