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

% *Date of Decision: January 12, 2015*

+ **W.P.(C) 10253/2009**

RANBIR SINGH

..... Petitioner

Represented by: Ms.Avnish Ahlawat, Advocate
with Ms.Latika Chaudhary,
Advocate

versus

UOI & ORS.

..... Respondents

Represented by: Mr.Ankur Chibber, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. Vide memorandum dated June 01, 1996 charge memo was served upon the appellant who was then working as a Naik (Driver) with CRPF. Two articles of charge were listed against the appellant.
2. The Inquiry Officer submitted a report on March 14, 1997 opining that whereas charge No.2 was proved, charge No.1 was not proved. Without indicating a note of disagreement, but supplying the writ petitioner with a copy of the report of the Inquiry Officer and considering the response thereto, which obviously was preferred by the writ petitioner to question said part of the report of the Inquiry Officer which indicted him of Article-2 of the charge memorandum, vide order dated January 27, 1998 the disciplinary authority held that both charges were proved and keeping in view that as per the disciplinary authority even the charge No.1 was proved, penalty of dismissal from service was inflicted upon the petitioner. Cost of

motorcycle which was lost was also directed to be recovered.

3. Appeal filed by the petitioner was dismissed by the appellate authority on April 17, 1998. Revision filed was rejected by the revisional authority on July 18, 2008.

4. Unfortunately, the disciplinary authority, the appellate authority as well as the revisional authority overlooked the law on the subject.

5. In the decision report as AIR 1998 SC 2713 Punjab National Bank & ors.vs.Kunj Behari Mishra which was followed in the decision reported as (1999) 7 SCC 739 Yoginath D.Bagde vs. State of Maharashtra & Anr. the view taken was that it was a facet of natural justice if disciplinary authority disagreed with the finding of a charge being not proved opined by the Inquiry Officer, to list the note of disagreement containing tentative reasons why the disciplinary authority was not inclined to accept the report given by the Inquiry Officer and serve the same upon the charged officer.

6. The note of disagreement along with the report of the Inquiry Officer has to be furnished to the charged officer for him to give a response. The reason is obvious. As in the instant case, if the Inquiry Officer opines that charge No.1 was not proved and only charge No.2 was proved, if required to submit a response to the inquiry report, the charged officer would obviously give his comments to said part of the inquiry report which indicts him and would not bother with said part of the inquiry report which absolves him.

7. Under the circumstances, we dispose of the writ petition quashing the penalty order dated January 27, 1998, the appellate order dated April 17, 1998 and the revisional order dated July 18, 2008.

8. We issue a direction to the disciplinary authority to pen a note of disagreement, which as per law has to contain only the tentative reasons for its disagreement with the report of the Inquiry Officer. A final view has not

to be reflected therein. Along with the note of the disagreement the inquiry report would be re-furnished to the writ petitioner granting him time as per law to file a response to the note of disagreement as also the report of the Inquiry Officer indicting the writ petition of the second charge. The response would be considered by the disciplinary authority and with a reasoned order, dealing with the response of the writ petitioner to the note of disagreement as also the part of the Inquiry Officer's report where petitioner has been held guilty of Article-2 of the charge, fresh order would be passed by the disciplinary authority.

9. If the writ petition is aggrieved by the order passed by the disciplinary authority pursuant to the present decision he shall be entitled to remedy as per law.

10. The disciplinary authority shall also pass an order concerning period interregnum petitioner being dismissed from service and fresh orders being passed keeping in view FR 54, 54A and 54B.

11. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JANUARY 12, 2015
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