

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

+ **W.P(C) No.13124/2009**

% **Date of Decision: 12.08.2011**

ASI Jaipal Singh Petitioner

Through Mr.Anil Singhal, Advocate along with the
petitioner in person.

Versus

Govt. of NCT of Delhi & Ors. Respondents

Through Mr. Aditya Madan, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

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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? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The petitioner, a Reader to ACP/T-West, Delhi Police has challenged the order dated 31st October, 2008 passed by the Central Administrative Tribunal, Principal Bench in O.A No.1606/2005 titled as 'HC Jaipal Singh v. Government of NCT of Delhi & Ors' dismissing his original application filed seeking quashing of order dated 24th

November, 2003 imposing a penalty of forfeiture of three years of approved service, as well as, the order of the appellate authority dated 4th March, 2005 reducing the punishment of forfeiture from three years to one year of approved service.

2. Brief facts to comprehend the disputes are that the petitioner was placed under suspension from 26th July, 2001 to 6th September, 2002 on account of mismanagement in the office of ACP/T-West District in dealing with the cases of impounded vehicles by various traffic circles of the West District. It was asserted that the mismanagement by the petitioner had resulted in the violation of the orders/directions of the Supreme Court. A domestic enquiry had been conducted in accordance with the rules, and on the basis of the summary of allegations and the findings of the Enquiry Officer it was concluded that the charge against the petitioner had been substantiated. The Disciplinary Authority, the Deputy Commissioner of Police, by order dated 24th November, 2003 had imposed a penalty of forfeiture of three years of approved service of the petitioner permanently. An appeal filed by the petitioner was partly allowed and the forfeiture of service of three years was modified to forfeiture of one year of approved service.

3. The main allegations against the petitioner are that on checking of records in the custody of the petitioner it had transpired that a large

number of cases/documents pending decision were lying unattended and in a large number of cases, the documents pertaining to the offending vehicles were missing. A report pertaining to these allegations and the inspection conducted thereof had been forwarded to the Deputy Commissioner of Police (Traffic) on 27th June, 2001, along with a list of 1439 cases appended, wherein the discrepancies were noticed. During inquiry, it was also noted that the notice register from 1st November, 2000 to 31st December, 2000 and from January, 2001 to March, 2001 were not located. The suspension order register was also missing. There was also the allegation that the final orders passed in January, 2001 and afterwards had not been served on the vehicle owners.

4. The petitioner had challenged the order of the Disciplinary Authority and the Appellate Authority by filing an Original Application, being O.A. No. 1606/2005, under Section 19 of the Administrative Tribunal Act, 1985, on the ground that the enquiry was vitiated on account of the violation of Rule 16(1) of the Delhi Police (P&A) Rules, 1980 and Standing Order No.125 and also on account of the violation of the principles of natural justice, as a number of documents were demanded by the petitioner through written applications but they were not supplied to the petitioner though those documents had been relied on by the Disciplinary Authority as well as the appellate authority in

concluding on the guilt of the petitioner with regard to the charges framed against him.

5. The petitioner also asserted before the Tribunal that none of the PWs in their statements had stated about any negligence or acts of omission on the part of the petitioner or which were attributable to the petitioner. The petitioner had also sought the quashing of the disciplinary action against him on the ground that Sh.Tarif Singh and Deputy Head Constable Sanjay were to be called as defence witnesses, however, the plea of the petitioner to call them as defense witnesses was rejected by the Enquiry Officer without assigning any reason, which had caused grave prejudice to the petitioner. The petitioner contended that these witnesses had refused to accompany the petitioner and depose since they are Government servants and they had shown their inability to appear on their own in the absence of any summons and process issued by the Enquiry Officer.

6. The petitioner had also sought quashing of the disciplinary action taken against him on the ground that the punishment awarded to him was in violation of letter dated 4th July, 2003 stating that all disciplinary matters will be dealt only by DCP (HQ) whereas the order of punishment was passed by DCP (SR), who was not authorized to exercise the powers of a Disciplinary Authority. The petitioner had also

contended that the testimony of the defense witnesses had been rejected by simply stating that they are tutored, without giving any reasons for such an inference, thereby denying the petitioner of a reasonable opportunity of being heard. In support of this submission, he placed reliance on AIR 1985 SC 1121, Anil Kumar v. Presiding Officer and Ors.

7. The petitioner also challenged the disciplinary action against him on the ground that the statement of the witnesses recorded during the enquiry proceedings were not taken into consideration in their true sense either by the Enquiry Officer or the Disciplinary Authority or by the Appellate Authority and thus the findings against the petitioner was reflective of bias and prejudice. The petitioner also relied on DD No.19 lodged on 17th April, 2001 on the ground that it did not incorporate as to what documents were missing nor was the said DD entry No.19 sent to Senior officers for taking appropriate action against the petitioner till the raid was conducted in his office on the basis of the complaint of one vehicle owner submitted against the ACP/T West.

8. The allegations made by the petitioner were contested by the respondent contending, inter-alia, that on checking the record in the custody of the petitioner it was found that a large number of cases/documents which were pending decision were lying unattended.

The documents lying tied up in bundles were scrutinized and in large number of cases the documents of the vehicles were found missing, for which reason a DD entry was lodged by ACP-T (West) by DD No.20 dated 17th April, 2001. A report along with a list of 1439 such cases was sent by the ACP-T(West) to the DCP/Traffic on 26th July, 2001. It was also averred that during the enquiry proceedings the petitioner could not produce the Notice register from 1st November, 2000 to 31st December, 2000 and from January, 2001 to 24th March, 2001, which registers were later on reconstructed. Reliance was also placed on the fact that the final orders passed even in the month of January, 2001 had not been dispatched and served on the vehicle owners. On these grounds it was inferred that there was mismanagement and negligence on the part of the petitioner.

9. The Tribunal considered the pleas and contentions of the parties and held that the Appellate Authority had taken note of the fact that some of the orders were issued by two constables who were working under the petitioner, who were also handling the work of suspension of permits. The petitioner was expected to monitor the working of his subordinates and the absence of proper management of his subordinate staff could be construed as mismanagement in the office. However, inspite of this the benefit was given to the petitioner and the

punishment of forfeiture of three years of approved service was reduced to one year of approved service.

10. Regarding the plea of not supplying some of the additional documents and other documents belatedly, it was held that the plea was raised by the petitioner belatedly, as the ground that the alleged non supply of the documents had resulted in not cross examining the witness effectively was not taken before the appropriate authorities. The Tribunal also noted that the petitioner did not succeed in making out the case that prejudice had been suffered by him by allegedly not getting the copies of the documents because if there was any real grievance, the petitioner would have taken it up with the appropriate authorities before participating in the inquiry and not later. Regarding the plea of the petitioner before the Tribunal that the Enquiry Officer had not summoned some of the Government officers who were required to be examined as defense witnesses, it was held that under Rule 16(5) of the Delhi Police (Disciplinary and Appeal) Rules, 1980 a specific provision has been made stipulating that not only the names of the witnesses are to be given, but the purpose of examining such witnesses with reference to the facts they intend to disclose are also to be revealed. After perusing the list of witnesses, the Tribunal held that the petitioner had not disclosed the reasons for the presence of the two witnesses, namely Sh.Tarif Singh and Deputy Head Constable Sanjay,

and in the circumstances the petitioner could not make out any grievance on this ground nor could it be established as to what prejudice has been caused to the petitioner. The plea of the petitioner that an incompetent Disciplinary Authority had passed the order of punishment, as according to the petitioner by letter dated 4th July, 2003 all the disciplinary matters had to be dealt only by the DCP (HQ) but the order of punishment was passed by the DCP (SR), was repelled and it was held that on relying on Section 21 of the Delhi Police Act, a Deputy Commissioner of Police is empowered to prescribe a penalty in respect of persons of the status of the petitioner.

11. The plea of the petitioner regarding disproportionate and severe punishment imposed upon him was repelled on the ground that the witnesses who had appeared on behalf of the petitioner had deposed in categorical terms that the petitioner had conducted his work in the most unsatisfactory manner. It was noticed that the witnesses who appeared on behalf of the petitioner had deposed that the subordinates of the petitioner had been entering into dealings with the general public. That there is sufficient evidence to show that the records to be mandatorily maintained were not maintained when the petitioner was incharge of the work. The plea that the findings of the Appellate Authority are not in consonance with the memorandum of allegation was also repelled. The Tribunal also noticed that the respondents had

not been vindictive and ample opportunities had been given to the petitioner to explain his stand and thus it could not be held that the penalty imposed was severe or harsh and thus the Tribunal rejected the Original Application by order dated 31st October, 2008.

12. The petitioner has challenged the order dated 31st October, 2008 passed by the Tribunal in O.A No.1606/2005 in the present writ petition raising the same grounds which had been raised before the Tribunal. The petition has been contested by the respondent by reiterating the same pleas and contentions as raised before the Tribunal. It has been contended by the respondent that on the basis of preponderance of probability the evidence against the petitioner establishes the charges framed against him and the punishment has been awarded in accordance with the provisions of Delhi Police (Punishment and Appeal) Rules, 1980. It was also disclosed that though the petitioner's formal appointment as a Reader was issued on 3rd January, 2001, he was acting as a Reader to ACP/Traffic (West) district since November, 2000 and it was his duty to take proper charge of the important documents from the ex-Reader, which he did not do. According to the respondents, in the Reader's branch the Reader is the Supervisory Officer and he is expected to monitor all the papers and correspondences. It was categorically asserted that all the documents relied on by the petitioner had been provided to him and he was

afforded ample opportunity to defend his case and there is no violation of Rule 16(1) of Delhi Police (Punishment and Appeal) Rules, 1980. Emphasis was also laid on the petitioner proceeding on medical leave on 17th April, 2001 when a complaint was received pertaining to the functioning of the ACP office. Reliance was also placed on the fact that ACP/T-West, Onkar Prasad, had appeared as PW-7 before the Enquiry Officer, however the petitioner had not raised any questions during his cross examination and therefore the Enquiry Officer had given the findings on the basis of the preponderance of probability, which are not to be substituted by this Court with any findings arrived at contrary to the findings arrived at by the Disciplinary Authority.

13. This Court has heard the learned counsel for the parties in detail and has perused the writ petition along with the reply and the counter affidavit filed with the writ petition as well as the record of the Tribunal which was filed with the writ petition. One of the pleas of the petitioner is that the enquiry against him was held in violation of the rules and principles of natural justice, as despite the request made by him for the copies of certain documents which were imperative for preparing his defense, they were not made available to the petitioner.

14. The plea is refuted by the counsel for the respondents. The learned counsel for the respondents has contended that during the

pendency of the present petition, on 18th October, 2010, the learned counsel for the petitioner had contended that an application dated 9th November, 2001 was filed by the petitioner before the Enquiry Officer, seeking documents under 14 heads. According to the learned counsel for the petitioner, the said application/request of the petitioner to supply the documents was not decided by the Enquiry Officer nor were the documents supplied.

15. Consequent to the allegation of the petitioner, this Court had directed the respondents by order dated 18th October, 2010 to produce the entire record of the enquiry proceedings. The record of the enquiry proceedings was produced on 10th December, 2010. After perusing the record, this Court had held that though no formal order disposing of the application dated 9th November, 2001 was passed, however, the order sheets dated 7th June, 2002 and 11th June, 2002 clearly reflects that photocopies of 15 documents were supplied to the petitioner. From the record it was also pointed out that though the details of the 15 photocopies of the documents supplied to the petitioner had not been categorically noted, however, from the perusal of the order dated 11th June, 2002 it is apparent that the photocopies of 15 documents which were supplied to the petitioner, were the same which were demanded by the petitioner.

16. Though by order dated 10th December, 2010 this Court had also expressed dissatisfaction about the way the orders in the enquiry proceedings were noted, however, this cannot be denied that pursuant to the application dated 9th November, 2001 photocopies of 15 documents were supplied to the petitioner. If the petitioner had received photocopies of 15 documents and if copies of documents which were provided to him were not the same which were demanded by the petitioner by application dated 9th November, 2001, it was incumbent upon the petitioner to have disclosed as to which documents were received by him and which of the documents were not received by him, in order to substantiate his plea that the documents which were not supplied to him were material and had prejudiced his case. In the original application filed before the Tribunal in para 5.5, the case alleged by the petitioner was that the request of the petitioner for supply of additional documents was rejected and no reason was given by the Enquiry Officer to reject the request of the applicant. In the application dated 9th November, 2001, 14 additional documents were sought. From the order sheet dated 7th June, 2002 and 11th June, 2002 of the enquiry proceeding, it is also apparent that copies of 15 documents were supplied to the petitioner. By letter dated 11th March, 2002, the petitioner had rather contended that additional documents as per his application dated 9th November, 2001 were not supplied to him. However, the petitioner did not disclose that out of the 14 documents

demanding by letter/application dated 9th November, 2001, which of the documents were not supplied. The petitioner concealed the fact that the copies of 15 documents were supplied to the petitioner on 7th June, 2002 and 11th June, 2002. Even in the writ petition filed by the petitioner challenging the order of the Tribunal dated 31st October, 2008, dismissing his original application, the petitioner has not disclosed that photocopies of 15 documents were supplied to him on 7th June, 2002 and 11th June, 2002 nor did he disclose that out of the 14 documents demanded by application dated 9th November, 2001, copies of which documents were not supplied to him. The pleas of the petitioner are also reflective of the absence of any plea as to how he was prejudiced on account of the non supply of the documents demanded by him.

17. This is a settled rule of departmental proceedings, that it is for the charged officer to raise the issue of prejudice and discharge the onus. In *Union of India & Ors v. Alok Kumar*, (2010) 5 SCC 349 the Supreme Court had held that in a departmental enquiry where the department relies upon a large number of documents, majority of which are furnished, and an opportunity is granted to the charged officer to defend himself, except that some copies of some documents had not been furnished to the delinquent, then the onus is on the delinquent to show that non furnishing of these documents has

resulted in de facto prejudice and that he has been put to a disadvantage as a result thereof. It was further held that the element of prejudice should exist as a matter of fact or there should be definite inference of likelihood of prejudice flowing from such default. It was observed that it will not be permissible to set aside departmental enquiries merely on the basis of apprehended prejudice. For de facto prejudice, one of the essential ingredients to be shown by the delinquent officer before an order of punishment can be set aside, depending upon the facts and circumstances of a given case, is to give the facts and details of prejudice. Reliance can be placed on the Legal Maxim *Judicia posteriora sunt in lege fortiori*. That prejudice normally would be a matter of fact and therefore, a fact must be pleaded and shown by cogent documentation to be true. If this basic feature is lacking, the delinquent officer may not be able to persuade the Court to interfere with the departmental inquiry or to get the order of punishment set aside. In the circumstances, on this ground raised by the petitioner the enquiry proceedings cannot be vitiated. The copies of documents demanded by the petitioner were supplied to him and facts pertaining to alleged prejudice has not been disclosed and pleaded by the petitioner. The Tribunal has also held in its order that the petitioner did not disclose any prejudice suffered by him by not getting the copies of the alleged documents, which according to him was material for preparing his defense. In the circumstances, the findings and the

inference of the Tribunal cannot be held to be arbitrary, illegal or irregular and perverse.

18. Another plea raised by the petitioner is that the Enquiry Officer was duty bound to issue summons and call the witnesses who were Government servants, namely Tarif Singh and DHG constable Sanjay, as they had pleaded their inability to appear on their own. It has also been averred that the Enquiry Officer did not disclose any reason for not issuing the summons for ensuring their presence. According to the learned counsel for the petitioner, not ensuring the presence of the said defense witnesses had caused prejudice to the petitioner as he could not prove his defense and thus the enquiry proceedings are vitiated and, consequent thereto, punishment should not be imposed upon him. The petitioner also contended that he could not defend himself properly in the absence of testimonies of these witnesses. The Tribunal, while repelling the contention of the petitioner, had held that it was not the mandatory duty of the Enquiry Officer to summon the witnesses cited by the petitioner nor was it his duty to ensure their presence in case of non compliance of Rule 16(5) of Delhi Police (Disciplinary and Appeal) Rules, 1980. Noticing the said provision, it was held that the said rule categorically provides that not only the name of the witnesses are to be given but the purpose of examining such witnesses with reference to the facts they intend to disclose is also to be revealed to the

Enquiry Officer before taking the assistance of the Enquiry Officer to summon witnesses, otherwise the charged officer has to produce the witnesses at his own expense. The Tribunal noted that the petitioner had not disclosed the reasons for the presence of these witnesses and what these witnesses had to depose for defense of the petitioner as per the mandate of the rule. It was also held that it is a settled rule that the rule-making authority can prescribe the procedure whereby the rights as might be available under natural law could be curbed.

19. A copy of the list of witnesses dated 12th July, 2002 reveals that the same is not in consonance with the requirement of Rule 16(5) of Delhi Police (Disciplinary and Appeal) Rules. The petitioner in the said list of witnesses failed to disclose the reasons for which the presence of the said witnesses was required and what they intended to disclose. Since the petitioner has made a specific grievance regarding Sh. Tarif Singh and Constable Sanjay, perusal of the list dated 12th July, 2002 reveals that Sh. Tarif Singh is not a Government employee, as his particulars are given as Sh. Tarif Singh s/o Sh. Hashiar Singh r/o Village and P.O Pachan Pur, New Delhi and the reason for the presence of the said witness is given as, to prove what had happened with the petitioner. Similarly, regarding Constable Sanjay it is alleged that he would disclose the real position on the matter. The particulars of the

said two witnesses as given in the list of witnesses dated 12th July, 2002 at item Nos.5 & 9 are as under:-

“5. Sh.Tarif Singh s/o Sh.Hashiar Singh R/o.Vill & P.O. Pachan Pur New Delhi to prove what happened with him.

9. Ct.Sanjay No.8277/DHG ACP/office at Present PNC traffic New Delhi to before real position.”

20. Even in the original application before the Tribunal and in the writ petition, it has not been disclosed as to for what purpose their presence was required by the petitioner and what facts and/or record they had to establish. It has also not been disclosed as to how the petitioner has been prejudiced on account of not summoning the said witnesses by the Enquiry Officer. As already held, prejudice cannot be based on mere apprehension or even on a reasonable suspicion, since prejudice should be categorically pleaded and shown by cogent facts and documents. If this feature is lacking the petitioner cannot take shelter under the generic allegation that he has suffered prejudice. It was incumbent upon the petitioner to have disclosed as to what Sh. Tarif Singh would have disclosed in support of his defense and what documents he would have proved. Similarly, such facts should have been disclosed by the petitioner in respect of Deputy Constable Sanjay. This requirement to disclose not only the name of the witnesses but also the purpose of examining such witnesses with reference to the facts they have to disclose, has also been crystallized in Rule 16(5) of Delhi Police (D&A) Rules. In the circumstances, if these witnesses have

not been summoned, the petitioner cannot blame the Enquiry Officer nor can he seek that the entire enquiry proceedings be vitiated. The Tribunal too has held that the enquiry proceedings will not be vitiated on the ground that these two witnesses were not summoned by the Enquiry Officer. Consequently, the learned counsel for the petitioner has failed to make out a case on this ground, which would show any illegality or irregularity in the findings and the reasoning of the Tribunal in the order dated 31st October, 2008, which is impugned by the petitioner.

21. Another plea of the petitioner is that the punishment order issued against him was passed by an incompetent person. Relying on letter dated 4th July, 2003, it is contended that all the disciplinary matters had to be dealt only by the DCP (HQ), but the order of punishment was passed by the DCP (SR). The learned counsel for the petitioner has, however, not been able to dispute that under Section 21 of the Delhi Police Act, a Deputy Commissioner of Police is empowered to prescribe a penalty in respect of the persons of the status of the petitioner. The tenor of section 21 cannot be modified or restricted by a letter relied on by the petitioner. In the facts and circumstances and in view of section 21 of the Delhi Police Act, it cannot be held that the Deputy Commissioner, whether (HQ) or (SR), was incompetent to pass the penalty order and, consequently, the penalty order passed by Deputy

Commissioner (SR) cannot be quashed on this sole ground. The learned counsel for the petitioner too did not press the plea much in view of Section 21 of the Delhi Police Act. Therefore, the order of the Tribunal on this plea cannot be faulted.

22. The next plea raised by the petitioner is that the punishment imposed upon him is severe and that he has been found guilty of charges which had not been framed against him specifically. The findings of the Tribunal on the said plea of the petitioner are as under:

“9.....We have to notice that the approach of the appellate authority was unexceptionable. The witnesses, who were examined on behalf of the applicant, had in categorical terms deposed that the work in the office was being conducted in a most unsatisfactory manner. Witnesses had stated that the persons who were supposed to be working subordinate to the applicant had been entering into dealings with the general public. This single circumstance, according to us, are sufficient for the authority to come to a conclusion that in the matter of management and supervision of the office, the applicant was not acting in an effective manner and was giving his subordinates, opportunity to make bargain and make money. Sufficient evidence had also been adduced to show that the records to be mandatorily maintained were not there, during the period when the applicant was admitted in charge of the work (and perhaps even before). We are not in a position to accept the submission made by Mr. Singal that the appellate authority had come up with a finding which was not in the memorandum of allegations served to him, and the findings were different from the charges.”

23. The learned counsel for the petitioner is unable to show any charge which had not been framed and which had been allegedly established against the petitioner. The counsel has also contended that

the petitioner has been made a scapegoat as the ACP was involved in most of the dealings and even the money received by the other constables were paid to the ACP. The learned counsel for the petitioner has relied on the testimonies of some of the witnesses examined on behalf of the petitioner. It is also contended that the testimony of the witnesses of the petitioner had been ignored on the sole ground that the witnesses of the petitioner were tutored and no cogent reasons had been given to decline the cogent testimonies of petitioner's witnesses. Reliance has also been placed on the testimony of DW 3, Sh. Subhash Chand Verma, who had deposed that Ct. Praveen had said that Rs. 1000/- would go to the ACP and the rest of the amount will be divided between the 3 person in the office. The said witness had also contended that Ct. Praveen, Antony and the ACP had connived with each other.

24. The Enquiry Officer had held that the ACP had appeared as PW-7 and during his cross examination it was not even suggested to him that he had been conniving with Ct. Praveen and Antony and was also accepting illegal money collected by the said persons. The plea and testimony of the petitioner and his witnesses was also considered by the Enquiry Officer and was repelled with cogent reasons. This Court in exercise of its jurisdiction will not re-appreciate the findings and inferences of the Enquiry Officer and substitute it with its own inferences. The petitioner was directed by the ACP PW-7 to produce the

missing records but he failed to produce the records and disappeared from the office at 3.30 PM without giving any intimation. Later on it transpired that he had got himself admitted into a hospital. This raised the suspicion against the petitioner and on further enquiry it was found that the permit suspension orders were without original documents, regarding which orders were passed, but the petitioner had dispatched those documents to the permit holders. These documents were under the personal custody of the respondent. The counsel has failed to make out a case that the decision of the Disciplinary Authority is so outrageous as to be in total defiance of logic or rational standards. The Enquiry Officer, upon carefully analyzing the evidence and documents, has arrived at the conclusion that there had been substantial preponderance of probability to prove the charges on the basis of the materials on record. While doing so he has neither taken into consideration any irrelevant fact nor has he declined to consider any relevant fact, nor are his inferences based on assumptions, nor has he rejected the relevant testimonies only on the basis of surmises and conjectures. The plea of the learned counsel for the petitioner that the testimonies of the petitioner's witnesses had been rejected merely on the ground that they are tutored witnesses is contrary to the record. The Enquiry Officer had held that the witnesses of the petitioner had been tutored to dilute the charge against the petitioner. It has been further held as under:

“ The DWs are more tutored than to dilute the charge against the defaulter. No one has come to defend him that the documents were not the property of the defaulter. It has nowhere been explained how the bundles of the documents reached the T.T park Punjabi Bagh as stated by PW3. It is also quite strange that the documents of the vehicles were tied in the bundles of decided cases. The defaulter had even dared to level unsubstantiated allegations of a very serious nature including corruption against ACP/T West directly and through his DWs which in itself is a grave misconduct.”

In the circumstances, the plea of the petitioner that the evidence of the petitioner's witnesses had been rejected solely on the ground that the witnesses were tutored, is not correct, as other reasons had been given by the Enquiry Officer as well. This Court in the facts and circumstances will not go into the reasonableness of the conclusions drawn by the Enquiry Officer.

No other ground has been argued on behalf of the petitioner and on the grounds raised by the petitioner the findings of the Enquiry Officer and the order of Disciplinary Authority cannot be faulted. The case of Anil Kumar (supra) relied on by the petitioner is clearly distinguishable. In the said case, the Enquiry Officer had merely recorded on his ipse dixit that the charges were proved without assigning any reasons as to why the evidence produced by the management appealed to him in preference to the evidence produced by the delinquent. Therefore, in the circumstances, it was held that there was no enquiry conducted worth the name and the order of termination

based on such proceedings, disclosing a total non application of mind, was unsustainable. The present facts and circumstances and the report of the Enquiry Officer is quite distinguishable and it cannot be held that there is no application of mind by the Enquiry Officer as well as the Disciplinary Authority.

25. Considering the entirety of the facts and circumstances, this Court does not find any illegality, irregularity or un-sustainability in the order of the Tribunal or any such perversity which shall entail any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India against the order of the Tribunal dated 31st October, 2008. The writ petition is therefore, without any merit and it is dismissed. The parties are, however, left to bear their own costs.

ANIL KUMAR, J.

SUDERSHAN KUMAR MISRA, J.

AUGUST 12, 2011

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