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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14698 of 1994.

Date of Decision : September 19, 2018

Gurdeep Singh

.... Petitioner.

Versus

Punjab & Sind Bank and others

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Rajiv Atma Ram, Sr. Advocate, with
 Mr. Ranjit Singh Kalra, Advocate,
 for the petitioner.

 Mr. R. Kartikeya, Advocate
 for the respondents.

SHEKHER DHAWAN, J.

By way of present writ petition under Articles 226/227 of the Constitution of India, petitioner has challenged the order dated 02.03.1993 (Annexure P/11) vide which he was dismissed from service and the order dated 19.02.1994 (Annexure P/15) whereby the appeal of the petitioner was rejected.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner was appointed as an Officer in the respondent-Bank on 28.09.1974 and thereafter he was promoted and posted on different posts. In the year 1989, an anonymous complaint was received in the respondent-Bank on the basis of which, a show cause notice (Annexure

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P/1) was issued to the petitioner which was duly responded by him. Union of India had constituted Central Vigilance Commission, respondent No.5 herein, and guidelines were framed by the Commission whereby consultation was required with the Commission before taking any action and as per Article 22 of the Central Vigilance Commission Manual, following guidelines were framed:-

“The D.As. are also required to make a reference to CVC through CVO for second stage advice before passing final orders, even in respect of officials below pay scale III involved in composite cases (where officials in scale III or above and those in lower pay scale including award staff are involved).

In respect of vigilance disciplinary cases involving officers in scale I and II, the D.A. before passing final orders awarding punishment has to seek second stage opinion internally from Chief Vigilance Officer, (reference: H.O. Vig. Deptt. Letter dated 6.5.91).

All the instances of non-compliance of CVC advice by D.A. are reported to the Ministry of Finance and are also included by the Commission in its Annual Report which is placed before the Parliament. Similarly, all the instances of non-compliance of Chief Vigilance Officer's advice in case of scale I and II officials is required to be reported to the CMD and Board of Directors.”

3. Subsequently, the Union of India had issued instructions dated 21.07.1984 which are extracted hereunder:-

“Recently a case has been reported where a bank has revised the punishment awarded to an officer in a disciplinary case contrary to the advice of the Central Vigilance Commission. The case has figured in the Annual Report of the CVC/CVO as

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a case of non-consultation with the Commission and thus created an embarrassing situation. You will perhaps be aware of the Annual Reports of the CVC/CVO which contain cases where the disciplinary authorities had not accepted its recommendations or had not consulted it, are laid on the Table of both the Houses of Parliament. This may, thereafter be discussed in the Parliament also. You will agree that under no circumstances the advice of the CVC should be modified except with the prior concurrence of the Commission and this Ministry. I may mention here that revision of the penalty imposed on a delinquent officer as a result of an appeal filed by him before the appellate authority against the decision of the original disciplinary authority also amounts to non-consultation/non-acceptance of the advice of the CVC and is included in CVC's Annual report. Kindly circulate these instructions to the concerned officers in your bank for strict compliance. The receipt of this D.O. letter may please be acknowledge. A copy of this D.O. letter is being marked to CVO in your bank separately.”

4. On the basis of reply submitted by the petitioner to the show cause notice (Annexure P/1), respondent No.2 was satisfied, but the matter was referred to the Chief Vigilance Officer of the Bank, respondent no.4, who encroached upon the quasi judicial functioning of respondent No.2, i.e., the disciplinary authority and forced him first to issue memo of charges dated 7.6.1990 (Annexure P/2) and then suspended the petitioner vide order dated 16.11.1990 (Annexure P/3). Preliminary enquiry was got conducted by the Chief Vigilance Officer of the Vigilance Department of the bank. However, complete copy of the enquiry report was not supplied to the petitioner at any stage and on the basis of the

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report, charge sheet was issued to which the petitioner duly filed his reply.

5. The grievance of the petitioner was that list of witnesses and list of documents, on the basis of which, charges were to be proved, was not supplied to him alongwith the charge sheet in terms of statutory rules. However, the same were given to the petitioner and the Enquiry Officer on 15.03.1991 i.e., after nine months of issuance of the charge sheet. Meanwhile, second charge sheet was issued to the petitioner on 16.03.1991 (Annexure P/5).

6. The Enquiry Officer conducted enquiry proceedings in violation of statutory Rules i.e., Regulations 4, 5, 6, 109, 106(ii), 11, 12, 13, 16, 17, 21, 21a, d, f and Rule 6 of the Punjab and Sind Bank Officer Employees Discipline and Appeal Regulations, 1981 (for short, "the Regulations"). The Enquiry Officer examined witnesses, who were not mentioned in the list of witnesses and the witnesses who were sought to be summoned in defence by the petitioner, were not actually summoned and examined by the Enquiry Officer and the Enquiry Officer submitted his report (Annexure P/6). Meanwhile, 3rd charge sheet, (Annexure P/10) was also issued on 7.12.1992.

7. The enquiry report was sent to the Chief Vigilance Officer, who gave his 2nd stage advice/recommendations in view of above provisions of Article 22, as detailed above. However, no copy of the said advise/recommendations was given to the petitioner and even without giving any opportunity to show cause against the proposed penalty, the petitioner was dismissed from service vide impugned order dated 2.3.1993

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(Annexure P/11). The appeal was also dismissed in mechanical manner without application of judicious mind vide order, Annexure P/15. As per the petitioner, dismissal order, Annexure P/11 merely reproduced various charges, but no reasoning was given. While passing the said order, the disciplinary authority placed reliance upon two charge-sheets dated 16.3.1991 (Annexure P/5) and 7.12.1992 (Annexure P/10) for which no enquiry was held.

8. On receipt of dismissal order, the petitioner represented on 18.3.1993 (Annexure P/12) before the respondent-Bank that he intended to file an appeal, so copy of the advice given by Chief Vigilance Commission/Chief Vigilance Officer and also the documents relied upon by the Enquiry Officer, which had not been produced during the course of enquiry proceedings, be supplied to him. The said representation was rejected on 29.3.1993 (Annexure P/13) and thereafter, the appeal was rejected vide Annexure P/15, by respondent No.3.

9. The impugned orders have been challenged by the petitioners primarily on the grounds (i). that witnesses beyond the list of witnesses supplied had been examined; (ii) that the documents beyond the list of documents had been relied upon; (iii) that the documents not produced before the enquiry officer had been relied upon; (iv) that defence witnesses had not been summoned; (v) that advice/recommendations of the Vigilance Department had not been supplied; (vi) that complete copy of preliminary enquiry report had not been supplied; (vii) that the enquiry officer relied upon the extraneous material beyond that produced by any party in the

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enquiry proceedings etc. have not even to the notice; (viii) that the disciplinary authority could not take into account other pending charge sheets for which no enquiry had been held; (ix) that the disciplinary authority has erred in taking the purported allegedly loss to the bank of a sum of Rs.1.00 Crore; (x) that if does not even notice that the disciplinary authority even finds the petitioner guilty of those allegations for which the enquiry officer has found him not guilty – have been considered.

10. In the written reply, respondent-bank raised preliminary objections that adequate opportunity was given to the petitioner to defend himself during the course of enquiry and the Enquiry Officer had conducted the departmental enquiry in accordance with the regulations governing the petitioner. There was no *mala fide* intention on the part of the respondent-bank or any officer of the bank and even there is no such allegation of mala fides in the writ petition. In the absence of any allegation of *mala fide*, there is little scope of interference by this Court in the administrative orders passed by the competent authority. The writ jurisdiction under Article 226/227 of the Constitution of India does not extend to interference with the orders passed in accordance with law by sitting over as appellate authority. The enquiry was conducted in accordance with the regulations. It is not for the Court to decide the adequacy of evidence led during the course of enquiry. There was no question of seeking advice from Central Vigilance Commission as the petitioner was a Scale-II Officer and in case of officers in the Scale-I and Scale-II, the same is advisory in nature. The punishment has been imposed not on the basis of report of the Central Vigilance

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Commission/ Chief Vigilance Officer, but it was only on the basis of conclusion of the report of Enquiry Officer, who held the petitioner guilty of the charges levelled against him.

11. While replying on merits, It was pleaded on behalf of the respondent-bank that a show cause notice dated 12.09.1989 (Annexure P/1) was issued only when Vigilance Officer pointed out irregularities and lapses committed by the petitioner. Only fact finding was conducted by the Vigilance Officer and all the facts were incorporated in the charge sheet and the documents on which the enquiry was based, were supplied to the petitioner during the enquiry proceedings. The investigation report submitted by P.S. Gill, Manager Vigilance, was presented as Exhibit-XIII during the enquiry. The petitioner was placed under suspension, keeping in view the serious nature of the allegations levelled against him. As per the respondents, list of documents and witnesses was supplied to the petitioner by the Presenting Officer during the enquiry proceedings. A disciplinary enquiry was held on 28.01.1991 and the list of documents and witnesses was supplied by the Presenting Officer vide letter dated 15.03.1991 (Annexure P/4) and thus, the objection regarding delay is baseless. As per the respondent, the management has the right to add or delete documents/witnesses during enquiry proceedings, if so required. However, ample opportunity was given to the petitioner for cross examining the witnesses and the documents were given to him. The 2nd stage advice of Chief Vigilance Officer of the Bank was advisory in nature and the same was not binding upon the disciplinary authority. However, the enquiry report

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was sent to the Chief Vigilance Officer of the Bank along with the proposed penalty, who concurred with the decision of the disciplinary authority without any change or alteration and the objections raised by the petitioners were baseless.

12. Learned senior counsel for the petitioner contended that the matter in controversy is of such a nature that even the Enquiry Officer has returned the findings that charges against the petitioner were not proved, still the disciplinary authority while placing reliance upon the said enquiry report submitted by J.S.Kathuria, R.M. Dated 26.11.1992 passed the impugned order, Annexure P/11, whereby the petitioner was dismissed from service.

13. Learned senior counsel for the petitioner further contended that majority of the charges alleged in the charge sheet dated 7.6.1990 (Annexure P/2) were not proved against the petitioner as per the material having been produced during the enquiry proceedings and the Enquiry Officer had given specific findings to that effect. Still, the Disciplinary Authority, i.e., Assistant General Manager, vide Annexure P/11, mentioned that charges against the petitioner were proved, which is patently contrary to the record. Even for the charges, which have been said to have been proved, the same were for certain procedural lapses. Even the Disciplinary Authority in the impugned order, Annexure P/11, observed that there was no loss caused to the bank, but loss was likely to be caused to the respondent-bank.

14. While arguing further on this point, learned senior counsel

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contended that apart from that, there are major short-comings in the enquiry proceedings as well. No lists of witnesses and documents were supplied to the petitioner alongwith charge sheet and this is an admitted case from the respondent-side also. As per the respondents even, the list of witnesses and documents were supplied during the enquiry proceedings only whereas the departmental proceedings commenced on 7.6.1990 and the enquiry proceedings started from 28.3.1991.

15. On this point, reliance was placed upon the decisions of this Court in **Dhian Singh vs. State of Punjab and others, 2007 (4) S.C.T. 275; Union of India and others vs. Sushil Kumar Vashisht and another, 2016 (4) S.C.T 77.**

16. Learned senior counsel further submitted that the orders passed by the Disciplinary Authority and the Appellate Authority are non-speaking orders and as such, the same are liable to be set-aside. On this point, reliance was placed upon judgment of Hon`ble Apex Court in **Orxy Fisheries Pvt. Ltd. vs. Union of India, 2010 (13) SCC 427** and judgments of Co-ordinate Benches of this Court in **Karma Devi vs. Punjab National Bank and others, 2018 (1) S.C.T 125; Nafe Singh vs. Haryana Land Reclamation and Development Corporation Ltd. and others, 2016 (1) S.C.T. 212; Smt. Santosh Saini vs. State of Haryana and others, 2015 (1) S.C.T. 170; Amrik Singh vs. State of Punjab and others, 2014 (3) S.C.T. 405; Ravinder Pal Singh vs. State of Punjab and others, 2014 (1) S.C.T. 28.**

17. In the present case, the petitioner has certainly been

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prejudiced and the respondent-Bank simply cannot take the plea that the disciplinary proceedings were initiated and enquiry proceedings were conducted, so there are no grounds to set-aside the same, rather, law on the point is settled that in cases where the departmental proceedings have been initiated and the Disciplinary Authority even passed the order, which is contrary to the report submitted by the Enquiry Officer or the enquiry proceedings having not been conducted in accordance with law, rules and principles of natural justice, then the order of punishment passed by the Disciplinary Authority is liable to be set-aside.

18. While arguing further, learned senior counsel for the petitioner contended that the Disciplinary Authority had sought the opinion from CVO and also relied upon the advice of CVO , but copy of the said report/advice was never supplied to the petitioner, which has caused great prejudice to the petitioner. On this point, reliance was placed upon the judgments from Hon`ble Apex Court in **Oriental Bank of Commerce and others vs. S.S. Sheokand and another, 2014(2) SCT 210; State Bank of India vs. D.C. Aggarwal, 1993 AIR (SC) 1197; Nagaraj Shivarao Karjagi vs. Syndicate Bank Head Office, Manipal and another, 1991 AIR (SC) 1507.**

19. While arguing on these points, learned counsel for the respondents contended that no doubt, the CVO was consulted in the matter, but at the same time, consultation with the CVO was not binding on the bank and the same was not required to be shared with the petitioner because the punishment order was not passed upon the opinion of the

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CVO. On this point, reliance was placed upon the judgment of Hon`ble Supreme Court in **Nagaraj Shivarao Karjagi Vs. Syndicate Bank Head Office, Manipal and another, (1991) 3 SCC 219; State Bank of India and others Vs. S.N.Goyal, (2008) 8 SCC 92 and State Bank of India and others Vs. Bidyut Kumar Mitra and others, (2011) 2 SCC 316.** Even otherwise also, even if there is any defect in the enquiry proceedings, the petitioner cannot be granted automatic reinstatement and the punishing authority is entitled to cure the defect and proceed from the stage, wherever the defect was found, as per law laid down by Hon`ble Supreme Court in **MD, ECIL V. B. Karunakar, 1993 (4) SCC 727.**

20. As regard to the non-supply of list of witnesses and documents to the petitioner, learned counsel for the respondent-bank contended that the list of witnesses was in fact, supplied to the petitioner during the enquiry proceedings itself and as per Regulation 14, even new evidence could be allowed by the Enquiry Officer to be led by the department. That way, no prejudice has been caused to the petitioner and on that account, the disciplinary proceedings are not liable to be set-aside. On this point, reliance was placed on the judgment of Co-ordinate Benches of this Court in **K.B.Rai Vs. State of Punjab, (1996) 1 SLR 353 and Bank of India Vs. Presiding Officer and others, 2009(2) ILR 326.**

21. As regards to the challenge to the orders passed by the Disciplinary Authority and the Appellate Authority that speaking orders have not been passed by both the authorities after applying their judicious mind, it is contended that there is no such requirement of law that these

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authorities should have passed detailed judgment while recording the order of punishment. On this point, reliance was placed on the judgment of Hon`ble Apex Court in **General Manager (P), Punjab & Sind Bank and others Vs. Daya Singh, 2010(11) SCC 233.**

22. To conclude, learned counsel for the respondent contended that if there is some short-coming in the appreciation of evidence, the departmental proceedings cannot be vitiated as the proceedings would not be deemed to be perverse and the Court cannot substitute its own view of findings by replacing the findings of the Enquiry Officer. On this point, reliance was placed upon the decision of Hon`ble Apex Court in **S.R. Tewari Vs. Union of India and another, (2013) 6 SCC 602.**

23. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that the petitioner was issued a charge sheet containing 18 articles of allegations in all. The Enquiry Officer submitted his detailed charge-wise enquiry report. For facility of reference, the charge-wise findings/conclusion arrived at by the Enquiry Officer is depicted in the following chart:-

Allegation No.	Charge-wise conclusion of Enquiry Officer
1.	“not fully proved”.
2.	“....From the above, it is established that there was no independent verification. It was also proved from the Statement of MW witness Sh. P.S. Gill who stated that there should have been a proper balance sheet as on a given date, its analysis, antecedents of the borrower, their existing occupation and comments thereon” etc.
3.	From the above, it is proved that adequate efforts were not made by the CSO to get the liability of the party adjusted.

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4.	That the party was also accommodated by the successor of CSO does not itself become a proof of having ascertained the antecedents of the party by the CSO.
4 (again)	The said amount of Rs.1.5 lacs was adjusted in supply of goods to them by us vide Bill No.103 dated 25.10.88 for Rs.603571/-. The above transactions are properly recorded in our books of accounts.
5.	As regards, "irregular transactions", it appears that there were regular trade transactions between M/s Master Exports and M/s Sain Sahai India Ltd.
6.	However, it is not clear which indispensable requirements were not complied with from the arguments of PO or DR.
7.	As admitted by MW Gurcharan Singh in the proceedings dtd.22.4.92 (page 12), the account was adjusted, it is not proved that follow up efforts were not made to get the account adjusted.
8.	The CSO has himself admitted that "Since the goods were not ready for shipment, the grant of Shipping Loan was not possible as such the party was granted PCA upto 6.00 lacs.
9.	The management witness Mr. P.S. Gill has stated that: "The unit at 86, Model Town, Ludhiana was found locked." It has not been proved that the firm does not exist, as the P.O. states that finding of lock on both occasions by the V.O. creates doubt about the existence of the unit. Just by doubt it is not established that the unit was not existing.
10.	Export code number was allotted by RBI and could not be proved fully that the proceeds were diverted by the party and Mr. Gurdeep Singh did not take steps for the adjustment of the loan.
11.	That there was no manufacturing activity is also proved from the evidence of Sh. P.S.Gill (MW) who visited the unit on 27.2.89.
12.	This indicates that credit worthiness of the party was not ascertained.
13.	From the arguments of P.O. and CSO, and the documents it is not fully proved that the transactions under ABLC head were irregular and interest of the bank ignored.
14.	It is difficult to understand how this admission of Sh. H.S. Lamba absolves the Manager of his responsibility of supervision and accountability. As such, this part of the allegation is also proved.
15.	From the documents DEX XXIII (Annexure XXXX (1-28), it appears that the stock statements were taken and this part of the allegation is not proved.
16.	The CSO violated the instructions contained in I.D. Circular 1197.

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17.	But the lac of control and supervision on the part of the CSO cannot be ignored, and thus the allegation stands proved.
18.	The P.O. has not discussed the charge in his written brief. From the documents MEX XXVII/1-17 and XXXI and from the evidence of MW Sh. P.S. Gill, the allegations could not be fully proved.

24. The Disciplinary Authority while placing reliance on the report of the Enquiry Officer, observed as under:-

“ Further the findings of Inquiring Authority are based on merits of the evidence produced before him and the CSO has been given every reasonable opportunity to present and defend his case. I hereby accept the findings of the Inquiring Authority on all allegations & observed that charges levelled against him as per clause 3.1, 3.3 and 3.4 of Punjab & Sind Bank Officers Employees (Conduct) Regulations 1981 are proved.

After thoroughly examining and considering the gravity of misconduct with special reference to likely loss of more than Rs. One crore and two other charge sheets dated 16.3.1991 and 7.12.1992, I am of the considered opinion that punishment of Dismissal – which shall be a disqualification for future employment shall meet the ends of justice. As such, I hereby impose the punishment as above as per clause 4(h) of Punjab Punjab & Sind Bank Officers Employees (Discipline and Appeal) Regulations 1981 upon Sh. Gurdip Singh, Manager (U/S).”

25. If the report of Enquiry Officer is taken into consideration, which the Disciplinary Authority was bound to consider and rely upon, he was required to concur with the same. The other option available with the Disciplinary Authority was either to reject the report of the Enquiry Officer in toto and order for fresh enquiry, but that has not been done, or at the

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same time, the Disciplinary Authority could form a different view and after giving detailed reasoning pass the order awarding punishment to the petitioner. However, none of these options were exercised and the Disciplinary Authority had gone wrong while relying upon the report of Enquiry Officer, which is mainly in favour of the petitioner but still recorded the finding that charges against the petitioner were proved and passed the impugned order of dismissal. Such was not expected from the Disciplinary Authority while passing order, Annexure P/11.

26. Identical matter relating to disciplinary proceedings was before Hon`ble Apex Court in **B. Karunakar's case (supra)** and the Hon`ble Apex Court observed in the said judgment as under:-

"The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7 (2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer."

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27. Identical matter was before Hon`ble Apex Court in **Punjab National Bank Vs. Kunj Behari Misra, 1998 (3) SCT 833**. Similar view was also taken by Hon`ble Division Bench of this Court in **Union of India and others Vs. Dayanand Pandora and another, 2011(3) SLR 767 and Gurmel Singh Vs. Central Administrative Tribunal, Chandigarh Bench and others, 2011(2) SCT 492**.

28. Taking the facts of the case in hand, this Court is of the considered view that in the present case, the petitioner has been punished for the charges, which were not proved against him and the Disciplinary Authority just made the report of the Enquiry Officer very basis, which in fact, was more favourable to the petitioner. Unless specific charge of misconduct is levelled and proved, an employee cannot be penalized. He cannot be punished for charge, which is not just proved in the enquiry. On this point, similar view was taken by the Co-ordinate Bench of this Court in **Joginder Singh Vs. The Gobind Pura Co-operative Agricultural Service Society Ltd. and others, 2014(1) PLR 638 and Jagdish Kumar, Assistant Food & Supplies Officer Vs. State of Punjab, 1994(8) SLR 791**.

29. Apart from that, the enquiry proceedings have not been conducted properly because list of documents and list of witnesses were admittedly not supplied to the petitioner along with articles of charges so as to effectively defend his case and as per view taken by Hon`ble Division Bench of this Court in **Dhian Singh and Sushil Kumar Vashisht's cases (supra)**, it was mandatory on the part of the respondent-bank to

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furnish list of documents and list of witnesses while seeking explanation to the charges/charge-memo and non-furnishing of such a list is in violation of principles of natural justice.

30. Admittedly, in this case, report from CVO was obtained but the same was not supplied to the petitioner. Identical matter was before Hon`ble Apex Court in **S.S. Sheokand's case (supra)** and Hon`ble Apex Court observed as under:-

“17. It is quite possible to say that the bank management did arrive at its decision to maintain a major penalty at a later stage on its own, and not because of the dictate of the CVC, but at the same time it has got to be noted that the CVC report had been sought by the management of the bank, and thereafter the punishment had been imposed. As observed in the case of State Bank of India (supra), may be that the Disciplinary Authority had recorded its own findings, and had arrived at its own decision, but when this advise from CVC was sought, it could not be said that this additional material was not a part of the decision making process. When this report was not made available to the respondent, it is difficult to rule out the apprehension about the decision having been taken under pressure. Any material, which goes into the decision making process against an employee, cannot be denied to him. In view of the judgment in the case of Disciplinary Authority-cum-Regional Manager (supra), the decision of the Bank could have been approved on merits, however, the two judgments in the cases of Nagaraj Shivaraj Karajgi (supra) and State Bank of India (supra) lay down the requisite procedure in such matters, and in the facts of this case, it will not be appropriate to depart from the dicta therein. On this yardstick alone, a part of the judgment of the High

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Court interfering with the punishment will have to be sustained.”

31. Identical view as taken by Hon`ble Apex Court in **D.C. Aggarwal's case (supra) and Nagaraj Shivarao Karjagi's case (supra)**, wherein it was observed by Hon`ble Apex Court that if advice of CVO/CVC was sought, the copy of the same was required to be supplied to the delinquent officer because report/advice has been obtained and later on, respondent-bank cannot take the plea that such an advice taken from CVO was not the part and parcel of the decision making process. Otherwise, it is basic canon of principles of natural justice that all the material, which forms the basis of disciplinary proceedings and basis for decision making are required to be supplied to the delinquent official as well and the disciplinary authority cannot act on the basis of material which was not supplied to him.

32. Needless to mention that the Disciplinary Authority and the Appellate Authority were required to apply their judicious mind and look into the entire material available before them and only then pass speaking order(s), but in the light of the above discussion, the Disciplinary Authority as well as the Appellate Authority have passed non-speaking orders and the same do not reflect that it was a case of application of judicious mind because the enquiry report was on the point that most of the charges, except a few procedural lapses, were held to be non-proved in favour of the petitioner, but still the Disciplinary Authority, without giving any reasoning or ordering fresh enquiry, passed the punishment order

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(Annexure P/11) whereby the petitioner was dismissed and in the mechanical manner, the Appellate Authority dismissed his appeal.

33. The Court also considered the aspect to remand the matter to the Disciplinary Authority or the Enquiry Officer to commence the enquiry from the defective stage, but refrain to do so keeping in view the fact that the disciplinary proceedings were initiated long-back on 7.6.1990 (Annexure P/2) and the impugned order of dismissal was passed on 2.3.1993 (Annexure P/11). Meanwhile, the petitioner must have attained the age of superannuation even and now, at the best, the petitioner would be entitled to consequential benefits arising as a result of quashing of impugned orders.

34. In view of the above, the present writ petition is accepted and the impugned orders, Annexures P/11 and P/15 are set-aside. The petitioner shall be entitled to consequential benefits arising therefrom.

(SHEKHER DHAWAN)
JUDGE

September 19, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes