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

+ W.P.(C) 453/2015

% *Judgment dated 5th September, 2016*

UNION OF INDIA & ANR.

..... Petitioners

Through : Mr.Rajinder Nischal and Mr.Asish
Nischal, Adv.

versus

S K DAS

..... Respondent

Through : Mr.Kumar Parimal, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

G.S.SISTANI, J (ORAL)

1. Rule DB.
2. With the consent of the counsel for the parties, present writ petition is set down for final hearing and disposal.
3. Challenge in this writ petition is to the order dated 15.7.2014 passed by Central Administrative Tribunal (in short '*the Tribunal*') by which TA No.120/2013 filed by the respondent herein stands allowed and the report of the first Complaint Committee dated 21.11.2003, the first order of the Disciplinary Authority dated 3.8.2004, the first order of the Appellate Authority dated 11.1.2005, the report of the second Complaint Committee dated 2.4.2007, second order of the Disciplinary Authority dated 7.4.2008 and the second order of the Appellate Authority dated 12.8.2008 have been quashed.
4. At the outset, it may be noticed that initially the respondent had filed W.P. (C)No.8466/2008 before the this Court, however, the said matter was transferred to the Tribunal, which was then registered as

T.A.No.120/2013 before the Tribunal.

5. The brief facts of the case are that initially the respondent served in the Defence Research and Development Organization as a 'Senior Scientist' for 23 years. On 6.7.1999, the respondent joined Institute of Institute of Pesticide Formulation Technology/ respondent no. 2 (in short '*IPFT*') under the Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers, as 'Chief (Analytical)'. While working as Chief Analytical Officer, a sexual harassment complaint was made by one, Dr. X, who was posted in the Analytical Division, on 6.2.2003 against him. The petitioners then constituted a Complaint Committee on 21.11.2003 consisting of Ms.Veenu Gupta, Chairperson; Sh.Anurag Saxena, Member; Ms.Anuvinda Varkery, Member (representative from NGO);and Ms.Kailash Prasad, Member. The Committee conducted hearings on various dates. As directed by the Committee, the respondent submitted his representation dated 16.3.2003 denying all the allegations made by the complainant. In the said representation, the respondent had also submitted that the allegations made by the complainant against him were false, fabricated and leveled as a retaliatory action so as to cover up administrative and financial lapses on the part of the complainant while performing her duties. The complainant had given a list of witnesses, whom she wanted to be present before the Complaint Committee. The Complaint Committee called the said witnesses before them on 9.5.2002.
6. One of the witnesses, namely Sh. A. K. Roy in his written statement had submitted that all the three complaints made by the complainant were after his retirement and, thus, he was not an eye-witness to any of the incidents and accordingly he did appear before the Committee. The Complaint Committee submitted its report on 21.11.2003 holding that

the remarks made by the respondent fall under the category of ‘*sexually coloured remarks*’. The Committee also held that a *prima facie* case was made out against the petitioner which was required to be examined in greater details as per the Departmental Rules. The Disciplinary Authority of the petitioners, i.e. Director of IPFT, vide his order dated 23.8.2004, held that he was convinced that no further investigation was necessary in the matter and imposed a penalty of dismissal from service with immediate effect. The respondent thereafter preferred an appeal before the Appellate Authority. The Appellate Authority, which is the governing body of IPFT, in its 16th meeting held on 11.1.2005, set aside the aforesaid order of dismissal as the due process and procedure prescribed under the CCS (CCA) Rules, 1965, had not been followed. The Appellate Authority had also directed that the disciplinary proceedings be started afresh by following the prescribed Rules. The relevant portion of the minutes of the meeting read as under:

“Item No. 7 Appeal by Dr. S.K. Das, Former Chief (Analytical) against his dismissal.

On consideration of the case the Governing Body decided to set aside the dismissal order of Dr. S.K. Das, by Director IPFT as the due process and the prescribed procedure by CCS-CCA Rules had not been followed. Disciplinary proceedings against Dr. S.K. Das will start afresh by observing the prescribed procedure under CCS-CCA Rules.

7. The aforesaid order was challenged by the respondent by filing Writ Petition No.6536/2005 before the this Court, however, the same was dismissed on 21.4.2005. Thereafter fresh notice was issued by the Committee to the respondent to remain present before the Committee on 9.11.2005. The respondent thereafter filed another writ petition, being W.P.No. 14706/2006, before this Court challenging the fresh

inquiry being held against him. The Court, vide its order dated 19.10.2006, allowed the inquiry to be continued. The Committee thereafter submitted its report on 2.4.2007 holding as under:

“(i) *The remarks have been passed by Dr.S.K. Das.*

(ii) *These remarks are found to be sexually coloured and falling with the definition of sexually harassment as per the judgment of the Supreme Court in Vishaka Vs. State of Rajasthan 1997 (6) SCC 241.*

(iii) *Appropriate action under the CCS (CCA) Rules, 1964 may be taken by the disciplinary authority against Dr.S.K. Das for passing sexually coloured remarks against Dr. (Mrs.) D. Sanyal.”*

8. Upon receipt of the copy of the report, the petitioner withdrew the second writ petition (W.P.No.14706/2006) on 30.5.2007 to enable him to assail the report dated 2.4.2007 by initiating appropriate proceedings. Thereafter, on 7.4.2008, the Disciplinary Authority, upon considering the report of the Complaint Committee, again dismissed the respondent from service with immediate effect. The respondent thereafter filed an appeal before the Appellate Authority. The Appellate Authority partly allowed the appeal on 25.08.2008 and modified the order of the Disciplinary Authority to ‘reduction to a lower stage in the time scale of pay’ and the respondent was allowed to join his duty. The said order was challenged by the respondent by filing WP(C)No.8466/2008, which was subsequently transferred to the Tribunal. The Tribunal quashed the orders, as noticed in paragraph 1 hereinabove, on the following grounds:

“(i) *In spite of the advice of the first and second Complaints Committee, the petitioners did not follow the prescribed*

procedure as laid down in the CCS (CCA) Rules, 1965, before imposing the penalty upon the respondent herein.

(ii) *No charge sheet was served upon the respondent, neither the respondent was allowed to cross-examine the witnesses nor was he led any evidence.”*

9. Learned counsel for the petitioners submits that the impugned order passed by the Tribunal is illegal as the Disciplinary Authority had passed the order as per Rule 15 of CCS (CCA) Rules, 1965, by giving an opportunity to the respondent to submit his response to the report of the Committee. Counsel further submits that having regard to the seriousness in issue, which pertains to sexual harassment of a woman at workplace, and having regard to the report of the Sexual Harassment Committee, the respondent was rightly dismissed from service. It is contended that the respondent was given reasonable opportunity to defend his case and there is no violation of principles of natural justice. Counsel contends that, in these circumstances, the Tribunal has exceeded its jurisdiction by quashing the impugned orders. Counsel also contends that in fact the Tribunal should have remanded the matter back for continuation of the inquiry in accordance with the law.
10. Learned counsel for the petitioners has relied upon the decision rendered in the case of ***Vishaka & Others v. State of Rajasthan & Others***, reported at 1979 (6) SCC 241; in the case of ***B.N. Ray v. Ramjas College & Others***, reported at MANU/DE/2131/2012; in the case of ***Avinash Mishra v. Union of India***, reported at MANU/DE/3710/2014; and in the case of ***Balvir Singh v. Union of India & Others***, reported at MANU/DE3858/2015 in support of his contention that the report of the Complaints Committee shall be deemed to be an inquiry report as Per Rule 14 of the CCS (CCA) Rules

and thereafter the disciplinary authority should act on the report in accordance with the Rules. The petitioner accepts the position that the Complaints Committee did not follow the CCS (CCA) Rules, 1965, more particularly the Proviso to Rule 14(2).

11. Learned counsel for the respondents submits that in the eyes of law no inquiry proceedings have commenced. Counsel relies on Rule 9 of CCS (Pension) Rules and submits that since the petitioner has already retired in the year 2010, a fresh inquiry cannot commence after a gap of more than four years. In support of this contention, counsel has relied upon a decision rendered in the case of ***O.P. Gupta v. Union of India And Another***, reported at 1981 (3) Services Law Reporter 778, more particularly para 17.
12. It is further submitted by the counsel for the respondent that there is no infirmity in the order passed by the Tribunal which would require interference in the proceedings under Article 226 of the Constitution of India. Counsel further submits that, even otherwise, admittedly the complainant has already migrated and settled in the USA. It is further contended that in case proceedings are to be initiated afresh against the respondent, it would not only be a harassment to him but he would be put to gross disadvantage as the complaint pertains to the year 2003, the respondent retired in the year 2010, he is more than 66 years of age, all the witnesses have already retired, besides it would be hit squarely by Rule 9 of CCS (Pension) Rules.
13. Learned counsel for the respondent has also handed over a Handbook For Inquiry Officers And Disciplinary Authorities in support of his contention that there is a statutory period of limitation with regard to initiation of post retirement proceedings.
14. We have heard learned counsel for the parties and considered their rival

submissions. The facts of this case are not in dispute.

15. A complaint of sexual harassment is to be examined as per the procedure envisaged under the CCS (CCA) Rules is no longer *res integra*. The Proviso to Rule 14(2) has also been added to the CCS (CCA) Rules in 2004, which reads as under:

“14. Procedure for imposing major penalties

(2) ...

Provided that where there is a complaint of sexual harassment within the meaning of Rule 3-C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in each Ministry or Department or Office for inquiring into such complaints, shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules.”

16. In the case of ***Vishaka*** (supra), the Supreme Court of India has held it mandatory that an employer must ensure prevention of sexual harassment of a woman at the work place. The Apex Court has also laid down that a proper mechanism should be created for redressal of complaints made by the victims of sexual harassment and the complainant mechanism should be adequate; Complaints Committee should be headed by a woman and not less than half of its members should be women; such Complaints Committee should also involve a third party, either NGO or other body who is familiar with the issue of sexual harassment; etc. It is only pursuant to this judgment that Rule 3-C was introduced and the CCS (Conduct) Rules 1964 were amended. The said Rule reads as under:

“3C. Prohibition of sexual harassment of working women, –

(1) No Government servant shall indulge in any act of sexual harassment of any woman at any work place.

(2) Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at the work place.

Explanation. – (I) For the purpose of this rule, “sexual harassment” includes such unwelcome sexually determined behaviour, whether directly or otherwise, as –

- (a) physical contact and advances; or*
- (b) a demand or request for sexual favours; or*
- (c) making sexually coloured remarks; or*
- (d) showing pornography; or*
- (e) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.”*

17. This issue again came up for consideration before the Supreme Court in ***Medha Kotwal Lele & Others v. Union of India***, reported at 2004 (5) SCALE 573, wherein the Apex Court in an interim order has held that the Complaints Committee shall be deemed to be an Inquiry Authority for the purposes of Central Civil Services (Conduct) Rules 1964, and the report of the Complaints Committee shall be deemed to be an inquiry report under the CCS Rules. Relevant portion of the interim order dated 26.4.2004 reads as under:

“Complaints Committee as envisaged by the Supreme Court in its judgment in Vishaka’s Case will be deemed to be an inquiry authority for the purposes of Central Civil Services (Conduct) Rules, 1964 (hereinafter called CCS Rules) and the report of the Complaints Committee shall be deemed to be an inquiry report under the CCS Rules. Thereafter the disciplinary authority will act on the report in accordance with the rules.”

18. The Supreme Court has confirmed the direction in its final judgment in the matter titled as ***Medha Kotwal Lele v. Union of India***, reported at (2013) 1 SCC 297.

19. This Court has also considered the said issue in its judgment rendered in the case of **Sandeep Khurana v. Delhi Transco Limited And Others**, reported at 135 (2006) DLT 346, and considered the question as to what is the procedure to be followed for taking disciplinary action on a complaint of sexual harassment. In this case, neither the charges were framed nor any memorandum was prepared in support of each article of charge. Further no list of witnesses to be examined during the enquiry was given to the charged officer. The High Court answered the aforesaid question by stating that the procedure under the CCS (CCA) Rules has to be adhered to. The relevant portion reads as under:

“17. Admittedly this procedure has not been followed. The charges were not framed nor was any memorandum prepared in support of each article of charge. The petitioner was not given list of witnesses to be examined in the inquiry conducted either by the Departmental Complaint Committee or by the State Complaint Committee. Admittedly, since the procedure as provided in Rule 14 has not been followed there was no occasion for the petitioner to seek the assistance of any Government servant. Nor were the witnesses offered for cross-examination of the petitioner and there was no occasion for the petitioner to decline any such offer for cross-examination of witnesses. Thus, the entire procedure given in Rule 14 of CCS (CCA) Rules has been given a complete go by.

...

30. When the rules are amended to say that the Complaint Committee as envisaged in the Vishaka's case (Supra) would be deemed to be Inquiry Authority for the purpose of CCS (CCA) Rules it is imperative that the Complaint Committee proceeds according to CCS Rules and in the manner in which an Inquiry Authority conducts its proceedings under the said Rules. The Supreme Court never meant that the Complaint Committees which were to function as Inquiry Authority under the CCS(CCA) Rules could return a finding of guilt against a Government servant without ever adopting the procedure of Rule 14 ibid, i.e., giving him a charge-sheet, a memorandum delineating the allegations on which the charges are framed along with other articles like list of witnesses and the documents

relied upon and then proceeding in the manner prescribed under Rule 14 of ibid. The responsibility of the Complaint Committee, by virtue of the judgment in Medha Kotwal Lele (Supra) case, has immensely increased as it is now no more a fact finding Committee. It has been converted into an Inquiring Authority and, therefore, has to follow the procedure prescribed by Rule 14. The action taken cannot be supported on the plea that although Rules are ignored the principles of natural justice has been followed.

...

34. The prejudice has been caused to the petitioner by not giving him any notice or intimation that the proceedings are going to be for imposition of major penalty. The five-Member Committee appointed by the respondent in its report says that they were entrusted with the task of "looking into the alleged case of harassment". The Committee does not say that it was appointed to inquire into the charges. The petitioner would be taken by surprise if he is told that the proceedings before the Committee were to be an inquiry under Rule 14 of CCS (CCA) Rules. Similarly, the State Complaint Committee only gave a notice that the petitioner was to appear in order to give his "view point". Thus, the petitioner will be similarly prejudiced and surprised if he is told that the proceedings conducted by the State Complaint Committee were in fact proceedings under Rule 14 of the CCS (CCA) Rules. The first major requirement of Rule 14 of CCS (CCA) Rules and for that matter a procedure of inquiry according to principles of natural justice would be to inform the person against whom the inquiry is being conducted that the inquiry was in anticipation of imposition of major penalty or for that matter any penalty whatsoever. For such an inquiry specific charges were also required to be drawn up and intimated to the petitioner. In Canara Bank v. Debasis Das (2003) IILLJ531SC (para 15) the Supreme Court said that notice was the "first limb" of the principle of natural justice. Further the notice has to be clear and unambiguous. The notices asking the petitioner to appear or to give his viewpoint cannot meet the requirement of a notice for disciplinary proceedings.

35. This apart, as already stated above, there has been violation of principles of natural justice by failure to allow assistance to the petitioner, to take evidence in his defense and to provide an opportunity to cross-examine witnesses of the

complainant or of the department. The petitioner could not have been removed from service on the basis of the State Complaint Committee. The first question raised in the paragraph 1 of the judgment, Therefore, can be answered as follows:

Rule 14 of the CCS(CCA) Rule has to be followed for imposing a major penalty for a misconduct of sexual harassment.

36. Another important thing to notice is that the State Complaint Committee did not itself consider that the proceedings before it were the inquiry proceedings as contemplated in Rule 14 nor it did contemplate that a notice to show cause as to why he should not be punished on the basis of this report could be issued straightaway by respondent No. 1. The report ended with advice, "the Department is, Therefore, advised to take action as per rules against Sh. Sandeep Khurana for sexual harassment of Mrs. Tiwari and other officers for committing irregularities and not dealing with the case in all seriousness as per law.""

(Emphasis Supplied)

20. This Court in ***Prof. Bidyug Chakraborty v. Delhi University*** reported at (2009) 112 DRJ 391 again held that the complaints committee, having been elevated to the position of an inquiry committee should at least conform to the fundamental norms for conducting enquiry. Observing that the petitioner therein had been denied the opportunity to cross-examination nor had been provided with vital documents, this Court vitiated the proceedings against the petitioner therein. The said decision was challenged before the Supreme Court in SLP No. 23060/2009, whereby the Court held that the identity of the witnesses need not be revealed and they may be cross-examined by giving a questionnaire to be put to the witnesses.
21. In ***Avinash Mishra (Supra)*** this Court has held that the Complaints Committee need not follow the procedure under Rule 14 strictly, as long as adequate opportunity is extended to the charged officer. Again observing that the opportunity to examine the witnesses had been

denied, this Court had set-aside the inquiry report and remanded the matter back to the Complaints Committee. The relevant portion of the judgment reads as under:

“13. The second contention urged was that in the absence of strict adherence to the procedure mandated under Rule 14, which requires the public employer to issue a charge-sheet, detailing the Articles of Charges, Statement of Imputations and list out the witnesses and documents proposed to be relied upon and conduct the proceedings, the entire disciplinary proceedings were vitiated. This Court is of the opinion that having regard to the very nature of the proceedings which is mandated on account of the kind of allegations leveled, the disciplinary authority is empowered to hold an inquiry "as far as practicable in accordance with the procedure laid down" in the Rules. This expression "as far as practicable", in the opinion of the Court, clothes the Complaints Committee with the discretion not to follow, in letter, the entirety of the procedure. Consequently, so long as the allegations of sexual harassment are fairly disclosed to the official charged with it and he is made aware of the materials proposed to be used against him in the inquiry, during the course of which he is afforded adequate opportunity to explain such adverse material, the entire procedure and the initiation of proceedings cannot be declared invalid.”

(Emphasis Supplied)

22. Admittedly, in the present case, neither any charge sheet was served upon the respondent nor any list of witnesses was provided to the respondent, which is a requirement under Rule 14(3) of the CCS (CCA) Rules. Though the Complaints Committee need not follow the strict procedure as prescribed by the CCS (CCA) Rules, it must adhere to the fundamental principles, i.e. the Committee must ensure substantial compliance. Further the charged officer must not be put to any prejudice due to non-compliance with the procedure. We may note one interesting aspect in the manner the first and second reports of the Complaints Committee were issued. In both the instances, the

Complaints Committee continued under the false premise that it was acting as a preliminary enquiry and the disciplinary proceedings were yet to be started. This is evident from the Minutes of the meeting of the second Complaints Committee on 1.11.2006. The Defence Assistant of the respondent herein had specifically raised an objection pertaining to the non-issuance of the charge-sheet. In response, the Committee had held as under:

“(iv) As per the Supreme Court judgment in Vishakha case, the Enquiry Committee is a Committee constituted under the CCS (CCA) Rules and the report of the Committee is the final Enquiry Report. As at this stage no disciplinary action has been initiated against Dr. Das no charge-sheet has been given. The copy of the complaint of Dr. Sanyal, Copy of the earlier enquiry reports and all other documents as requested by Dr. Das in his earlier series of letters since December, 2005 have already been furnished to him. The question of charge-sheet arises only when the charges are finalized as per the Enquiry Report and at the time of initiation of disciplinary action by the Department.

(Emphasis Supplied)

23. It is clear from the above, that not only charge sheet and list of witnesses were not served upon the respondent; but the Committee proceeded in a manner as if the disciplinary proceedings had not been initiated. In such a circumstance, the very purpose of issuing a charge-sheet fails. The respondent was never informed of the intention of the disciplinary authority to impose a major penalty upon him. He would have been taken by surprise when the penalty was imposed upon him, especially in view of the clarification of the Complaints Committee during the meeting on 1.11.2006 as reproduced by us above. In view of the same, the judgment of this Court in **Avinash Mishra** (Supra) does not come to the aid of the petitioners. Though strict compliance is not necessary, at the same time, fundamental principles must be adhered to,

i.e. atleast the intention to impose a major penalty must be intimated to the charged officer/ respondent.

24. Learned counsel for the petitioners, at this stage, has strenuously urged before this Court that the petitioners should be permitted to start the inquiry from the stage of allowing the respondent to cross-examine the witnesses in view of the fact that the inquiry against the respondent had commenced prior to the retirement of respondent. In support of this submission, counsel has placed reliance on Rule 9(2)(b) of CCS (Pension) Rules, which reads as under:

“9. Right of President to withhold or withdraw pension

(2) (b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment, -

- (i) shall not be instituted save with the sanction of the President,*
- (ii) shall not be in respect of any event which took place more than four years before such institution, and*
- (iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.”*

25. We are unable to accept the submission of the learned counsel for the petitioners as according to Rule 9(6) of CCS (Pension) Rules, which is reproduced below, Departmental proceedings would be deemed to have been instituted on the date on which the statement of charge has been issued to a Government Servant:

“9. Right of President to withhold or withdraw pension

...

- (6) For the purpose of this rule, -**

- (a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date;...

(Emphasis Supplied)

26. In this case, admittedly, no statement of charge was issued to the respondent. Thus it cannot be said that in case the matter is remanded back the inquiry will be in continuation with the earlier inquiry.
27. In the absence of a charge sheet having been served upon the respondent, it would be a case of *de novo* inquiry, which could not be permitted under Rule 9(6) of CCS (Pension) Rules.
28. In the case of ***O.P. Gupta*** (supra), it was held by a Single Judge of this Court that in case of an event more than four years old on the date of retirement, a fresh enquiry cannot be started. Para 17 of the judgment reads as under:

“17. In other words is the deeming provision in R.9 so unbridled? Can the provision be used to keep the inquiry alive for any number of years or indefinitely? Can it be ‘deemed’ that even after 20 years the inquiry is still not concluded, as in the present case? Considering public interest and power to continue or to start a disciplinary proceeding after retirement may be necessary in certain cases. By itself the power is not arbitrary. It has a rational basis. But the power must be exercised, within a reasonable period and consistent with justice and public interest. In Mohanbhai vs. Y.b. Zala (1980 (1) Sery L R 324) : Gujarat High Court held that starting of a departmental enquiry 1½ years after the incident, was violative of natural justice. The court held that it was too much to expect that delinquent would be able to remember and narrate the old incident. We have here the lapse of more than 20 years. If R. 9 is to be saved from the attack of arbitrariness it must be read in a reasonable and just manner. A guideline is available in R. 9(2)(b). A fresh inquiry cannot be started “in respect of any event which took place more than four years before such institution.” This statutory limitation

embodies sound principle of equity and justice. It also recognises the principle of finality and repose. I do not find any difference in principle from the point of view of public interest, “in continuation of pending proceeding” & ‘starting a fresh proceeding’. I, therefore, hold that in case of an event more than four years old on the date of retirement, a departmental proceeding cannot be continued after retirement under R. 9(2) of the Pension Rules, 1972. It is well settled that requirement of natural justice can be read in a Rule even if the Rule is silent about it, particularly, in a Rule concerning quasi-judicial proceeding. In this view of the matter I hold that the departmental proceeding, if any, pending against the petitioner after 30-3-1975 is bad in law. The same is hereby set aside.”

(Emphasis Supplied)

29. With regard to the contention raised by the counsel for the respondent that there is a statutory period of limitation for initiation of post retirement proceedings, it would be useful to reproduce the relevant portion of The Handbook For Inquiry Officers and Disciplinary Authorities, 2013 issued by the Institute of Secretariat Training and Management, DoPT:

“13. What are the major distinctions between initiating disciplinary proceedings before retirement and those initiated thereafter?”

<i>S.No.</i>	<i>Initiating proceedings while in service</i>	<i>Initiating proceedings after retirement.</i>
<i>(a)</i>	<i>Appropriate disciplinary authority as prescribed under CCA Rules, may initiate proceedings</i>	<i>Proceedings can be initiated only with the approval of the President. Rule 9(b)(i) of Pension Rules</i>
<i>(b)</i>	<i>Disciplinary proceedings can be initiated against a serving employee irrespective of the time of commission of the misconduct.</i>	<i><u>There is a statutory period of limitation regarding initiation of post retirement proceedings/ Rule 9(b)(ii) of Pension Rules.</u></i>

inordinate delay between the commission of misconduct and initiation of proceedings is questionable, only unexplained delay will have the effect of vitiating the inquiry. Besides, there is not statutory provision regarding the period within which the proceedings are to be initiated

(Emphasis Supplied)

30. Having regard to Rule 9(6) of the CCS (Pension) Rules and taking into consideration that the complainant has migrated to the United States of America; with the passage of time the material witnesses have retired and they may or may not be available; the respondent has superannuated in the year 2010 and is more than 66 years of age, we are of the view that remanding the matter back at this stage, would be a useless formality.
31. We are also not satisfied with regard to the fact that despite the Appellate Authority having cautioned the petitioners that the CCS (CCA) Rules should have been followed, the petitioners have failed to follow the same.
32. In view of above, we see no infirmity in the impugned order passed by the Tribunal. Resultantly, the writ petition is dismissed with all interim orders.

G.S.SISTANI, J

I.S. MEHTA, J

SEPTEMBER 05, 2016//msr