IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11940 of 1998

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Arbind Jha, Son of Late Nokhe Lal Jha, Retired Manager, Bihar State Financial Corporation, at present residing at M1-4/13 Road No.11, Rajendra Nagar, P.S. Kdam Kuan, Patna Town, District Patna

.... Petitioner

Versus

1. Bihar State Financial Corporation having its office at Fraser Road, Patna through its Managing Director
2. The Board of Directors of Bihar State Financial Corporation, through its Chairman, Having its office at Frazer Road, Patna
3. The Managing Director, Bihar State Financial Corporation, having its office at Frazer Road, Patna
4. Ashok Kumar Singh, I.A. S. at present working as Member, Finance Bihar State Electricity Board, Vidyut Bhawan Bailey Road, Patna
5. S.K.Mishra, I. A.S. Collector, Sheohar, at P.S. and District Sheohar (the then Officer on Special Duty in Bihar State Financial Corporation-cum-Enquiry Officer in the departmental proceeding of the Petitioner

... . Respondents

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Appearance :

For the Petitioners : Mrs. Namrata Mishra, Advocate
Mrs. Archana Jha, Advocate

For the Respondents : Mr. Y. V. Giri, Sr. Advocate
Mr. Nikhil Kr. Agrawal, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 26-03-2015

. By an order issued vide Memo No. 816 dated 31.3.1995 under the signature of Managing Director (Disciplinary Authority), Bihar State Financial Corporation, Patna (hereinafter referred to as the Corporation) punishment of fine to the tune of Rs. 4.25 lacs was imposed upon the petitioner, on the basis of a departmental proceeding initiated against him. The petitioner had preferred appeal before the appellant authority i.e. the Board of Directors of the Respondent Corporation. The Appellate Authority, by an order dated

18.9.1996 modified the order of punishment by reducing fine from Rs. 4.25 lacs to Rs. 1.50 lacs. The petitioner has challenged these two orders dated 31.3.1995 and 18.9.1996 and has sought for a direction to the respondents to refund the amount of Rs. 1.50 lacs, which has been recovered from his salary and other admissible allowances including the retirement benefits. The petitioner also seeks direction for payment of full salary for the period 18.8.1994 to 31.3.1995, during which he had remained under suspension and has been paid subsistence allowance only.

2. The challenge to the impugned orders are on various grounds including the ground of personal/official bias against respondent No.4 Ashok Kumar Singh, the then Managing Director of the Corporation (Disciplinary Authority) and Sri S.K. Mishra, Officer on Special Duty (respondent No.5) who acted as the Conducting Officer. The other grounds on which the orders are sought to be challenged are (i) that the conducting Officer failed to discharge his duties as an impartial quasi-judicial authority; (ii) certain witnesses were examined on the dates not fixed for the departmental enquiry by the conducting Officer without any intimation to the petitioner and (iii) no witnesses were examined to prove the documents and the contents of the documents on the part of Corporation in course of enquiry before the Conducting Officer in support of the charge and,

therefore, finding of petitioner's guilt in the departmental proceeding is based on no evidence and, accordingly, perverse.

3. In order to make out a case of bias against respondent Nos. 4 and 5, the petitioner has taken specific plea, with reference to admitted documents, that a dispute with respect to petitioner's date of birth, as recorded in his service book, was earlier raised and after it was found, upon enquiry from the Bihar School Examination Board, that said date of birth was correctly recorded in the service book, the respondents started searching for lapses on the part of the petitioner during his entire service tenure in the Corporation so that he could be retired compulsorily.

4. Annexure-2 is the memorandum dated 20.06.1994 signed by respondent no.4, Mr. Ashok Kumar Singh, the Disciplinary Authority, who has been impleaded as party in his individual capacity, there being allegation of bias against him. The said memorandum was required to be placed before the Board of Directors of the Corporation on 24.6.1994. From the said memorandum, it appears that the petitioner's date of birth in his service book was corrected from 15.07.1936 to 15.07.1937. A suspicion was raised over the genuineness of such correction made in his service book. With that date of birth, he would have retired in the year 1994 but on the basis of corrected date of birth, his date of retirement was 31.07.1995. An

enquiry was held in this regard and after getting the matter verified from the Chairman, Bihar School Examination Board, as regards petitioner's date of birth on the basis of matriculation certificate, the Corporation came to a conclusion that petitioner's date of birth was 15.07.1937 which was duly recorded in the service book. While dropping the issue as regards petitioner's date of birth, the Managing Director in his memorandum dated 20.06.1994, as noted above, which was to be placed before the Board of Directors for approval, recorded as follows:-

> *"However, the Managing Director may examine his performance in the past and ascertain whether he should be retired compulsorily on the basis of his unsatisfactory performance in the past".*

5. This was followed by a letter being written by Officer on Special Duty (Estb.) Sri S.K. Mishra (respondent No.5) dated 14.07.1994 addressed to the petitioner telling him that during the period when he was posted as Branch Manager, Ranchi branch office, the expenditure incurred over telephone was beyond the budget fixed by the Corporation. The petitioner was, accordingly, directed by respondent No.5 to deposit the said excess amount of expenditure to the Corporation to the tune of Rs. 48,896/-. Upon further enquiry against the petitioner with reference to the period 1983 to 1985, certain irregularities were found to have been committed by him were detected. It seems from annexure-5 to the writ application that the

Officer on Special Duty, which post was held by respondent No.5, Shri S. K. Mishra, recorded his comments on 22.07.1994 that during the said period and also during subsequent period, the petitioner acted in a manner detrimental to the interest of the Corporation. Sri S.K. Mishra recorded in his note dated 22.07.1994 as follows:-

> *"Under the circumstances stated above it has also established that Sri Jha has acted in a manner detrimental to the interest of the Corporation. He appears to be guilty of mis-conduct and hence it is proposed that suitable penalties be awarded to Sri A. Jha under section 39 of the Bihar State Financial Corporation (Staff) Regulation, 1965."*

6. A disciplinary proceeding was initiated against the petitioner with issuance of the office order dated 03.08.1994 by the Managing Director (respondent No.3). The Officer on Special Duty, Sri S.K. Mishra was appointed as Conducting Officer. From the charge memo, which is annexure-6 to the writ application, it is evident that the charges were based upon the notes put up by Sri S.K. Mishra on 22.07.1994, which is part of annexure-5 to the writ application. Correctness of annexure-5 has not been disputed by the respondents. It is in this background, the petitioner has taken a plea that Sri S.K. Mishra in his note dated 22.07.1994 had already opined that the petitioner was guilty of misconduct and had proposed suitable penalties to be awarded upon the petitioner under Regulation 39 of the Bihar State Financial Corporation (Staff) Regulation, 1965. It has, accordingly, been contended that Sri S.K. Mishra ought not to have

been appointed as Conducting Officer as it was not expected from him to act impartially without any personal or official bias while conducting himself as the Conducting Officer. It is also not in dispute that the petitioner had objected to appointment of Sri S.K. Mishra as Conducting Officer at the very initial stage and had requested the Disciplinary Authority, i.e., the Managing Director of the Corporation to appoint another Conducting Officer in place of Sri S.K. Mishra on the ground that there was reasonable apprehension of bias against him. His request was, however, not acceded to by the Disciplinary Authority and, as a matter of fact, this request was finally turned down by the Disciplinary Authority. The fact that the petitioner had made such request for change of the Conducting Officer from the very beginning is also not in dispute.

7. From letter dated 29.11.1994 issued by the Conducting Officer, Sri S.K. Mishra, addressed to the petitioner, it appears that the petitioner was allowed time to submit his reply/ written statement of defence by 06.12.1994 and appear before him for personal hearing on that date. The petitioner submitted his written statement of defence on 06.12.1994.

8. It is the case of the Corporation that the petitioner, however, did not appear for personal hearing before the Conducting Officer on 06.12.1994, though he was required to do so and he kept on reiterating

his plea before the Disciplinary Authority that the Conducting Officer should be changed. A plea has been taken in paragraph 25 of the counter affidavit filed on behalf of the Corporation that the petitioner's request for change of the Conducting Officer dated 06.12.1994 was considered. However, there was found no reason to change the Conducting Officer at that stage and the Conducting Officer was directed to proceed and submit the enquiry report on the basis of materials available on record. Nothing has been brought on record to demonstrate that the petitioner's request to change the Conducting Officer was subsequently rejected by the Disciplinary Authority by any specific order.

9. In the meanwhile, on 30.11.1994 the Conducting Officer wrote letters to Sri K. P. Verma, working as Deputy Manager under the Corporation, and Sri Hanuman Choudhary, working as Assistant Manager under the Corporation, who were posted at Jamshedpur branch during the period in question, calling upon them to clarify their stand on 01.12.1994, before him (Shri S, K. Mishra). The letters dated 30.11.1994 addressed to Sri K. P. Verma and Hanuman Choudhary had not been issued with reference to the departmental enquiry which he was conducting. The Conducting Officer submitted his report on 17.12.1994 and found all the five charges leveled against the petitioner to have been proved. He has recorded in his report that

while examining the records, he considered it appropriate to enquire from said Sri K. P. Verma and Shri Hanuman Choudhary with respect to charge No.3. It appears from the report of the Conducting Officer that the statements made by Sri K. P. Verma and Hanuman Choudhary before him on 01.12.1994 were considered to be depositions in departmental enquiry. A copy of the report of the Conducting Officer was supplied to the petitioner for his comments. The petitioner submitted his reply on 27.01.1995. On 31.01.1995, the Managing Director gave the petitioner an opportunity of personal hearing and came to a conclusion that the petitioner should have been given an opportunity to cross examine Sri K. P. Verma and Hanuman Choudhary. The Managing Director observed that the petitioner might be allowed to cross examine these witnesses before him on 09.02.1995. It is the case of the respondents that the petitioner did not avail this opportunity to cross-examine these witnesses.

10. Against the said order dated 31.01.1995 passed by the Managing Director (Annexure-17), the petitioner appears to have filed an appeal on 14.02.1995 before the Board of Directors through the Disciplinary Authority, i.e., the Managing Director. The Appellate Authority, i.e., the Board of Directors, upon consideration of the petitioner's appeal, asked the Managing Director to recall the order with respect to recovery of total amount of salary paid to one Sri

Kanchan Kumar for the period 14.11.1991 to 01.01.1992 and the excess expenditure incurred over the telephone bill for the financial year 1991-92, 1992-93 amounting to Rs. 48896.63/- because those orders were passed without giving the petitioner an opportunity to explain his position. The Board of Directors, however, did not find any merit in the petitioner's plea of bias or malafide against the Conducting Officer and Managing Director and gave the Managing Director a free hand to act as the Disciplinary Authority. The said decision of Board of Directors was subsequently implemented.

11. Sri A. K. Singh, the Disciplinary Authority, (respondent No.4), on the basis of draft charges, written statement of defence filed by the petitioner against the draft charges, report of the Conducting Officer and comments of the petitioner on enquiry report of the Conducting Officer came to a conclusion that the petitioner had caused substantial loss to the Corporation due to deliberate acts of his omission and commission. After having reached to this conclusion, the Disciplinary Authority imposed a fine of Rs. 4.25 lacs upon the petitioner as measure of punishment by an order dated 31.03.1995 which is under challenged in the present application. By the said order dated 31.03.1995, he further directed to that the petitioner shall be paid only subsistence allowance for the period during which he remained under suspension, i.e., from 18.08.1994 till 31.03.1995, with

effect from which the order of suspension stood vacated. The Appellate Authority, as noted above, on appeal, modified the order of the Disciplinary Authority and reduced the amount of find to Rs. 1.50 lacs from Rs. 4.25 lacs, by an order dated 18.09.1996, which is also impugned in the present proceeding.

12. Mrs. Namrata Mishra, learned counsel appearing on behalf of the petitioner has submitted that Sri S.K. Mishra ought not to have been appointed as Conducting Officer as it was on the basis of his report that departmental proceeding was initiated against the petitioner. She submits that Sri S.K. Mishra himself was a witness to the things on the basis of which the departmental proceeding was initiated. She has further submitted that the Corporation did not produce any evidence before the Conducting Officer and, as a matter of fact, even the presenting officer was not appointed to place the case of the Corporation before the Conducting Officer. No list of witnesses were supplied to the petitioner on the basis of whose evidence, the Corporation intended to prove the charges leveled against him. She submits that in the present case, the enquiry officer himself assumed the role of prosecutor inasmuch as he decided as to who could be witnesses to prove the allegation leveled against the petitioner and without any request having been made my the Corporation before the enquiry officer, he himself, *suo motu,* summoned the witnesses to

clarify their stand, though they were asked to appear before him in his capacity not as Conducting Officer but as Officer on Special Duty. Statements recorded by Sri S.K. Mishra outside the departmental proceeding were relied upon by him in his enquiry report in order to hold that the charges against the petitioner stood proved. She has, accordingly, contended that statements of Sri K. P. Verma and Hanuman Choudhary recorded on 01.12.1994 beyond the departmental proceeding could not have been relied upon by the Conducting Officer for reaching to the conclusion that the charges against the petitioner have been proved. She submits that the petitioner was apprehensive of bias so far as Sri S.K. Mishra is concerned and, accordingly, he had objected at the very beginning against the appointment of Sri S.K. Mishra as the Conducting Officer. She submits that there would have been no question of cross examination of Sri K. P. Verma and Hanuman Choudhary as they were not examined during the departmental proceeding. The question of cross examination of such witnesses would have arisen only if they were examined as witnesses before the Conducting Officer, while holding the departmental enquiry. There would have been no question of cross examination of witnesses whose statements were taken by Sri S.K. Mishra as Officer on Special Duty, outside the departmental enquiry, she contends.

13. In support of the submission made on behalf of the petitioner, learned counsel has relied upon Supreme Court judgements reported in ***(2008) 8 SCC 236 (State of Uttranchal vs. Kharak Singh)***, ***(2009) 2 SCC 570*** (***Roop Singh Negi v. Punjab National Bank***) and ***(2010) 2 SCC 722 (State of U. P. v. Saroj Kumar Sinha)***.

14. Learned counsel appearing on behalf of the Corporation, on the other hand, while opposing the relief sought for in the present writ application, has submitted that principles of natural justice were duly adhered to during the departmental enquiry. Upon submission of the report by the Conducting Officer, when it was noticed by the Disciplinary Authority that two witnesses were examined behind the back of the petitioner on 01.12.1994, which was not the date fixed for holding departmental enquiry, the Disciplinary Authority in all fairness allowed the petitioner to cross examine them before the Disciplinary Authority himself and he fixed specific date for that purpose. He has submitted, with reference to the counter affidavit filed on behalf of the Corporation, that the petitioner failed to avail an opportunity to cross examine those witnesses and, therefore, the plea that the petitioner was denied such opportunity cannot be raised in the present proceeding. He submits that the Appellate Authority duly considered the petitioner's appeal and with due application of mind took a lenient view by reducing the amount of fine to Rs. 1.50 lacs

from Rs. 4.25 lacs.

15. Learned counsel appearing on behalf of the Corporation has placed reliance upon a Supreme Court judgement reported in ***(2013) 14 SCC 379 (R. Mahalingam v. T. N. Public Service Commission)*** in order to submit that scope of judicial review in a proceeding under Article 226 of the Constitution of India in the matters involving challenge to disciplinary action is very limited and unless gross lapse in holding the departmental enquiry is found, this court may not interfere with the decision of the Disciplinary Authority or Appellate Authority. For the same proposition, he has relied upon relatively a recent decision of Supreme Court reported in ***2015 (1) PLJR SC 289*** (***High Court of Gujrat v. Hitendra Vrajlal Ashara*** *)*and has submitted that High Court in exercise of power under Articles 226 and 227 of the Constitution of India does not act as Appellate Authority and its jurisdiction is confined to correct error of law or procedural error.

16. I find substance made on behalf of the petitioner that there has been gross procedural lapse in holding the departmental enquiry against the petitioner right from the very beginning. It appears from annexure-2, which is memorandum dated 20.06.1994 written by Sri A. K. Singh, respondent No.4, which was to be placed before the Board of Directors on 24.06.1994. It appears that as on that date

(20.06.1994), there was nothing against the petitioner. The suspicion about wrong correction in his date of birth in the service book was also resolved but it appears that the Managing Director had started thinking of compulsorily retiring the petitioner for one reason or the other by examining his performance in past and, accordingly, while dropping the issue as regards entry date of birth of the petitioner in the service book, it appears, he recorded in the said proposal for approval by the Board of Directors as follows:-

> *"Considering the report of Chairman, Bihar School Examination Board, Shri Arbind Jha will not retire on 31.07.1994. However the Managing Director would examine his previous performance and apprise the Board whether or not he should be retired compulsorily on the basis of his past performance".*

17. It was because of this fact that the Corporation started enquiry about the petitioner's past and collected facts against him and Sri S.K. Mishra actively participated in collection of such materials and made his comments that the petitioner was guilty of misconduct. In my opinion, in such circumstance, in all fairness, the Disciplinary Authority ought not to have appointed Sri S.K. Mishra as Conducting Officer to enquire into the charges leveled against the petitioner. The appointment of Sri S.K. Mishra as Conducting Officer by Sri A. K. Singh, the Managing Director of the Corporation, casts reasonable suspicion of bias against Sri A. K. Singh also. As has been noted above, there was no reason for him to have recorded on 20.06.1994

that the petitioner's past performance should be examined for the purpose of retiring him compulsorily and thereafter he did not only appoint Sri S.K. Mishra as Conducting Officer who had submitted report against the petitioner, he refused to accede to the prayer of the petitioner for changing the Conducting Officer.

18. This is to be noted that despite service of notice upon respondent Nos. 4 and 5, Sri A. K. Singh and Sri S.K. Mishra, who have been impleaded as parties Respondents in their individual capacity, no counter affidavits have been filed on their behalf. In such circumstance, I have no hesitation while holding that initiation of departmental proceeding against the petitioner itself was result of official bias.

19. Learned counsel for the petitioner is correct in her submission, while placing reliance upon Supreme Court decision in the case of *State of Uttranchal v. Kharak Singh* (supra) that Sri S.K. Mishra ought not to have appointed as Conducting Officer. Paragraph 15 of the said decision is relevant and is quoted hereinbelow:-

> *"15. From the above decisions, the following principles would emerge:*
>
> *i) The enquiries must be conducted bona fide and care must be taken to see that the enquiries do not become empty formalities.*
>
> *ii) If an officer is a witness to any of the incidents which is the subject matter of the enquiry or if the enquiry was initiated on a report of an officer, then in all fairness he should not be the Enquiry Officer. If the said position*

becomes known after the appointment of the Enquiry Officer, during the enquiry, steps should be taken to see that the task of holding an enquiry is assigned to some other officer.

iii) In an enquiry, the employer/department should take steps first to lead evidence against the workman/delinquent charged, give an opportunity to him to cross-examine the witnesses of the employer. Only thereafter, the workman/delinquent be asked whether he wants to lead any evidence and asked to give any explanation about the evidence led against him.

iv) On receipt of the enquiry report, before proceeding further, it is incumbent on the part of the disciplinary/punishing authority to supply a copy of the enquiry report and all connected materials relied on by the enquiry officer to enable him to offer his views, if any."

20. In paragraph 15 (ii), the Supreme Court in the aforesaid case specifically held that if an officer was a witness to any of the incidents which was the subject matter of the enquiry or if the enquiry was initiated on a report of an officer then in all fairness he should not be the enquiry officer.

21. As has been noted above, the conduct of Sri S.K. Mishra while acting as Conducting Officer cannot be approved of. It is evident from letters dated 30.11.1994 (annexures-14 & 15) that he on his own asked Sri K. P. Verma and Hanuman Choudhary to appear before him and clarify their position before him in his capacity as Officer on Special Duty. It is evident from the said letter that they were not referable to the departmental enquiry in question. Certainly, if they, at all, made any statement before Sri S.K. Mishra, such

statement made on 01.12.1994 cannot be treated to be part of the departmental enquiry.

22. What should be the role of Conducting Officer while holding the departmental enquiry has been laid down in the case of State of *Uttar Pradesh v. Saroj Kimar. Sinha* (supra) on which reliance has been placed by learned counsel for the petitioner, paragraph 28 of which reads as follows:-

> *"28. A bare perusal of the aforesaid sub-Rule shows that when the respondent had failed to submit the explanation to the charge sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the Government servant despite notice of the date fixed failed to appear that the enquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the enquiry officer to record the statement of witnesses mentioned in the charge sheet. Since the Government servant is absent, he would clearly lose the benefit of cross examination of the witnesses. But nonetheless in order to establish the charges the department is required to produce the necessary evidence before the enquiry officer. This is so as to avoid the charge that the enquiry officer has acted as a prosecutor as well as a judge. Enquiry officer acting in a quasi judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents."*

23. The Supreme Court held in case of *Saroj Kumar Sinha* (supra) that an enquiry officer acts as a quasi judicial authority and is in the position of an independent adjudicator. He does not represent the department or the Disciplinary Authority. It is his function to examine the evidence presented by the department. Even in the absence of delinquent official he is to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case, the Conducting Officer has shown undue extra ordinary enthusiasm to prove the charge leveled against the petitioner on the basis of his own enquiry held outside the departmental proceeding.

24. I have already held that statements of Sri K. P. Verma and Hanuman Choudhary recorded by Sri S.K. Mishra as Officer on Special Duty of the Corporation on 01.12.1994 cannot be treated to be part of the departmental enquiry since that was not the date fixed for departmental enquiry and as a matter of fact 06.12.1994 was the date fixed for the departmental enquiry.

25. It is evident from the pleadings that the Corporation did not even name any witness to prove the charge leveled against the petitioner, let alone production of such witness before the enquiry officer. Thus, as a matter of fact, there was no legal evidence before the Conducting Officer on the basis of which he could have come to the conclusion of petitioner’s guilt with respect to the charges leveled

against him.

26. Learned counsel for the petitioner is correct in her submission that it is a case of no evidence and on the basis of a perverse finding of the Conducting Officer, no punishment could have been imposed against the petitioner. She has rightly placed reliance upon the Supreme Court judgment in the case of *Roop Singh Negi v. Punjab National Bank* (supra) in support of her submission, paragraph 14 of which reads thus:-

> *"14. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence".*

27. Learned counsel for the respondent has referred to Supreme Court decision in case of *R. Mahalingam* (supra) and has contended that this court in exercise of power of judicial review under Article 226 of the Constitution of India should not act as an Appellate Authority over the findings so arrived at in a departmental proceeding. He has placed reliance upon paragraph 11 of the said judgement. Such submission is of no help to the respondent-Corporation since I have come to the conclusion that the departmental enquiry was not held in

consonance with the well known principles of natural justice. The decision of Supreme Court in case of *High Court of Gujrat v. Hitendra Vrajlal Ashara (supra)* will also of no help to the Corporation for the same reason.

28. In view of above, I am of the opinion that the impugned orders need to be interfered with. The order issued vide memo no. 816 dated 31.03.1995 passed by the Disciplinary Authority holding the petitioner guilty of the charges and resultant punishment upon him as well as the order of Appellate Authority dated 18.09.1996 affirming the finding of petitioner's guilt and reducing the amount of fine to the tune of Rs. 1.50 lacs are set aside. The respondents are directed to refund the amount of Rs. 1.50 lacs, which is said to have been recovered from the petitioner's admissible entitlements against salary/ retiral benefits within a period of three months from the date of receipt/ production of a copy of this order.

29. Since the order imposing punishment stands set aside for the reason noted above, I hold that the petitioner shall be entitled for full salary for the period during which he remained under suspension, i.e., 18.08.1994 to 31.03.1995. It is, accordingly, directed that the petitioner should be paid the entire salary for the said period after adjusting the amount already paid to him as subsistence allowance. The petitioner shall be entitled for interest at the rate of 6% per annum

on the said amount, from the date the said amount was payable to him, had he not been put under suspension till the date of actual payment. This amount must also be paid within aforesaid period of three months.

This application is, accordingly, allowed.

There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

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