

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P(C) No.3948/2007**

% **Date of Decision : 27.05.2008**

Dr.Manoj Singhanian Petitioner
Through: Mr. Pawan Upadhyay, Ms.Shubhra
Goyal and Ms. Anisha Upadhyay,
Advocates

Versus

Union of India & Ors Respondents
Through : Ms. Preetika Dwivedi, Advocate for the
respondents no. 2 & 3.
Mr. Rakesh Gosain, Advocate for the
respondent no.4.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. Whether reporters of Local papers may
be allowed to see the judgment? | YES |
| 2. To be referred to the reporter or not? | YES |
| 3. Whether the judgment should be reported
in the Digest? | YES |

ANIL KUMAR, J.

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1. The petitioner has challenged the order dated 3rd May, 2007 of Medical Director, Northern Railway terminating petitioner's attachment as DNB 3rd year candidate in the department of Medicine,

Northern Railway, Central Hospital, New Delhi with effect from 3rd May, 2007.

2. Brief facts to comprehend the controversies between the parties are that the petitioner is a Doctor and he was selected as a Diplomat of National Board Training Course by the Medical Director, Northern Railways, Central Hospital, New Delhi. He was offered the DNB course in internal medicine under the said hospital and the factum of his selection was communicated by the respondent Nos.1 to 3 to the National Board of Examination, respondent No.4.

3. The petitioner asserted that DNB training consists of three years period and on completion of this period, examination is held by National Board of Examination which is functioning under the Ministry of Health and Family Welfare. The successful candidates are awarded post graduate degree in the discipline in which they undergo and complete training. According to the petitioner the DNB training leading to post graduate degree in the discipline in which a candidate undergoes training is controlled by the rules known as Residency Scheme review of consolidated revised instructions dated 5th June, 1992.

4. The petitioner pleaded that on being selected as DNB (medicine) he resigned from the post of junior resident in Department of Medicine and joined the Northern Railway, Central Hospital for his training for DNB (Medicine). According to him during the course of three years training, the candidates are given all those privileges and facilities which are admissible to junior residents. The DNB trainees are not only imparted training but they are required to perform all duties of a resident doctor attending patient wards, ICUs, OPD, etc. and they are paid stipend with full allowances for the same. The petitioner's grievance is that under para 13 of Residency Scheme a resident doctor is not to perform normally exceeding 12 hours per day and resident doctors are allowed one week holiday by rotation and junior residents ordinarily work for 40 hours per week, however, number of call duties of 24 hrs have also been increased to 7 instead of 5 per month. Another allegation of the petitioner is that the Northern Railway, Central Hospital has breached the rules of the Residency Scheme more often than complying with the same. The petitioner has also contended that even the emoluments of the DNB training was reduced from Rs.21,000/- per month to Rs.8,000/- per month leading to filing of a writ petition which was allowed by order dated 25th August, 2005.

5. The petitioner plea is that since he and some other doctors took leading part in the litigation initiated against respondent No.3 against reduction of their stipend from Rs.21,000/- to Rs.8,000/-, the respondent No.3 became inexplicably prejudiced against him. In order to substantiate the case against respondent No.3, it was contended that petitioner is not paid an amount of Rs.2000/- per year against book allowance and he is also not paid the amount of Rs.3000/- per month which is deducted from his emoluments without giving any reason and without any written order.

6. The petitioner had sent a legal notice through his counsel on 1st September, 2005 seeking attention of the authorities including respondent No.3 to various irregularities being committed by Railway Administration particularly in respect of violation of rules of working hours by extending them and of the period of leave and for payment of all his emoluments. He had sought all the facilities, privileges which the junior residents are entitled for. The relevant rules under Residency Scheme are as under:

“13. Hours of Work.

Continuous active-duty for resident doctors will not normally exceed 12 hours per day. Subject to exigencies of the work the resident doctors will be allowed one weekly holiday by rotation. The resident doctors will also required to be on call duty not exceeding 12 hours at a time. The junior residents should ordinarily work for 48

hours per week and not more than 12 hours at a stretch subject to the condition that the working hours will be flexible and maybe decided by the Medical Superintendent concerned keeping in view the workload and availability of doctors for clinical work.”

The rules also contemplated that the junior residents are not to be treated as the Government servants but are to be governed by the terms of their agreement under the Residency Scheme. The notice given on behalf of petitioner was not replied. The petitioner made another representation dated 7th November, 2006 regarding excessive stress imposed in the form of physical, mental, emotional and about his financial exploitation. He categorically contended that number of duty of 24 hours duties have been increased to 7 per month instead of 5 per month and at times these duties are stretched to 29 hours without any break. He also complained about meaningless enquiries which are conducted to force the trainee doctors to work under inhuman conditions. He also complained that one of the faculty members had represented to him not to give good marks in confidential reports of training. The petitioner had to contend that his suspension/rustication will be less stressful than working under those circumstances. The petitioner's notice and representation were not replied. Instead his monthly pay and allowances for January and February, 2007 were withheld and were paid later on 2nd April, 2007. Petitioner contended that he was not allowed to perform his duties as

resident doctor after 1st March, 2007 nor his salary has been released from the month of March, 2007 onwards. The petitioner sent a letter dated 2nd March, 2007 to the Medical Director intimating him that Dr. Sudhir Sharma Sr. Administrator had not allowed him to join the duties and he had promised to send petitioner suspension/termination letter within 3 to 4 days. He also intimated that Mr. Pujara, Mrs. Dinesh and Mr. Vishnu had refused to accept his application and therefore he had addressed the letter dated 2nd March, 2007 to the Medical Director. It appears that none of the letters/representations were replied. The petitioner sent various representations which he mentioned in his letter dated 16th March, 2007 and he stated that he is deemed to be on duty since his suspension/termination letter had not been issued. By another communication dated 29th March, 2003 he again requested the Medical Director to allow him to join the duties which had been denied to him without any justification since 2nd March, 2007.

7. On 15th March, 2007 a preliminary enquiry was ordered into working and conduct of the petitioner as well as allegations which were leveled by the petitioner against various authorities. The petitioner has contended that the respondent no.3 did not take any action despite personal interview of the petitioner. On 28th March,

2007 he had received a letter from Chief Orthopedic Surgeon, Central Hospital to attend his room for an enquiry at 11 o'clock on the same date. The petitioner appeared for enquiry on 28th March, 2007 and he was asked certain questions and after that he was allowed to leave. A copy of the statement of petitioner shows that the recording of the statement started on 28th March, 2007 but it was signed on 9th April, 2007.

8. The petitioner thereafter filed a writ petition being 2921/2007 as nothing was communicated to him. During the pendency of the writ petition, the order dated 3rd May, 2007 terminating his training was passed. Consequent where to the petitioner withdrew the earlier writ petition and has filed the present petition. The petitioner has challenged the order of termination of his attachment as DNB 3rd year candidate on the grounds that the order is not a termination simplicitor but a punitive order passed by malafide intention to throw the petitioner out and to damage his career. It is contended that the order of termination is in violation of principles of natural justice and is also an act of vindictiveness on account of active participation of petitioner against the action of the respondent No.3 of reduction of stipend from Rs.21,000/- per month to Rs.8,000/- per month. The order is also challenged on the ground that the petitioner was

admitted to three year Diplomat of National Board and so the same could not be terminated during the training after two years. It is also asserted that the petitioner has a right to complete his three years training as a Diplomat of National Board and the order of termination is punitive and bad in law and is liable to be set aside.

9. The petitioner has relied on (1980) 2 SCC 593, Gujarat Steel Tubes Ltd and Ors Vs. Gujarat Steel Tubes Mazdoor Sabha and Ors; (1993) 1 SCC 13, State Bank of India and Ors Vs.D.C.Aggarwal and Anr; (1999) 3 SCC 60, Dipti Prakash Banerjee Vs.Satyendra Nath Bose National Centre for Basic Sciences, Calcutta and Ors; (2005) 13 SCC 652, State of U.P and Ors Vs. Ashok Kumar and (2006) 2 SCC 584, South Bengal State Transport Corpn. Vs. Sapan Kumar Mitra and Ors to contend that termination of petitioner's attachment as DNB 3rd year candidate in the Department of Medicine is stigmatic and has been passed without due opportunity and is in violation of principles of natural justice and, therefore, it is vitiated and is liable to be set aside.

10. The petition is contested by the respondents. On behalf of respondent No.3 a counter affidavit of Dr.Sudhir Kumar Sharma, Senior Divisional Medical Officer (Administration) Northern Railway has been filed who has contended that the Diplomat of National Board Trainee is not the employee of Indian Railways. Any medical graduate

with MBBS qualification who has completed internship and registered with MCI/State Medical Council and who accepts the terms and conditions of the Indian Railway, is eligible to become a DNB Trainee in the Railway hospital and, therefore, Railway Servants (Discipline and Appeal) Rules, 1968 will not be applicable to the petitioner. According to the respondent No.3 the terms and conditions for DNB Trainees working in every Railway Hospital of Indian Railways, are in accordance with the Government of India, Ministry of Railways (Railway Boards) communication No.2006/H/2-1/5 dated 26th February, 2007. The said terms and conditions stipulate the stipend, accommodation, leave rules for DNB Trainees and other types of leave and medical treatment policy and training charges only. The respondent No.3 further asserted that DNB trainees are posted in different wards and are required to work from 9 AM to 5 PM subject to the requirement of their services and in case of emergencies they can be asked to work after 5 PM. It was contended that those candidates who pursue their DNB training in Railways, it is the policy and the rules circulated by the Indian Railways which are applicable. Therefore, reliance has also been placed on the circular dated 26th February, 2007 and circular dated 15th January, 2008 of Northern Railways regarding payments etc. to be made to the DNB trainees. The allegations of prejudice against the petitioner were denied and

deduction of Rs.3000/- per month was justified on account of training charges in accordance with Rule 5 of Rules dated 26th February, 2007. Regarding stipend payable to the petitioner, it is contended that the petitioner has not worked after 8th February, 2007 and, therefore, the salary commencing 8th February, 2007 has not been paid. The Railways have justified the termination order dated 3rd May, 2007 on the ground that there had been grave misconduct on the part of the petitioner which compelled the respondent No.3 to initiate an enquiry into working and conduct of the petitioner which was conducted on 16th April, 2007. During the enquiry the statements of various senior medical officers were recorded and the enquiry officer had concluded that the petitioner's performance was highly unsatisfactory and he is short tempered, rude to behave with seniors, colleagues and patients and used to leave his duty without making any arrangements for the care of critical patients and on the basis of the report of enquiry, the training of petitioner was terminated by letter dated 3rd May, 2007. In paragraph 14 of the counter affidavit it has been categorically admitted that the training of the petitioner has been terminated on the basis of report after enquiry. Paragraph 14 of the counter affidavit is as under:

“14. It is stated that owing to the great misconduct of the petitioner, the respondent was compelled to initiate an enquiry into the working and conduct of the petitioner.

The same was conducted on 16th April, 2007, and is attached herewith and marked as Annexure R-3. Statements of various Senior district medical officers were recorded and the enquiry report concluded that:

‘... the work and conduct of Dr. Manoj Singhanian is highly unsatisfactory. He is short tempered, rude to seniors, colleagues and patients, and used to leave his duty without making any arrangements for critical patients.’

It was on the basis of this report that the petitioner was terminated, vide letter dated 03.05.2007.”

11. In the counter affidavit it was not denied that owing to alleged misconduct of the petitioner he was not allowed to continue after 2nd March, 2007. The respondents 1 to 3 contended that the petitioner is not an employee as a Diplomat of National Board of Trainees attached to railway hospitals. It was asserted that the complaints of indiscipline were received against the petitioner and a fact finding inquiry was conducted on 16.4.2007 to ascertain the facts to determine whether the work and conduct of the petitioner was satisfactory. The findings were against the petitioner and, therefore, his training has been terminated. It is also pleaded that against his termination, the petitioner should have approached the Appellate Authority without disclosing which is the Appellate Authority. It has been further asserted by the respondents that in the fact finding inquiry constituted by the respondents, a fair opportunity was given to

him and charges were intimated to him by letter dated 15th March, 2007 by which enquiry committee was appointed, a copy of which was sent to the petitioner. It is also pleaded that since the inquiry was a summary fact finding inquiry, no charge sheet was issued and since the petitioner participated in the inquiry, the plea of the respondents is that petitioner is misleading in contending that the inquiry was conducted behind his back.

12. The respondents 1 to 3 have contended that since the petitioner was a trainee his status is different from that of an employee and judicial review is limited in case of disciplinary action taken against a student/trainee by Institution imparting training. For this submission, the respondents have relied on Director, Indian Institute of Technology, Kanpur v. Hiyat Khan, (2000) 3 A.W.C. 2265. It is asserted by the respondents that judicial review of orders in the matter of enforcement of discipline in the educational institutions is limited and authorities in charge of imparting education are best suited to deal with students for their lapses and malpractices.

13. Regarding the violation of principle of natural justice, it is contended that principle of natural justice is not a straight-jacket formula. It is pleaded that in any case principals of natural justice

were complied with, as the petitioner was intimated by letter dated 28th March, 2007 about the inquiry and he has, in fact, participated in the inquiry. Relying on the statement given by the petitioner to the fact finding inquiry, it is contended that all allegation against him were made known to him, however, the names of the doctors who had leveled the allegations against the petitioners were not disclosed to him which was in the best interest of the patients and to avoid any possibility of hostile environment in the hospital. It was also pleaded that since doctors are in close proximity with each other and doctors of various Departments are dependent on each other for the treatment of their patients, it was thought fit not to reveal the names of the doctors who had leveled the allegations against the petitioner and thus there is no violation of the principle of natural justice and the petitioner has been given a fair opportunity. Relying on *Miss Shefali Pathak v. Indian Institute of Technology, Delhi*, AIR 2006 Delhi 66, it was asserted that Principle of Natural justice are not a straight jacket formula and must be molded to suit specific circumstances. Reliance has also been placed by the respondents on AIR 2006 SC 3096, *Om Prakash Mann v. Director of Education*.

14. The respondent No.4, National Board of Examination, contended that the petitioner was enrolled in DNB Internal Medicine for three years training with the respondent No.3 on 28th February, 2005 and his name was sent for registration on 21st April, 2005. The respondent No.4 also contended that the petitioner has deserted/abandoned his mandatory three years training after 8th February, 2007. It was asserted that the petitioner did not inform or sought any advice from the respondent no.4 before leaving the training in mid-session and the petitioner who is seeking to reactivate his training with effect from 8th February, 2007 cannot be allowed to do so. It is also contended that the respondent No.4 does not have any right for granting any latitude to any candidate for giving any relaxation in the period of three years. It is pleaded that allowing the petitioner to continue would adversely effect upon the standards in higher medical education. The training of the petitioner is short by one year and 20 days. It is further contended that the petitioner would have to complete his three years mandatory training and submit his thesis with the answering respondent No.4 before appearing in DNB Theory Examination.

15. The respondent No.4 has also asserted that in the peculiar facts the respondent No.4 could consider granting migration of petitioner to

some accredited institutions for the remaining period of his mandatory three years training, however, the respondent No.4 in any way is not taking any responsibility for providing the approval of appointment of the petitioner to any other institute.

16. I have heard the learned counsel for the parties in detail and have also perused the writ petition and the replies filed to the writ petition and the documents relied on by the parties. In *South Bengal State Transport Corporation (Supra)*, relied on by the Learned Counsel for the petitioner, a bus driver was removed from service after holding departmental enquiry against him. The order of the disciplinary authority removing the driver from the service was challenged by filing a writ petition on the ground that the documents relied on by the enquiry officer did not feature in the list of documents annexed to the charge sheet nor the copies thereof were supplied to the delinquent driver. The removal was also challenged on the ground that the delinquent driver was acquitted in the criminal case. The learned Single Judge of Calcutta High Court had set aside the order of removal and had directed the disciplinary authority to supply the copies of the documents and after considering the comments of the delinquent driver to reach a fresh conclusion about the punishment of removal awarded to the driver. In appeal the Division Bench came to the

conclusion that finding of the disciplinary authority as well as enquiry officers were wholly perverse and the judgment of the learned Single Judge was set aside and the order of removal of the delinquent driver was set aside and he was reinstated with full back wages. In the appeal to the Supreme Court, the judgment of the Division Bench was set aside and the order of the Single Judge was restored subject to certain modifications. Since the copies of the documents sought by the delinquent driver were supplied, he was allowed to file comments or representations against the finding made in the enquiry report and on the basis of the representations of the delinquent driver, the disciplinary authority was directed to reach a final conclusion. The Apex Court relying on *Union of India Vs. Mohd. Ramzan Khan*, (1991) 1 SCC 588 and *Managing Director, ECIL Vs. B. Karunakar*, (1993) 4 SCC 727 had held that wherever there has been an enquiry officer and he has furnished a report to the disciplinary authority at the conclusion of the enquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to be challenged. The Constitution bench of the Apex Court in *Managing Director, ECIL Vs.*

B. Karunakar, (1993) 4 SCC 727 on the issue of non supply of enquiry report had held in para 26 at page 754 as under:-

“26. The reason why the right to receive the report of the enquiry officer is considered an essential part of the reasonable opportunity at the first stage and also a principle of natural justice is that the findings recorded by the enquiry officer form an important material before the disciplinary authority which along with the evidence is taken into consideration by it to come to its conclusions. It is difficult to say in advance, to what extent the said findings including the punishment, if any, recommended in the report would influence the disciplinary authority while drawing its conclusions. The findings further might have been recorded without considering the relevant evidence on record, or by misconstruing it or unsupported by it. If such a finding is to be one of the documents to be considered by the disciplinary authority, the principles of natural justice require that the employee should have a fair opportunity to meet, explain and controvert it before he is condemned. It is negation of the tenets of justice and a denial of fair opportunity to the employee to consider the findings recorded by a third party like the enquiry officer without giving the employee an opportunity to reply to it. Although it is true that the disciplinary authority is supposed to arrive at its own findings on the basis of the evidence recorded in the inquiry, it is also equally true that the disciplinary authority takes into consideration the findings recorded by the enquiry officer along with the evidence on record. In the circumstances, the findings of the enquiry officer do constitute an important material before the disciplinary authority which is likely to influence its conclusions. If the enquiry officer were only to record the evidence and forward the same to the disciplinary authority, that would not constitute any additional material before the disciplinary authority of

which the delinquent employee has no knowledge. However, when the enquiry officer goes further and records his findings, as stated above, which may or may not be based on the evidence on record or are contrary to the same or in ignorance of it, such findings are an additional material unknown to the employee but are taken into consideration by the disciplinary authority while arriving at its conclusions. Both the dictates of the reasonable opportunity as well as the principles of natural justice, therefore, require that before the disciplinary authority comes to its own conclusions, the delinquent employee should have an opportunity to reply to the enquiry officer's findings. The disciplinary authority is then required to consider the evidence, the report of the enquiry officer and the representation of the employee against it."

17. The Apex Court, however, held that after hearing the parties, if the Court/Tribunal comes to the conclusion that non supply of report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment and the order of punishment should not be mechanically set aside on the ground that the enquiry report was not furnished. The Apex Court had also held that the disciplinary authority or the enquiry officer are not Courts and, therefore, the strict procedure that are to be followed in Courts may not be strictly adhered to. Relying on B.C.Chaturvedi Vs. Union of India, (1995) 6 SCC 749 it was further held that the strict proof of legal evidence and

findings on that evidence are not relevant in departmental proceedings.

18. The copy of the report dated 16th April, 2007 was not given to the petitioner. The statement of the petitioner was recorded on various dates from 28th March, 2007 to 9th April, 2007. The statements of other Doctors were recorded in absence of the petitioner and their names were not disclosed and when he did not hear anything from the respondents, a writ petition was filed by him. During the pendency of the earlier writ petition it was disclosed that the training of the petitioner has been terminated and communicated to him by letter dated 3rd May, 2007. The stand of the respondents has been that the termination of the training of the petitioner was after conducting a proper enquiry and after giving a reasonable opportunity. The copy of the enquiry report was not given to the petitioner nor the names of the doctors whose statements had been relied on, were disclosed to the petitioner. The petitioner had not been disclosed the incidents of misconduct and lapses in his working for which the enquiry committee was appointed. In the circumstances, it cannot be held that non supply of the enquiry report would have made no difference to the punishment of termination of the training imposed on the petitioner.

19. Though in the counter affidavit, it was not pleaded that the termination of the training of the petitioner was simplicitor and not punitive, however, during the arguments it was contended that since no reasons were disclosed in the order of termination, the termination of the training of the petitioner was simplicitor without being punitive. To counter this contention of the respondents, the learned counsel for the petitioner has relied on para 14 of the counter affidavit which is categorical in asserting that the training of the petitioner has been terminated on account of his misconduct and lapses in his working.

20. Whether the termination of attachment/training of petitioner with the Department of Medicine, Northern Railway Central Hospital was simplicitor or punitive is to be ascertained by considering whether the misconduct and lapses in working against the petitioner was the motive of termination or if these were the foundation of the termination then it will be punitive. The Supreme Court in *State of U.P and Ors Vs. Ashok Kumar (Supra)* had held that when there the termination is without any enquiry, then complaint about the misconduct and lapses in working is the motive. However, when the misconduct and lapses in working lead to enquiry resulting in

termination, then misconducts and lapses in working are the foundation of the termination and it is punitive. In the case relied on by the petitioner, a constable after recruitment was undergoing training and he was entitled for regular appointment on successful completion of training. During his training his services were terminated. The termination was challenged by the constable in an appeal. The Tribunal held that the termination of constable's services was violative of Article 311(2) of Constitution as no reasonable opportunity of hearing had been afforded to him as contemplated under Article 311(2) of the Constitution. The Tribunal and High Court had held that the constable was found using unfair means while undergoing training with other trainees which was the foundation of the termination and, therefore, violative of Article 311(2) of the Constitution. In an appeal the Apex Court had held that whether the order of termination is simplicitor or punitive is ultimately to be decided having due regard to the facts and circumstances of each. The Apex Court had relied on *Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences*, (1999) 3 SCC 60 where it was held at pages 71, 72 in para 21 as under:-

“21. If findings were arrived at in an enquiry as to misconduct, behind the back of the officer or without a regular departmental enquiry, the simple order of

termination is to be treated as “*founded*” on the allegations and will be bad. But if the enquiry was not held, no findings were arrived at and the employer was not inclined to conduct an enquiry but, at the same time, he did not want to continue the employee against whom there were complaints, it would only be a case of motive and the order would not be bad. Similar is the position if the employer did not want to enquire into the truth of the allegations because of delay in regular departmental proceedings or he was doubtful about securing adequate evidence. In such a circumstance, the allegations would be a motive and not the foundation and the simple order of termination would be valid.”

21. The Supreme Court in Gujarat Steel Tubes Ltd and Ors (Supra) had also laid down the test to distinguish whether a termination order is punitive or not. It was held that the form of the order is not decisive and the Court can lift the veil to see the true nature of the order. It was held that the substance, not semblance governs the decision. In paragraphs 53 and 54, it was held as under:-

“53. Masters and servants cannot be permitted to play hide and seek with the law of dismissals and the plain and proper criteria are not to be misdirected by terminological cover-ups or by appeal to psychic processes but must be grounded on the substantive reason for the order, whether disclosed or undisclosed. The Court will find out from other proceedings or documents connected with the formal order of termination what the true ground for the termination is. If, thus scrutinised, the order has a punitive flavour in cause or consequence, it is dismissal. If it falls short of this test, it cannot be called a punishment. To put it slightly

differently, a termination effected because the master is satisfied of the misconduct and of the consequent desirability of terminating the service of the delinquent servant, is a dismissal, even if he had the right in law to terminate with an innocent order under the standing order or otherwise. Whether, in such a case the grounds are recorded in a different proceeding from the formal order does not detract from its nature. Nor the fact that, after being satisfied of the guilt, the master abandons the enquiry and proceeds to terminate. Given an alleged misconduct and a live nexus between it and the termination of service the conclusion is dismissal, even if full benefits as on simple termination, are given and non-injurious terminology is used.

54. On the contrary, even if there is suspicion of misconduct the master may say that he does not wish to bother about it and may not go into his guilt but may feel like not keeping a man he is not happy with. He may not like to investigate nor take the risk of continuing a dubious servant. Then it is not dismissal but termination simplicitor, if no injurious record of reasons or punitive pecuniary cut-back on his full terminal benefits is found. For, in fact, misconduct is not then the moving factor in the discharge. We need not chase other hypothetical situations here.

22. In the case of petitioner what is to be seen is whether the order of termination of the training of the petitioner is founded on the allegations based on the enquiry. The order of termination of the training of the petitioner though does not refer to the enquiry conducted by the respondents, however, it is apparent and clear that the termination of the training of the petitioner is based and founded on the alleged fact-finding enquiry conducted by the respondents. The

respondents in para 14 of the counter affidavit have admitted it. In the circumstances the termination of the training of the petitioner is stigmatic and no other inference is possible in the facts and circumstances.

23. The learned counsel for the petitioner, Mr.Upadhyay has next contended that the enquiry against the petitioner was contrary to the Principle of Natural Justice. He contended that the fact finding enquiry was based on the statement of other doctors and other material which were not only not supplied but not disclosed to him and, therefore, cannot be countenanced. The reliance was placed by the learned counsel for the petitioner on State Bank of India and Ors (Supra) where the Apex Court had held that non supply of CVC recommendation which was prepared behind the back of the delinquent employee without his participation but was examined and relied on by the disciplinary authority, was certainly violative of procedural safeguards and the plea regarding non supply of CVC recommendation on the ground that they were confidential and could not be supplied, was rejected.

24. Per contra, the respondents 1 to 3 plea is that fair opportunity had been given to the petitioner as he was intimated about the inquiry

by letter dated 15th March, 2007 and since the inquiry was a summary fact finding inquiry, no charge sheet was issued. The petitioner participated in the inquiry, his statement was recorded and ample opportunity was given to him and therefore, petitioner is misleading in contending that the inquiry was conducted behind his back.

25. A copy of the inquiry proceedings has been produced in which the statement of Dr. Manoj Singhania, petitioner was recorded from 28th March, 2007 upto 9th April, 2007. The statement of Dr. S.C. Khorwal, Sr. D.M.O./CH. was recorded on 2nd April, 2007; Dr. (Ms.) Asha Rani on 2nd April, 2007, Sr. D.M.O./Casualty/CH.; Dr. (Ms.) C. Dungdung, D.M.O./CH. on 2nd April, 2007; Dr. Anand Barla, Sr. D.M.O./CH. on 2nd April, 2007; Dr. Atul Gupta, Sr. D.M.O./CH. on 3rd April, 2007; Dr. (Ms.) Madhu Kaushal, Sr. D.M.O./CH. on 3rd April, 2007; Dr. S.K. Chaudhary, D.M.O./CH. on 3rd April, 2007; Ms. Santosh Sharma, Matron I/c, ICU/CH. on 4th April, 2007, Dr. Sanjay Joshi, D.M.O./CH. on 4th April, 2007; Dr. Roopesh Kumar, A.D.M.O./CH. on 3rd April, 2007; Dr. Sushum Sharma, Sr. D.M.O./CH. on 5th April, 2007. and Dr. Sudhir Kumar Sharma, Sr. D.M.O./CH. on 5th April, 2007. It is apparent that the statements of other doctors were not

recorded in presence of Dr. Manoj Singhania, petitioner, as his presence is not marked on the days when the statements of other doctors were recorded. The statement of the petitioner started on 28th March, 2007 however, the statement is signed on 9th April, 2007. A copy of the statement of the petitioner recorded before the inquiry committee, a copy of which is produced in the Courts, reveals that it had started on 28 March 2007 but it is signed on 9th April, 2007. First paragraph of the statement is as under:

“In reference to Letter no. E/Med/Ch/18 dated 26th March, 2007, a fact finding enquiry has been conducted into the working and conduct of Dr. Manoj Singhania, DNB 3rd Year candidate in the Deptt. Of medicine on 28th March, 2007

Qu.1: What is your grievance?

Ans. I am getting financially, physically, mentally, socially and emotionally exploited. The details have already been sent to medical director/NRCH, Head of Medicine and all other higher Railway authorities has been sent on 7th November, 2006. Letters submitted to I.O.

26. The petitioner deposed that he is getting financially, physically, mentally, socially and emotionally exploited. In answering a question, whether he left the duties leaving the patients unattended in ICU on the night of 7th August, 2006, the petitioner admitted that it was one incidence when he was not present as he could not present himself to

mosquitoes and insects to be bitten and to get admitted next day in ICU for his own treatment. In an answer to another question, he deposed that he complained multiple times to ICU Matron, Dr.Sanjay Joshi, HOD/Medicine but neither he nor anybody had given any attention to improve the inhuman conditions of residents' duty room. In answer to a question, whether anyone stopped him from calling the Head Jamadar and getting the things done himself, he deposed that he being a temporary student, no hospital staff listened. Rather he was insulted on asking from such staff to do anything.

27. All the doctors who had been examined in absence of the petitioner were asked stereotype question to comment on the work and conduct of the petitioner and whether they ever counseled him in the past. None of these doctors had given adverse reports to the petitioner in the past. None of the doctors gave anything in writing against the petitioner complaining about lapses in his working. From the statements of various doctors recorded it is apparent that none of the patients ever gave in writing any complaint against the petitioner about his alleged rudeness and working. Rather Dr. Ms.Celistina Dungdung, D.M.O/NRCH, New Delhi had given a very positive report dated 2nd March, 2007 about the petitioner. This positive report was

given on the same date 2nd March, 2007, when the petitioner was also not allowed on training. This is quite inexplicable. The Senior Administrator did not allow him to join the training on 2nd March, 2003 and his complaint regarding this was not entertained by various officers, forcing him to send a communication dated 2nd March, 2003 to the Medical Director and on the same day another doctor had given a very positive report about his behavior. Despite all this evidence, which was not disclosed to the petitioner and where petitioner was not allowed to participate, the inquiry committee comprising of Dr.C.P. Singh, Chief Orthopedic Surgeon and Dr. Sunil Kumar, Sr. C.M.O.(SG) held that the conduct of Dr.Manoj Singhania/petitioner was highly unsatisfactory and he is short tempered, rude to behave with his seniors, colleagues and he used to leave his duties without making any arrangement for the care of critical patients. The conclusion of the fact finding inquiry given in report dated 16th April, 2007 are as under:-

“Conclusion: On inquiring it has been found that the work and conduct of Dr.Manoj Singhania is highly unsatisfactory. He is short tempered, rude to behave with seniors, colleagues and patients and used to leave his duty without making any arrangements for the care of critical patients”.

28. On the basis of the alleged fact finding inquiry dated 16th April, 2007, the Medical Director, Dr.R.N. Tripathi, also passed an order stipulating that he has gone through all the facts and circumstances of the case and he is in total agreement with the findings of the Inquiry Report and remarks of DNB Coordinator. It was further stated by him that retention of petitioner in the hospital is neither in the interest of patients nor in the interest of administration and, therefore, it was recommended that the attachment of Dr.Manoj Singhanian with Northern Railways, Central Hospital, New Delhi, as a DNB Candidate in Medicine be terminated with immediate effect pursuant to which the attachment of the petitioner with Northern Railways, Central Hospital, New Delhi, as 3rd Years DNB (Medicine) Candidate was terminated by letter dated 3rd May, 2007.

29. Though it is asserted by the respondents that complaints were received against the petitioner, however no such complaints, have been produced before this court. From the proceedings of the enquiry conducted, it is apparent that the statements of other doctors complaining about the petitioner were recorded after the commencement of the statement of the petitioner on 28 March, 2007. There are no complaints against the petitioner prior to appointment of an enquiry committee. No record has been shown or produced

regarding any complaint received by the respondents or sent to the respondents prior to 15th of March 2007 when the enquiry committee was constituted and a copy of the said letter was also sent to the petitioner.

30. On the very first day of the enquiry, the petitioner had produced the copy of his letter/representation dated 7th November, 2006 regarding his financial, social, emotional and mental exploitation. However, the enquiry report does not deal with most of his grievances as detailed by him in his letter dated 7th November, 2006. No attempt had even been made to even find out the basis of those grievances. From the perusal of the representation dated 7th November, 2006, it is apparent that he had also complained about not granting paternity leave to him. The terms and conditions for DNB trainees produced by the respondents have a provision for paternity leave. This point and many other points raised by the petitioner have not at all been addressed. The enquiry report has only considered the statement of the petitioner and the statements of other doctors, recorded in his absence and whose copies or the gist of the complaints made against the petitioner, were not given to him. The hostility against the petitioner on account of various complaints made by him are writ

large which included taking work from doctors under training continuously up to 21 hours and at times instead of five times, seven times a month. The prejudice against the petitioner at every step cannot be denied in the facts and circumstances. The respondents can not be permitted to take shelter under the plea that the names of those persons who had complained against the petitioner cannot be disclosed to him in the best interest of the patients and to avoid any possibility of hostile environment in the hospital and since the doctors work in close proximity with each other and doctors of various Departments are dependent on each other for the treatment of their patients.

31. Even the fact-finding inquiry committee comprising of Dr.D.P.Pande and Dr.S.K.Sabharwal was not intimated as to what were the allegations of misconduct and what was against the working of the petitioner which was required to be inquired. It appears that two members enquiry committee had the objective of finding some misconduct and lapses in the working of the petitioner so that his training could be terminated. In the fact and circumstances, the inevitable inference is that there was complete lack and violation of Principles of natural justice and the alleged enquiry is nothing but a mere eyewash to throw out a trainee doctor who took cudgels against

the might of the Railway Administration. None of the representations of the petitioner and his legal notice were replied. Except the bare denial nothing has been shown that the complaints of the petitioner were baseless. The respondents should have produced something to show the baselessness of the complaints of the petitioner, not for their adjudication by this court but to prime facie show and demonstrate that their action in terminating the training of the petitioner was not vindictive.

32. The judgment relied on and cited by the respondents are apparently distinguishable and on the basis of the same, the inferences as suggested by the respondents cannot be drawn. It is no more *res integra* that a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. Considering the present facts

and circumstances, it may not be necessary to deal with all judgments in detail relied on by the respondents in the facts and circumstances of the present case as the present case is apparently distinguishable from the fact situation of the decisions relied on by the respondents. In any case, the counsel for respondent No.3 has referred to the judgments only. The Supreme Court in *Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr.*, AIR 2004 SC 778 had observed:-

" Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

In *Bhavnagar University v. Palitana Sugar Mills Pvt Ltd* (2003) 2 SC 111 (vide para 59), the Supreme had observed:-

" It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

Similarly In *Ambica Quarry Works v. State of Gujarat and Ors.*
MANU/SC/0049/1986 the Supreme Court had also observed:-

"The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases and disposing of a case by blindly placing reliance on a decision is not proper.

33. In *Shefali Pathak (supra)*, a single Judge of this Court had dealt with the question whether petitioner had completed her practical training which was an essential concomitant of the curriculum for the Bachelor of Technology in Chemical Engineering (B.Tech) from the globally acclaimed and prestigious Indian Institute of Technology. Learned single judge had held that when duly qualified and competent academic authorities examine and assess the work of a student over a period and declare his work to be unsatisfactory, the question of right to be heard whether the work of the candidate was satisfactory or not does not arise. In these circumstances, it was held that judicial review in academic matter has a very limited ambit and interference

with the decisions taken by an academic authority after due consideration of all the questions raised will not arise.

34. In *Om Prakash Mann* (supra) relied on by the respondents, the Headmaster who was on probation was charged of dereliction of duties, misappropriation, etc. The services of the Headmaster was terminated under the rules preceded by an inquiry. The charges were framed against him and he was asked to submit his reply. An inquiry was initiated and the Headmaster participated in the inquiry proceedings and he was also afforded an opportunity to defend himself and thereafter his services were terminated. The Headmaster had raised the contention that the chargesheet was vague and the copy of the inquiry report was not furnished to him. The Apex Court had held, in those circumstances, that to sustain complaint of violation of the principle of natural justice, one must establish that he has been prejudiced by non-observance of principle of natural justice. It was also held that if the probationer is dismissed/terminated during the period of probation, no opportunity is required to be given and, therefore, the question of violation of principle of natural justice did not arise in that case. Apparently, the case relied on by the respondents is quite distinguishable as the case of the petitioner is of

a trainee. No chargesheet was issued to him nor the allegations against him were disclosed not the names of the persons who had made allegations against him were disclosed. The statement of the petitioner was recorded and on the basis of the statements of the petitioner and other persons whose statements were recorded, it was inferred that his retention in the hospital is neither in the interest of patients nor in the interest of administration and his training has been terminated. All the questions raised by him were not determined. Apparently, the ratio of the present case does not support the action of the respondent.

35. In Indian Institute of Technology, Kanpur (supra), one Hiyat Khan was enrolled as Trainee (Mechanist) for a period of two years on 7th October, 1996, however, his training was terminated by order dated 19th September, 1997 before the expiry of the period of two years. The termination of training was challenged by him and in a writ petition filed by him, the order of termination of the training was quashed and the institute was given the opportunity to take appropriate action after affording opportunity of hearing to the trainee. Pursuant to the order passed in the writ petition, the trainee was afforded a reasonable opportunity and personal hearing and thereafter, the order was passed terminating his training which was

again challenged by him in a subsequent writ petition. The Division Bench of Allahabad High Court, in the circumstances, held that order of terminating the training by the respondent on the ground of bad academic performance could not be faulted on the principle of natural justice. It was also held that the position of a training is akin to that of a student and not that of an employee and in the matter of discipline of academic institutions, the court should be slow in interfering with the decisions of the authority as they are the best judge of the situation and know how to maintain the discipline so that the atmosphere in the institute does not get polluted putting in jeopardy the career of a large number of bright students. The Division Bench of Allahabad High Court relied on *Glynn v. Keele University & Another*, (1971) 2 All England Report 89 and Queens Bench Divisional Court, *R. v. University of Oxford Ex parte Bolchover* (1970) in para 19, 20 & 21 of the judgment, which are as under:-

“19. Glynn v. Keele University and another, (1971) 2 All ER 89, is a case where a severe punishment was imposed upon a student for an act of indiscipline without affording him an opportunity of hearing and even after arriving at a finding that there was violation of principles of natural justice, the Court refused to exercise the discretion in his favour. After getting a report of indiscipline, the Vice-Chancellor imposed a fine and excluded Glynn from residence in any residential accommodation on the University campus for the whole of the academic session. Glynn subsequently wrote to the Registrar of the University denying his involvement in the incident and further pleaded that the punishment had been imposed without

any representation by him or on his behalf and hence he had not even had opportunity to defend himself. After referring to leading cases relating to compliance of natural justice in quasi-judicial proceedings like *Ridge v. Baldwin*, (1963) 2 All ER 66 and *Duryappah Vs. Fernando*, (1967) 2 All ER 152, the following observation was made:-

“The context of educational societies involves a special factor which is not present in other contexts namely, the relation of tutor and pupil; i.e, the society is charged with the supervision and upbringing of the pupil under tuition, be the society a university or college or a school. Where this relationship exists, it is quite plain that on the one hand in certain circumstances the body or individual acting on behalf of the society must be regarded as acting in a quasi-judicial capacity expulsion from the society is the obvious example. On the other hand, there exists a wide range of circumstances in which the body or individual is concerned to impose penalties by way of domestic discipline. In these circumstances, it seems to me that the body or individual is not acting in a quasi-judicial capacity at all but in a magisterial capacity, i.e., in the performance of the rights and duties vested in the society as to the upbringing and supervision of the members of the society. No doubt there is a moral obligation to act fairly, but this moral obligation does not, I think, lie within the purview of the Court in its control over quasi-judicial acts. Indeed, in case of a schoolboy punishment, the contrary could hardly be argued.”

In the same report reference is made to decision of Queen’s Bench Divisional Court, *R V. University of Oxford ex parte Bolchover*, (1970). The Times, 7th October, in which the University had expelled a post graduate member and he applied for an order of certiorari to quash the decision. In a short judgment, Lord Parker, C.J., said:

“The Court has carefully considered the papers in this case, and of course, all that you so ably urged, but at the end of the day we remain unconvinced that the conduct of the hearing before the proctors

offended against such rules of natural justice as were applicable in the circumstances. To put it more simply, they are not satisfied that the hearing was unfair. But it is only right to any that even if the Court felt there might be something to be enquired into nevertheless as a matter of discretion they would, having regard to the appeal, refused you leave. In the result leave is refused.”

These cases lay down that in matters involving disciplinary action by academic bodies, discretion to quash their decisions should not be lightly exercised.

20. Coming to the criticism leveled by the learned single Judge that no reasons have been recorded, it may be stated at the very outset that the matter is not governed by any statutory provision which may make the recording of reasons mandatory. We are not concerned here with decision of any Court or Tribunal. The order terminating training of the respondent clearly shows that the Director of the Institute had considered the show cause notice, the reply given by the respondent and also the statement made by him during the course of oral hearing wherein he did not deny any charge and, therefore, he had arrived at a finding that the training of the respondent should be terminated. The Director was not trying the respondent like a Judge of a criminal court where evidence in support of each charge had to be considered and weighed and, thereafter, a finding had to be recorded. The order cannot be said to a non-speaking order. It is not a cryptic order of one sentence but is a fairly long order. Non-consideration of the facts mentioned in the show cause notice in great detail cannot per se make the order bad. In *Sachchidanand Pandey v. State of West Bengal*, AIR 1987 SC 1109, it was held that where reasons are not stated, the Court may seek to gather the same from the impugned adjudicative order by considering the entire course of events. In *K.L. Tripathi v. State Bank of India and others*, AIR 1984 SC 273, the court sustained an order of dismissal from service which did not give reasons with the following observations:

“.... Through reasons had not been expressly stated in the final order, these reasons were implicit, namely, the nature of the charges, the explanation offered and the reply of the officer to the show cause notice. It was manifest that absence of any denial by the officer, indeed admissions of the factual basis and nature of the explanation offered by the officer were considered by the authority to merit the imposition of the penalty of dismissal. Such a conclusion could not, in the facts and circumstances of the case, be considered to be unreasonable or one which no reasonable man could make.....”

21. Again, in M.J.Stwani Vs. State of Karnataka, 1995 (6) SCC 289, it was observed in paragraph 32 that it is a settled law that the order need not contain detailed reasons like a Court order. Administrative order itself may contain reasons or the file may disclose the reasons to arrive at a decision showing application of mind to the facts in issue which would be discernible from the reasons stated in the order or the contemporaneous record.”

36. Perusal of the facts of the case relied on by the respondents, it is apparent that the trainee in that case was given ample warning in writing to improve himself and devote himself to the training. There were also allegations of mis-behaviour and indiscipline against the respondent. In the circumstances, his performance was not found to be upto mark and there were allegations of mis-behaviour and indiscipline. He was given a show cause notice and he was also afforded an opportunity of hearing whereas in the case of Dr.Manoj

Singhania/petitioner, no show cause notice was given to him nor the alleged misconducts and lapses in his working were disclosed to him. However, he was given a notice regarding fact finding inquiry to be conducted where first his statement was recorded and thereafter the statements of a number of doctors were recorded in his absence and without disclosing the same to him and the interference has been drawn that his retention is not in the interest of patients nor in the interest of administration. Apparently, the principle enunciated in *Hiyat Khan (supra)* shall not be applicable in the case of the petitioner in the present facts and circumstances.

37. Though the learned counsel for respondent No.3 has also relied on the admissions made by the petitioner that once on the night of the 7th August, 2006 he had left the duty for various reasons as has been alleged by him, however, no effort was made by the Inquiry Committee or the respondent No.3 to ascertain as to what were the conditions on 7th August, 2006. The staff who was on duty on 7th August, 2006, has not been examined. The other doctors who are alleged to have complained against him have not been asked anything about the incident of 7th August, 2006 when the petitioner had gone. The inspection by the Committee on 28th March, 2007 of the residents' duty room of Medical ICU and the conditions prevailing on that date

does not lead to any presumption that the same conditions existed even on 7th August, 2006.

38. Normally, the Court while exercising the jurisdiction under Article 226 of the Constitution of India does not review the findings of facts arrived at by a fact finding committee unless they are perverse or have manifest error. Had there been any evidence in respect of the prevailing conditions in the residents' duty room of Medical ICU on 7th August, 2006, the findings of the Inquiry Committee that there was nothing wrong with the residents' duty room of Medical ICU as no mosquitoes were found on that day, could not be interfered with. However, perusal of the statements of all the doctors recorded in absence of the petitioner reveals that it had not even been put to them as to what were the prevailing conditions in the residents' duty room of Medical ICU so as to infer that there was no justification for the petitioner to leave the medical room in the night on 7th August, 2006. This court is not justifying the act of the petitioner in leaving the duty room on 7th August, 2006. However, on the basis of the said incidence for which there is no evidence before the Inquiry Committee, the allegations as made against the petitioner cannot be inferred so as to

justify the termination of his training in the present facts and circumstances.

39. The plea of the respondent No.4 that the petitioner had abandoned or deserted the training is not made out from the allegations made by respondent No.3. The petitioner's case is that he was not allowed to join by the Senior Administrator, Dr.Sudheer Sharma, on 2nd March, 2007. The petitioner has written letters/representations dated 1st March, 2007; 2nd March, 2007; 3rd March, 2007; 5th March, 2007; 6th March, 2007; 7th March, 2007; 8th March, 2007; 9th March, 2007; 10th March, 2007; 12th March, 2007; 14th March, 2007 and 15th March, 2007 against his prevention from joining his training, however, none of the letters or representations have been answered. The respondent Nos.1 and 3 also in the counter affidavit though stated that the petitioner was not allowed to continue the training after 8th February, 2007, however, has not controverted the allegations of the petitioner that he was not allowed to join since 1st March, 2007 though he had been going there daily. Nothing has also been produced by the respondent to show that the petitioner did not join the duties from 8th February, 2007 till 1st March, 2007. In any case, respondent No.3 in paragraph 15 has categorically admitted

that the petitioner was not allowed to join the training after 8th February, 2007 on account of his grave mis-conduct. Para 15 of the counter affidavit of respondent No.3 is as under:-

“15. The contents of para 15 are not denied to the extent that the petitioner, owing to his grave mis-conduct was not allowed to continue the training after 8th February, 2007”.

40. The petitioner was not issued any suspension letter. The petitioner has rather complained in his letter dated 2nd March, 2007 addressed to Medical Director after his complaints and his applications were refused to be accepted by Mr.Pujara, Mrs.Dinesh and Mr.Vishnu that Dr.Sudhir Sharma had promised to send suspension/termination letter within 3/4 days, however, the same was not done. This is not the case of the respondent No.3 that the petitioner was suspended before his training was terminated by letter dated 3rd May, 2007. Since there was no suspension and/or termination of the training of the petitioner prior to 3rd May, 2007, the respondent No.3 could not disallow the petitioner to join the training nor the respondents can be permitted to take the plea that the petitioner had abandoned/deserted the training. The allegation is palpably incorrect and reflects utter non-application of mind by the respondents. Since the petitioner had not been allowed to join the

training and termination of his training is illegal, then respondent No.4 cannot be allowed to take shelter under the plea that he has abandoned his training and that the petitioner should not be allowed to complete his training on the ground that it would adversely affect upon the standards in higher medical education. The termination of the training of the petitioner is invalid and contrary to the canons of the Principle of Natural Justice and cannot be sustained and consequently the petitioner shall also be entitled to complete his training in accordance with rules and regulations and thereafter appear in the theory examination. The plea of the respondent No.4 that the petitioner could have opted to join some other accredited institution for the remaining period of his training and the respondent could have facilitated the same, also does not disentitle the petitioner to continue his training on the termination of his training being set aside by this Court. The petitioner cannot be condemned for the lapses in the manner as has been canvassed by the respondents, in the facts and circumstances.

41. For the foregoing reasons the order dated 3rd May, 2007 terminating the training of the petitioner in DNB 3rd year in the Department of Medicine, Northern Railway, Central Hospital, New

Delhi is set aside and the petitioner is reinstated with a direction to the respondents to allow the petitioner to complete his course and training in accordance with rules. The petitioner shall also be entitled for all the consequential benefits. Petitioner is also awarded cost of Rs.10,000/- payable by the respondent nos.2 & 3 to the petitioner in the facts and circumstances of the case.

May 27, 2008
'Dev'

ANIL KUMAR J.