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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 8536/2014

Date of Decision 13th September, 2017

JEET SINGH Petitioner

Through: Petitioner-in-person

versus

DEPUTY COMMISSIONER OF
POLICE & ANR. Respondents

Through: Mr.Anuj Aggarwal, ASC for
GNCTD with Ms.Niti Jain,
Mr.Deboshree Mukherjee,
Advocates

REKHA PALLI, J (ORAL)

1. The present writ petition assails the order dated 22.07.2014 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A No.1779/1994 dismissing the Petitioner's said O.A. The Petitioner, who was a Constable in the Respondent i.e. Delhi Police, had preferred the aforesaid O.A challenging order dated 22.10.1993 vide which he was dismissed from service.
2. The Petitioner had joined Delhi Police/Respondent as a Constable on 08.09.1982 and received as many as thirty five certificates and cash rewards for his meritorious service and in his 13 years of service before his impugned dismissal.

3. The Petitioner submitted a complaint dated 05.12.1991 against Shri A.A. Siddiqui the then ACP/adjutant 6 DAP, wherein he alleged about his harassment by the said ACP. Since no action was taken on the said complaint, the Petitioner submitted another complaint, wherein he expressed his apprehensions that the ACP/ A.A. Siddiqui might get him killed; may get his children kidnapped, or; harm him in a big way. It transpires that on the one hand, no action was taken on the Petitioner's complaints against the ACP/ Shri A.A. Siddiqui-and, on the other hand, departmental proceedings were started against the Petitioner.
4. A summary of allegation dated 13.12.1992 was issued to the Petitioner alleging therein that he had leveled baseless and malicious allegations against ACP/ A.A. Siddiqui. It was also alleged therein that he had committed misconduct by going to the office of Hindi Daily 'Rashtriya Sahara' to plant a news item.
5. However, soon thereafter, the Petitioner was issued another summary of allegations dated 12.02.1993, in which it was alleged that upon detection of four objectionable bills in M.T. section, the Petitioner had been removed from M.T. section and sent to General Duty. Enraged at his posting to General Duty, the Petitioner had resorted to mischief, refusal to perform Government duties, rumour mongering etc. It was further stated that a News Item, leveling false, frivolous and serious allegations against a Gazetted Officer of the battalion regarding

the Petitioner's harassment and intimidation by the Gazetted Officer had been published in the Hindi Daily 'Rashtriya Sahara' dated 23,24,25.05.1992 and thus the Petitioner was alleged to have indulged in character assassination of a Gazetted Officer knowingly, and with ulterior motives.

6. The two successive Summary of Allegations issued to the Petitioner hereinafter referred to as No.I & No.II respectively read as under:-

I- 13.12.1992

"It is alleged that Constable Jeet Singh, No.7330/DAP, 404/DAP while posted in this Bn. Had submitted a complaint dated 05.12.1991 against Shri. A.A. Siddiqui, ACP/Adj., 6th Bn. DAP that he was being harassed by him. The complaint was entrusted to Shri Devi Chand, ACP of this Bn. By Shri. A.A. Farooquee, the DCP/6th Bn. DAP for conducting and enquiry into the matter. Again on 13-04-1992 Const. Jeet Singh submitted another application to the then DCP/6TH Bn. Against Shri A.A. Siddiqui, ACP/Adj. that he was being harassed by the ACP/Adj. and that the ACP may get him killed, may get his children kidnapped or may harm him a big way. The same was also entrusted to ACP Devi Chand for conduction an enquiry. ACP Devi Chand submitted his report of his enquiry in both the complaints concluding there in that the allegations leveled by Const. Jeet Singh against Shri. A.A. Siddiqui were baseless, prejudiced and malicious. Secondly it is alleged that Const. Jeet Singh, No. 7330/DAP, 404/DAP committed the misconduct of going to the office of Hindi Daily 'Rashtriya Sahara' and feeding false, baseless

and malicious story to the reporter which printed on 23,24& 26-05-92.

The above act on the part of Const. Jeet Singh, No. 7330/DAP amounts to grave misconduct and is unbecoming of a member of deplaned force and as such renders him liable for departmental action under section 21 of Delhi Police Act,1978.”

II- 12.02.1993

“It is alleged that Const. Jeet Singh, No 7330/DAP (now 404/DAP) u/s while posted in 6th Bn. DAP Delhi was working in M.T. section. In November 1991 four objectionable bills in M.T. section were detected by the supervisory staff and Const. Jeet singh, No. 7330/DAP, 404/DAP was removed from M.T. section and was sent to General Duty by 6 the competent authority. Enraged at his posting to general Duty he resorted to mischief, refusal to perform Govt. duties, rumour mongering, spreading, disaffection & indiscipline among the ranks and file to the Bn. On the instance of Const. Jeet singh, no. 7330/DAP, 404/DAP News Items leveling false, frivolous, baseless and serious allegations against a Gazetted Officer of the Bn. Regarding his own harassment and intimidation by the Gazetted Officer, were published in the Hindi Daily “Rashtriya Sahara” dated 23,24,25/5/92. Thus const. Jeet Singh, No. 7330/DAP, 404/DAP TRIED FOR CHARACTER ASSASSINATION OF A Gazetted Officer knowingly and with ulterior motives.

The above act on the part of const. Jeet sing, No. 7330/DAP, 404/DAP amounts to misconduct, indiscipline insubordination and dereliction in the discharge of his official

duties for which he is liable for departmental action under section 21 of the Delhi Police Act-1978.”

After issuance of the two summary of Allegations, a departmental enquiry was initiated against the Petitioner on 27.03.1993 in respect of the IInd summary of Allegations. It appears that the Petitioner insisted for supply of attested copies of documents, which were not supplied to him during the enquiry, despite orders passed by the DCP. The Petitioner, therefore, did not participate in the same and, accordingly, an *ex-parte* enquiry was conducted against him. During the enquiry, five PWs and two court witnesses were examined. The Enquiry Officer vide its report dated 02.08.1993 held the Petitioner guilty of the charges in the summary of Allegations No.II. The conclusions of the Enquiry Officer are, to say the least, wholly vague and one is left to just guess as to why the Petitioner has been held guilty. The same-to the extent relevant for the course of action which we propose to take, read as under:-

“Conclusion:-

After going through the statements of the prosecution witnesses and other relevant documents, I find the charge of misconduct, indiscipline, insubordination, rumor mongering; attempt to assassinate the character of senior officer and going to press stands proved against the defaulter.”

7. Based on this enquiry report, the Petitioner was dismissed from service vide order dated 22.10.1993 passed by the Deputy Commissioner of Police. Aggrieved by his dismissal, the

Petitioner preferred an appeal which, too, was rejected. The Petitioner then preferred the present O.A. before the Tribunal wherein he challenged not only his order of dismissal, but also specifically prayed for setting aside the enquiry report.

8. The basic contentions raised by the Petitioner before the Tribunal were that the conclusions arrived at by the Enquiry Officer were based on no evidence, and that the Enquiry Officer had given no reason in arriving at its finding that the charge against the Petitioner was proved. It will be apt to reproduce the grounds urged by the Petitioner in his O.A, which in our view, go to the root of the matter:-

Grounds

“ A) The Enquiry Officer who has given no reasons at all in arriving the finds in the enquiry report dated 2.8.93. The Enquiry Officer has jumped to the conclusion that the charge against the applicant stood proved. The Enquiry Officer has neither assessed the evidence nor allowed a peep into his mind by giving a non-speaking enquiry report. It is well settled by now that the Enquiry Officer being a quasi judicial Authority must give reasons for his findings. The whole enquiry report as well as the subsequent proceedings have been vitiated on this account.

B) The conclusion given by the Enquiry Officer that the charge is proved is arbitrary and is based on no evidence. There was no evidence at all with respect to the four alleged bills which are the subject matter of the charge. On the other hand, P.W. 1 admitted in his statement that a doparate enquiry was being conducted in this behalf. There was no evidence at all with regard to the mischief, rumour mongering and spreading these allegations etc., as such the finding of the Enquiry Officer is arbitrary and is based on no evidence.”

C) The charge against the applicant was that the applicant got published a news item leveling false, frivolous and baseless allegations against a Gazetted Officer in Rashtriya Sahara dated 23,24 and 25.5.92. This allegation

has not been proved at all in the departmental enquiry. No press conference, nor the Editor of the Newspaper was examined in the departmental enquiry. In the absence of this material evidence, the charge against the applicant cannot be said to have been proved. The evidence of P.W. 1 is not reliable since he is an interested witness. The P.W. 1 was also a complainant in the cases. However, the applicant submits that he did not get published any new item on 23,24 or 25.5.92 as alleged or at all. He is not, in any way, connected directly or indirectly with the publication of the aforesaid news item.” (emphasis supplied)

9. The Petitioner's O.A was, however, dismissed by the Tribunal vide its order dated 10.08.2000, whereafter his review petition was also dismissed. Aggrieved by the dismissal of his O.A and review petition, the Petitioner had approached this Court by way of W.P(C)2752/2001-which writ was allowed vide order dated 22.07.2013, and the matter was remanded back to the Tribunal for a fresh decision on merits.
10. The Tribunal has once again dismissed the O.A. In the circumstances the Petitioner has preferred the present petition before us.
11. The Petitioner, who has appeared in person has, while drawing our attention to some news reports against the ACP/ Shri Siddiqui in support of his plea that the said ACP was indeed habitual of harassing and torturing his subordinates has submitted that the entire proceedings against him are vitiated and contends that he was dismissed from service by holding a stage managed departmental enquiry. The only contention raised by him before us are that neither the Enquiry Officer, nor the Disciplinary Authority had applied their minds to the facts,

or recorded any reason in support of their conclusions holding the Petitioner guilty. He submits that the conclusions arrived at by the Enquiry Officer themselves show that there was no evidence to prove the charges. He, therefore, contends that the findings of the Enquiry Officer as also of the Disciplinary and the Appellate Authorities are wholly perverse and prays that the same be set aside.

12. Per Contra, Mr. Anuj Aggarwal, learned counsel for the Respondents, while supporting the impugned order passed by the Tribunal contended that the enquiry was conducted after following due procedure, and once the Petitioner adamantly refused to participate in the enquiry, the Enquiry Officer was fully justified in holding an *ex- parte* enquiry. It is further urged by Mr. Agarwal that it is a settled principle that the Courts cannot re-appreciate evidence. As long as there is some evidence to support the findings, the Court should not interfere with the departmental proceeding. He further submits that on account of mere failure on the part of the Enquiry Officer to give detailed reasons, the Court ought not to interfere with the enquiry report. Lastly, he submits that even if the Court finds any deficiency in the report of the Enquiry Officer, or in the order passed by the Disciplinary Authority, or the Appellate Authority, the proper course would be to remand the matter back to the authorities for re-examination.
13. We have heard the parties and with their assistance perused the record, as well as, the impugned judgment.

14. Since the Petitioner has urged that this is a case of “no evidence” against him, we have also examined the evidence recorded before the Enquiry Officer. We find that the only issue raised by the Petitioner before the Tribunal, as well as, before us is that the enquiry report is based on no evidence whatsoever, and on this ground alone the entire proceedings can be held to be vitiated. We find that the Tribunal has not at all examined this aspect. In these circumstances, as aforesaid, we have, ourselves examined the enquiry report. A perusal of the enquiry report, no doubt, presents a very sorry state of affairs, as it clearly shows that there is no evidence at all to show that the Petitioner had resorted to mischief, rumour mongering, refusal to perform Government duty, or to show that he was in anyway responsible for publication of the alleged Newspaper Reports. We may, at this stage, refer to the summaries of the statements of PWs recorded by the Enquiry Officer during the *ex parte* enquiry:-

“PW-I Sh. A. A. Siddigui ACP

He stated that he was posted to the VIth Bn. DAP and had held the charge of ACP/M.T. for over a year or so. During this period Const. Jeet Singh No. 7330/DAP remained posted in that Bn. till 4.8.92. During his tenure in 6th Bn. DAP Const. Jeet Singh worked as M. T. Munshi for a period of time. While he was M. T. Munshi, four bills were detected by him which were-found irregular & defective copies of these bills are on the file and marked as PW-IA to D. Consequently he was transferred to general duty and was ordered to proceed to security lines for duty by Insp. Rama Nand Tyagi the then R. I. Const. Jeet Singh refused to comply with this order and a

corresponding entry was judged by the R. I. Vide No. 52, dated 2.12.91. (copy attached as PW-I/E).

Explanation of Const. Jeet Singh was called by him as being the Adj. He was responsible for the discipline and deployment of the force. (copy attached and marked as PW-I/F).

Const. Jeet Singh applied for permission to appear in the O.R. of the then DCP/VI Bn. which was granted by him. (copy attached and marked as PWI/G).

Const. Jeet Singh submitted a false, malicious and criminally thought out application that the lives of him and his family were in danger from Sh. Siddiqui, to the then DCP/VI Bn. In response to this he wrote a letter to the then DCP/IV Bn. and copy of the same was endorsed to DCP/NW for information and necessary action. (copy of this intimation attached and marked as PW-I/H)

He further stated that he must mention here that const. Jeet Singh went beyond the limits of indiscipline, etiquette, lawfulness and social responsibility. He criminally concocted and got published a false malicious and vindictive story against him in Rastriya Sahara Hindi daily dated 22, 23, and 25th of May - 1992. His comments were accepted by the PHQ and defaulter's story was proved false and baseless. (copy attached as PW-I/I) Secondly Const. Jeet Singh sent a notice through his counsel to him for paying a compensation of Rs. 1,00,000/- for the harassment and mental tortures accused to him. Thirdly, he again got a story in the Rastriya Sahara some time during the month of April - 93 or so in which he levelled allegations against not only him but other very senior officers in a story which involved the incident of the assassination of our former P. M. This story proves beyond doubt that Const. Jeet Singh has a criminally deviant psyche and he is capable of fabricating any kind of cock and bull stories.

In the last he stated that a separate enquiry is being conducted in the matter of four irregular bills mentioned above."

"PW-2, ASI VIJAY KUMAR. ASIP/VI Bn. DAP.

He stated that he is posted as ASIP/ VI Bn. DAP. As per record of the Branch Const. Jeet Singh., No. 7330/DAP (Now 404/DAP) remained posted in VI Bn. from 21.1.89 to 4.8.92. During this period he remained posted in M. T. as MT/ Munshi as under:-

1. He was transferred from MT Section on 16.19.90 vide order No.10550-51/P. Br., 6th Bn. DAP of 16.19.90.

2. He was posted in M. T. Section for three months on 21.1.91 vide order No. 207-8/P'Br., Bn. DAP of 21. 1.91.

He was again posted in M.T. Section on 16.10.91 vide order No.3033-39/P. Bn. DAP dated 16.10.91 and transferred to general duty on 29.11.91 vide order No. 3324-26/P. Br.; 6th Bn. DAP to 29.11.91.

During the remaining period of his posting in Vith Bn. DAP he performed Genl. Duty till his transfer to Ist Bn. DAP. It is, incorrect that he was removed from M.T. Br. Six times as there is no such record in the branch.”

“PW-3 SMT. YAMIN HAZARIKA, DCP-CW, CELL

She stated that she has seen her letter No. 748/PA-DCP(CW-Cell), dated 28.5.92 to DCP/VI Bn. DAP. She further stated that she hereby certify that the same has been written on her instructions by her P. A. and the same has been signed by her. Copy of the letter has been marked as exhibit PW-3/1.”

“PW-4 SH., DEVICHAND BHARDWAZ, ACP/VITH BN. DAP.

He is posted in VI Bn. DAP. Const. Jeet Singh., No. 7330/DAP while posted in 6th Bn. DAP submitted complaint dt. 12.5.91 against Sh. A.A. Siddiqui ACP/Adj VI Bn. that he was being harassed by him. The complaint was entrusted to him by Sh. A. A. Farooquee the than DCP/Vith Bn. for conducting enquiry. Again on 13.4.92, Const. Jeet Singh submitted another complaint against Sh. Siddiqui ACP/Adj. That he was being harassed and that the ACP may get him killed and simultaneously may get his children kidnapped or may harm them. The same was also entrusted to him for conducting enquiries. On 29.5.92, he submitted his report in does the complaints concluding therein that the allegations levelled by Const. Jeet Singh against Sh. Siddiqui were baseless, and malicious. It was proved that the said Const. Committed misconduct of going to the office of Hindi Daily “Rastriaya Sahara” feeding false, baseless and malicious story to the reporter which was published on 23,24, 25.5.92. The acts of the Const. were of grave misconduct, unbecoming of & member of discipline force.

The photocopy of the Hindi Daily Rastriy Sahara" dt. 23,24,25.5.92 is ex PW-4/4. He also stated that he is habitual nuisance monger & unionist."

"PW5, INSPR. RAMA NAND TYAGI, SPECIAL BR.P.H.O., N. DELHI.

He stated that he was posted as R.I. 6th Bn. DAP on 2.12.91 Sh. Siddiqui ACP/Adj ordered him to send const. Jeet Singh, No. 7330/DAP (now 404/DAP) in the guard of Sh. H. A. Barari at Vasant Vihar, He ordered const. Jeet Singh to go for the guard duty. On this he stated that he would appear before DCP/VI Bn first and refused to go on duty. He recorded a report vide D.D. No. 52, dated 2.12.91 through HC ex. As PWI/E. Copy of the D. D. Entry was sent to ACP/Adj."

After the completion of prosecution evidence charge was framed and got approved from DCP/1st Bn. which reads as follows:-

I, Insp. Balbir Singh charge you Const. Jeet Singh, No. 7330/DAP (now 404/DAP) in that while posted in 6th Bn. DAP were working in M. T. Section. In November, 1991 four objectionable bills in M. T. Section were detected by the supervisory staff and you were removed from M. T. Section and were sent to general duty by the competent authority. Enraged at your posting to general duty you resorted to mischief, refusal to perform govt. duties, rumor mongering spreading, file of the Bn. On your intense new items leveling false, frivolous, baseless and serious allegations against a G.O. of the Bn. regarding our own harassment and intimidation by the G. O. were published in the Hindi Daily "Rastriy Sahara" dated 23,24, 25.5.92. Thus you const. Jeet Singh tried for character assassination of a G. O. knowingly and with ulterior motives.

The above act on the part of you Const. Jeet Singh, No. 7330/DAP (now 404/DAP) amounts to misconduct, indiscipline, insubordination and dereliction in the discharge of your official duties which renders you liable of departmental action under section 21.D. A. ACT-1978.

As the defaulter was not attending the roll calls since long a Const. was sent at his residence to serve the copy of the charge but he was not found present at his residence. Next day I came to know that he was present in front of R. I. Office. He was asked to receive the copy of the charge but he refused. A D. D. Entry was lodged in this regard. So a copy of the charge was got pasted on the main door of his residence through HC Jadish Choubey No. 76/DAP on 20.7.93 in the presence Of witnesses. To ensure that the defaulter must get the copy of the charge it was sent through registered letter to his residence on 22.7.93. On the receipt of the charge the defaulter again played a mischief by sanding a lengthy letter to DCP/Ist Bn. and to me also stating therein that he has received tow blank papers only which is white line. HC Jadgish Choubey. 76/DAP and Ct. Jitender Singh, No: .6063DAP who participated in this - process have been examined as CW-I & CW-2 respectively.”

None of the above, witnesses led any corroborative materials or evidences to establish any of the charges against the Petitioner. In fact, except ACP Shri Siddiqui, none of the witnesses have even tried to prove any of the alleged acts/ommissions on the part of the Petitioner to connect him with the charges. It is an admitted case of the parties that no press correspondent or Editor of the newspaper concerned was even summoned in the enquiry and, therefore, it is very difficult for us to even fathom the reasons or justification as to why, and how, the Enquiry Officer held the Petitioner guilty of the charge of getting articles against ACP Siddiqui published in the newspaper. The enquiry report also does not show anything, which could lead the Enquiry Officer to come to the conclusion that the Petitioner

was guilty of misconduct, indiscipline, insubordination or dereliction in the discharge of his official duties.

15. We, thus, have no hesitation in coming to the conclusion that the enquiry report is perverse. We are conscious of the fact that the Courts should be slow in interfering with the disciplinary proceedings and they should not venture into the exercise of re-appreciating evidence, but having examined the enquiry report, we cannot shut our eyes of the fact that there is no evidence-of whatsoever kind, to support the conclusions arrived at by the Enquiry Officer. Since we find that the enquiry report is perverse, and it is a clear case of “no evidence”, we would be failing in our duty if we do not set aside the enquiry report and all consequential proceedings.
16. We are fortified in our aforesaid conclusion by the decision of the Supreme Court in the case of ***Roop Singh Negi v. Punjab National Bank & Ors. (2009) 2 SCC 570***, wherein the Supreme Court emphasised that a departmental enquiry is a quasi judicial proceeding. The charges against the Officer must be proved by consideration of the evidence brought before the Enquiry Officer. In the same decision, the Supreme Court also emphasized that appropriate reasons must be given not only by the Enquiry Officer, but also by the disciplinary as well as appellate authorities. The requirement to give reasons while arriving at the finding of guilt, in a departmental enquiry, cannot be treated as an empty formality. The findings and consequential orders must show due application of mind. Para

14 and 23 of the aforesaid decision in case of **Roop Singh Negi** (supra) read as:-

“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 9 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.”

“23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the Criminal Court on the basis of self-same evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding 17 but the principles of natural justice are. As the report of the Enquiry Officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the Enquiry Officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”

Reliance may also be placed on **para 7** of a very recent judgment of the Supreme Court in the case of **Allahabad Bank & Ors. V. Krishna Narayan Tewari (2017) 2 SCC 308**,

wherein the Supreme Court while summarizing the principles regarding the scope of judicial review in cases arising out of departmental inquiries, has reiterated that where the findings of the Disciplinary Authority are unsupported by any evidence whatsoever, or a finding of guilt has been arrived at in circumstances which the Court feels no reasonable person could have arrived at, the Writ Court would be justified in examining the matter and granting relief in appropriate cases. We deem it appropriate to reproduce Para 7 of the judgment of the Supreme Court in the case of **Allahabad Bank** (supra), which reads as under:-

“7. We have given our anxious consideration to the submissions at the bar. It is true that a writ court is very slow in interfering with the findings of facts recorded by a Departmental Authority on the basis of evidence available on record. But it is equally true that in a case where the Disciplinary Authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at, the writ court would be justified if not duty bound to examine the matter and grant relief in appropriate cases. The writ court will certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself was vitiated on account of violation of principles of natural justice, as is alleged to be the position in the present case. Non-application of mind by the Enquiry Officer or the Disciplinary Authority, non-recording of reasons in support of the conclusion arrived at by them are also grounds on which the writ courts are justified in interfering with the orders of punishment. The High Court has, in the case at hand, found all these infirmities in the order passed by the Disciplinary Authority and the Appellate Authority. The

respondent's case that the enquiry was conducted without giving a fair and reasonable opportunity for leading evidence in defense has not been effectively rebutted by the appellant. More importantly the Disciplinary Authority does not appear to have properly appreciated the evidence nor recorded reasons in support of his conclusion. To add insult to injury the Appellate Authority instead of recording its own reasons and independently appreciating the material on record, simply reproduced the findings of the Disciplinary Authority. All told the Enquiry Officer, the Disciplinary Authority and the Appellate Authority have faltered in the discharge of their duties resulting in miscarriage of justice. The High Court was in that view right in interfering with the orders passed by the Disciplinary Authority and the Appellate Authority."

In view of the above discussion the writ petition has to succeed. The impugned order of the Tribunal, alongwith the dismissal order dated 22.10.1993 as well as the Report of the Enquiry Officer are hereby quashed.

17. The question, which now arises in the present case, would be, as to what would be proper course for us to follow after setting aside the enquiry report itself. The issue whether: the matter should be remanded back to the authorities, or not, after setting aside of the proceedings, has been considered in a number of cases by the Supreme Court and the final directions which have been issued in each case, depended upon the peculiar facts of the case. No straight jacket formula can be applied to all cases.
18. In the present case we find that the Petitioner had an outstanding service record before his impugned dismissal which is manifested by the fact that he received thirty five certificates

and cash rewards. We also find that 25 years have already elapsed since the Petitioner's dismissal and, therefore, any remand to the Enquiry Officer at this stage would be extremely harsh and unfair to the Petitioner. Moreover, keeping in view the nature of charges leveled against him, it will otherwise also, be wholly inappropriate. It would also be, if not impossible, very difficult for the parties to lead evidence at this belated stage. We, therefore, feel that it will be appropriate for us to follow the same course as was done by the Supreme Court in **Allahabad Bank** (supra) case. We deem it appropriate to reproduce para 8 of this decision, which reads as under:-

"8. There is no quarrel with the proposition that in cases where the High Court finds the enquiry to be deficient either procedurally or otherwise the proper course always is to remand the matter back to the concerned authority to redo the same afresh. That course could have been followed even in the present case. The matter could be remanded back to the Disciplinary Authority or to the Enquiry Officer for a proper enquiry and a fresh report and order. But that 8 Page 9 course may not have been the only course open in a given situation. There may be situations where because of a long time lag or such other supervening circumstances the writ court considers it unfair, harsh or otherwise unnecessary to direct a fresh enquiry or fresh order by the competent authority. That is precisely what the High Court has done in the case at hand."

19. In view of these circumstance, while setting aside impugned order passed by the Tribunal as well as those passed by the Departmental Authorities alongwith the Enquiry Report, we prefer to follow the same course as followed by the Supreme Court in the case of **Allahabad Bank** (Supra). We, therefore,

direct the Respondents to reinstate the Petitioner and grant him 50 % arrears of salary and allowances, with all consequential benefits(including continuity of service from the date of dismissal, notional increments, fitment in the revised pay scales as applicable from time to time, and seniority). The Respondents shall issue consequential orders and also ensure that payments are released to the Petitioner within twelve weeks from today.

REKHA PALLI, J

VIPIN SANGHI, J

SEPTEMBER 13, 2017

saaurabh