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

Reserved on: 17th January, 2020

Decided on: 29th January, 2020

+ **LPA 111/2014**

SEEMA KOSHAL BHATNAGAR

.....Appellant

Through: Mr Siddharth Yadav, Mr Washim
Ashraf, Advocates with Appellant-in-
person.

versus

TRIBAL CO-OPERATIVE MARKETING

DEVELOPMENT FEDERATION OF INDIA LTD.

..... Respondent

Through: Mr K.C. Aggarwal, Mr V.N.
Agarwal, Mr K.K. Kaul, Mr G.R.
Choupal and Mr Vaibhab Kumar,
Advocates.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE TALWANT SINGH

J U D G M E N T

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Dr. S. Muralidhar, J.:

1. The learned Single Judge's order 2nd December, 2013, dismissing the Appellant's writ petition being W.P.(C) No. 7613/2013, has been challenged in the present appeal. By the impugned order, the learned Single Judge negated the Appellant's challenge to an order dated 29th May, 2012, passed by the Disciplinary Authority ('DA') of the Respondent Tribal Co-operative Marketing Development Federation of India Ltd., removing her from service. The learned Single Judge also upheld the order dated 14th February, 2013 passed by the Appellate Authority ('AA'), dismissing her appeal.

Background facts

2. The Appellant joined the Respondent as a Management Trainee on 6th February, 1988. She was posted as Manager (Logistics) of the Respondent's warehouse unit, Pusa Road, New Delhi, with effect from 19th May, 2008. She held that position till 9th June, 2010.

3. During the said tenure, the Appellant was authorized to sign cheques for withdrawal of cash, either with the three other officials i.e. Shri R.K. Jindal, Shri Rajeshwar Kumar and Shri S.P. Roy. The Appellant states that during that tenure, she observed certain irregularities in the functioning of Sh R. K. Jindal, Senior Accountant. She made a complaint to the higher authorities and this led to Shri Jindal being suspended with effect from 12th February, 2010. According to the Appellant, this led to her being falsely implicated as a result of the fraudulent acts of Shri Jindal, who, according to her, forged cheques, by making alterations therein, after they had been signed by the Appellant.

4. A charge-sheet dated 9th August, 2010 was served upon the Appellant under Rule 14 of the Central Civil Services (Control and Appeal), 1965 (CCA) Rules, 1965. The specific charges against the Appellant could be summarized thus:

- (i) In collusion with Shri Jindal, she had withdrawn a sum of Rs.1,50,500/-, from the Respondent's savings bank ('SB') account wrongfully, and that the said account had not been accounted for in the books of the Respondent, in violation of the Respondent's Accounts Manual, 1996. These omissions and commissions on the part of the Appellant, amounted to:

- (a) Embezzlement/misappropriation of the Respondent's funds to the above extent, and
- (b) Misuse of the official powers for personal gain, causing loss to the Respondent to the above extent.

The said conduct was violative of Rule 3 (1) (i), (ii) and (iii) of the CCS (Conduct) Rules, 1964.

- (ii) The Appellant failed to make available to the Auditors M/s Aditya & Associates, Chartered Accounts ('CA'), who were entrusted with the job of special audit of the Respondent's warehouse unit operations from 1st April, 2008 to 30th September, 2009 the bank passbooks, the banks statements, counter foils of the cheque books, updated ledgers and bank's reconciliation statement. This amounted to serious negligence and dereliction of duties on the Appellant's part and further she had deliberately destroyed or caused disappearance of the above records, with ulterior motives, to conceal the misdeeds, resulting from unauthorized cash withdrawals, to the extent of Rs.1,50,000/-, as mentioned in charge (i) above. This was violative of Rule 3 (1) (i), (ii) and (iii) of the CCS (Conduct) Rules.
- (iii) The Appellant wrongfully took Rs.10,000/- from the Respondent's SB account with Syndicate Bank on 2nd September, 2009, for a purpose other than official. When this was brought to her notice by the Competent Authority ('CA'), the Appellant refunded the said amount to the Respondent on 9th November, 2009. The above conduct was violative of Rule 3 (1) (i), (ii) and (iii) of the CCS (Conduct) Rules.

5. As many as 15 witnesses for the prosecution were cited, in the list appended to the charge-sheet. The Appellant denied the above charges by her letter dated 27th December, 2010. Shri Rajendra Mishra, Joint Secretary (retired), Government of India was appointed as the Inquiry Authority ('IA'), by an order dated 8th January, 2011 of the Respondent.

6. It is the case of the Appellant that the procedure adopted by the IA was contrary to Rule 14 (16) of the CCS (CCA) Rules; that she was not given a reasonable opportunity to prove her case; that she was not allowed to inspect all the documents of the Respondent; the Respondent denied even the copies of the documents which were read in evidence against the Appellant. She also alleged that the statements of three witnesses, listed at serial numbers 1, 3 and 4, recorded during the preliminary inquiry, were not supplied to her for the purposes of cross examining them. These statements were given to her, along with the daily order-sheets, upon closure of the prosecution evidence. She alleged that the IA failed to recognize the Appellant's Defence Assistant ('DA') Shri A.K. Barua, a retired Director from the Government of India. As a result, the DA had to leave the proceedings. She alleged that the IA recorded the statements of prosecution witnesses (PWs) in her absence and their statements were later sent to her residence. None of the witnesses either proved the genuineness or authenticity of the 15 listed documents. The Appellant's request for change of the IA was rejected by the DA by an order dated 17th March, 2011.

7. The Appellant further alleged that the IA did not comply with Rule 14 (18) of the CCS (CCA) Rules, which dealt with the general examination of

the Charged Officer ('CO'). He rejected, by an order dated 15th June, 2011, the request of the Appellant that common proceedings be instituted against her and the Senior Accountant so that their respective individual culpability could be determined. According to the Appellant, during this period her father, who had been suffering from prolonged illness, was put on a ventilator but the inquiry proceedings continued against her. Her father finally passed away on 6th September, 2011. She states that on this score as well as on account of her own personal ill-health, she sought adjournments, which were denied to her by the IA. She states that in her absence, PWs were examined and discharged, without affording her opportunity of cross examining them. Even her defence evidence was not allowed to be led.

8. The IA submitted a report on 1st February, 2012, exonerating the Appellant of the charge at (ii) above, but finding her guilty of both charges (i) and (iii). A copy of the said inquiry report was sent to the Appellant, under a cover of memo dated 8th February, 2012. Her submissions by way of letter dated 19th March, 2012, were considered by the DA, who proceeded to pass the impugned order dated 29th May, 2012, imposing upon her the penalty of removal from service. The Appellant's appeal against the said order of removal, stood dismissed by the AA, by a decision dated 4th December, 2013. This was communicated to the Appellant by a letter dated 14th February, 2013.

Impugned order of the Single Judge

9. The Appellant then filed W.P.(C) No.7613/2013, which was listed before the learned Single Judge on 14th February, 2013. The Appellant states that

without issuing notice to the Respondent, the learned Single Judge by the impugned order, dismissed the writ petition, at the admissions stage itself. The learned Single Judge held as under:

- (i) While exercising jurisdiction under Article 226 of the Constitution, the Court does not sit as an Appellate Court to reassess the finding of facts and the conclusions of the DA. The Court can interfere only if the findings and conclusions of the department are perverse, violative of the principles of natural justice, or violative of the provisions of the memorandum/rules of the organization in question.
- (ii) In a case like the instant one, the departmental authorities had to prove the case on preponderance of probabilities, and not beyond all reasonable doubt. The Appellant did not cross examine the PWs, and did not lead evidence and, therefore, the proceedings were closed.
- (iii) The inquiry report was in the nature of an *ex parte* of a civil Court.
- (iv) All the original 16 cheques were duly brought before the IA and the Appellant admitted her signatures on the cheques. There was, therefore, no issue of manipulation of overwriting in respect of the signatures on some of the cheques. The learned Single Judge extensively reproduced the analysis and conclusions in the report of the IA.
- (v) The learned Single Judge opined that not only had the Appellant been rightly held guilty of illegally withdrawing amount by means of as

many as 16 cheques in cash simultaneously, the dishonesty was proved from the fact that no vouchers of the transactions were prepared and also there were no supporting documents of approval of the competent authority.

- (vi) The Rules of the Respondent did not permit issuing of self cheques, in spite of which the petitioner signed as many as 16 self-cheques.
- (vii) The DA had passed a detailed penalty order and had concluded that prime objective of the organization such as the Respondent was to “support the tribal community across the country and wherein absolute integrity, honesty and devotion to duty are a few pre-requisites for an employee and therefore corruption cannot be kept under the carpet and be brushed aside by allowing defence of technical nature.”
- (viii) The Appellant had also failed to plead specifically that any prejudice was caused to her as a result of the procedure adopted by the IA. Further, the issue of prejudice ought to have been raised at the correct stage and not subsequently for technical benefit. Applying the ratio in *State Bank of Patiala v. S.K. Sharma (1996) 3 SCC 364*, the learned Single Judge concluded that with no specific act of prejudice having been pleaded by the Appellant, her objection is only a ‘technical objection’ (but not having any substance) to get the order of the DA sets aside.
- (ix) Nothing prevented the Appellant from raising objection of prejudice

with respect to her non-examination in terms of Rule 14 (18) of the CCS (CCA) Rules, before the IA, no such objection has been raised.

- (x) As regards the plea of the Appellant that a prayer for leading evidence was unjustifiably denied, the learned Single Judge, after perusing the report of the IA, concluded thus:

“In fact, a reading of the report shows that petitioner was caught in her own web of lies and corruption, and was actually endeavouring to unnecessarily delay and drag the departmental proceedings.”

10. For all of the aforementioned reasons, the learned Single Judge dismissed the writ petition of the Appellant.

11. This Court has heard the submissions of Mr Siddharth Yadav, learned counsel appearing for the Appellant and Mr K.C. Aggarwal, learned counsel appearing for the Respondent.

Legal position on scope of judicial review

12. Before commencing a discussion of the rival contentions, it is useful to recapitulate the law concerning the scope of the Court's powers while reviewing decisions in disciplinary proceedings. In ***State of Andhra Pradesh v. S. Sree Rama Rao AIR 1963 SC 1723***, the Supreme Court explained:

"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and

whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.”

13. These principles have been reiterated in a number of later decisions. In ***Union of India v. P. Gunasekaran AIR 2015 SC 545***, the law was summarised thus by the Supreme Court:

“In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;
- b. the enquiry is held according to the procedure prescribed in

that behalf;

- c. there is violation of the principles of natural justice in conducting the proceedings;
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- i. the finding of fact is based on no evidence.

Under Article 226/227 of the Constitution of India, the High Court shall not:

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based.
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.”

14. Broadly, the approach of the High Court would primarily examine the correctness of the decision-making process viz., whether the enquiry is held according to the prescribed procedure and whether there has been a violation of the principles of natural justice in conducting the proceedings? The discussion about merits of enquiry is warranted only where it is urged that the findings and conclusions are either based on no evidence or that relevant materials have been ignored or irrelevant ones were taken into consideration.

Violations of rules of procedure

15. The major contention raised by the Petitioner is the non-compliance by the IA with the rules of procedure. The Court proceeds to deal with each of these points *in seriatim*. The note below Rule 14 (11) of the Central Civil Services (Classification, Control and Appeal) Rules [CCS(CCA) Rules] requires the IA to furnish to the Charged Officer ('CO') copies of the statements relied upon by the prosecution for proving the charges.

16. In the instant case, among the statements recorded during the preliminary enquiry were the statements of 3 listed witnesses at Sl. Nos.1, 3 and 4 of the charge-sheet. According to the Petitioner, while the statements of other listed witnesses whose statements were recorded during preliminary investigation were provided to her after their examination-in-chief, the statements of the aforementioned listed witnesses were not given in terms of the note below Rule 14 (11). The statements were required to be furnished to the CO as early as possible but in any case, not later than 3 days before the commencement of the examination of the witnesses. It is the case of the

Petitioner that statements of the 7 listed witnesses were given to her after the depositions of the witnesses were recorded *ex parte*. There has been no denial of this contention of the Petitioner by the Respondent.

Denial of opportunity to cross-examine witnesses

17. Then there is the even more serious issue concerning the opportunity to corss-examine witnesses and to lead defence evidence. As many as 12 witnesses were examined by the Respondent. The examination in chief of many of them was conducted *ex parte*. The enquiry report itself sets out how the IA proceeded in the matter. He states:

“Even on last hearing on 22.12.2011 despite having PO's report in front of the undersigned, having consideration to the situation, to give opportunity to defence and in the interest of justice she was allowed to cross-examine all the witnesses in a single day on 23.12.2011 from 10.00 a.m. to 5.00 a.m., **so as to complete the process on day to day basis in a single sitting** (as I was never certain of her next appearance. Also, most of the witnesses were from Delhi Office of TRIFED only). However, the CO refused to do so. The proceedings of the 18th hearing held on 22.12.2011 as attended and signed by CO and DA could be seen in this context.” (emphasis supplied)

18. How the IA expected the Appellant through her DA to complete the cross-examination of the 12 prosecution witnesses in a single sitting on 23rd December, 2011 from 10.00 am to 05.00 pm is beyond comprehension. Clearly the IA had no understanding of what was required to be done in terms of giving an opportunity to the CO to cross-examine the witnesses of the department. He appears not to have acknowledged the legal position in this regard.

19. The Supreme Court in *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra (2013) 4 SCC 465* held the denial of the right of cross-examination to be a violation of the principles of natural justice. It explained the legal position as under:

"23. A Constitution Bench of this Court in *State of M.P. v. Chintaman Sadashiva Vaishampayan AIR 1961 SC 1623*, held that the rules of natural justice, require that a party must be given the opportunity to adduce all relevant evidence upon which he relies, and further that, the evidence of the opposite party should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party. Not providing the said opportunity to cross-examine witnesses, would violate the principles of natural justice.

.....

26. In *K.L. Tripathi v. State Bank of India AIR 1984 SC 273*, this Court held that, in order to sustain a complaint of the violation of the principles of natural justice on the ground of absence of opportunity of cross-examination, it must be established that some prejudice has been caused to the appellant by the procedure followed. A party, who does not want to controvert the veracity of the evidence on record, or of the testimony gathered behind his back, cannot expect to succeed in any subsequent grievance raised by him, stating that no opportunity of cross-examination was provided to him, specially when the same was not requested, and there was no dispute regarding the veracity of the statement. (See also: *Union of India v. P.K. Roy, AIR 1968 SC 850*; and *Channabasappa Basappa Happali v. State of Mysore, AIR 1972 SC 32*).

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28. The meaning of providing a reasonable opportunity to show cause against an action proposed to be taken by the government, is that the government servant is afforded a

reasonable opportunity to defend himself against the charges, on the basis of which an inquiry is held. The government servant should be given an opportunity to deny his guilt and establish his innocence. He can do so only when he is told what the charges against him are. He can therefore, do so by cross-examining the witnesses produced against him. The object of supplying statements is that, the government servant will be able to refer to the previous statements of the witnesses proposed to be examined against him. Unless the said statements are provided to the government servant, he will not be able to conduct an effective and useful cross-examination.

29. In *Rajiv Arora v. Union of India & Ors.*, AIR 2009 SC 1100, this Court held:

“Effective cross-examination could have been done as regards the correctness or otherwise of the report, if the contents of them were proved. The principles analogous to the provisions of the Indian Evidence Act as also the principles of natural justice demand that the maker of the report should be examined, save and except in cases where the facts are admitted or the witnesses are not available for cross-examination or similar situation. The High Court in its impugned judgment proceeded to consider the issue on a technical plea, namely, no prejudice has been caused to the appellant by such non-examination. If the basic principles of law have not been complied with or there has been a gross violation of the principles of natural justice, the High Court should have exercised its jurisdiction of judicial review.” 30. The aforesaid discussion makes it evident that, not only should the opportunity of cross-examination be made available, but it should be one of effective cross-examination, so as to meet the requirement of the principles of natural justice. In the absence of such an opportunity, it cannot be held that the matter has been decided in accordance with law, as cross-examination is an integral part

and parcel of the principles of natural justice."

20. In *Palanisamy v. Dhanpalan* 2017 (3) SCALE 596 the Supreme Court held:

"Since the allegations made against the appellants were serious and the finding of guilt recorded against them inevitably had civil consequences, it is cardinal that they should have been allowed to cross-examine the concerned witnesses. Not granting of such opportunity, entails in infraction of principles of natural justice."

21. There are three other unexplained errors of procedure which have been pointed out by the Appellant. Under Rule 14 (18) in the event of the CO not producing herself as a defence witness, general questions have to be put to the CO. In terms of Rule 14 (16) of the CCS (CCA) Rules, the CO has to be given an opportunity of stating her defence. In terms of Rule 14 (17) of the CCS(CCA) Rules, she has to be given an opportunity to lead defence evidence. There is nothing in the record of the proceedings to show that any of the above requirements was complied with

Not providing documents

22. The IA appears to conflate giving the opportunity to CA to 'inspect' the documents as 'providing with copies of the documents'. As regards providing copies of the documents, the IA seems to have omitted to note the objections raised by the Petitioner in her various applications. In her reply dated 10th January, 2012 against the enquiry report she referred to non supply of 6 listed documents which were mentioned in her application dated 16th June, 2011. This she repeated in her letter dated 27th June, 2011. The Petitioner also pointed out how after inspection of documents on 9th and 10th

June, 2011 she had in para 3 of her application dated 16th June, 2011 sought for clean legible copies of 17 listed documents. As regards inspection of additional documents which the Petitioner states were inspected on 13th and 14th July, 2011 she submitted an application on 18th August, 2011 listing out a total of 20 documents in the list of additional documents which were not available for inspection. She further pointed out that the photocopies of the additional documents were not provided to her.

23. The report of the special audit conducted by M/s Aditya & Associates, which forms the main basis for Charge (i), was provided to the Appellant only during the course of the hearing of the present appeal. In ***Trilok Nath v. Union of India 1967 SLR (SC) 759***, in the context of denial of relevant documents to a charged officer facing disciplinary proceedings, the Supreme Court held as under:

"Had he decided to do so, the document would have been useful to the appellant for cross-examining the witnesses who deposed against him. Again, had the copies of the documents been furnished to the appellant he might, after perusing them, have exercised his right under the rule and asked for an oral inquiry to be held. Therefore, in our view the failure of the Inquiry Officer to furnish the appellant with copies of the documents such as the FIR and the statements recorded at Shidipura house and during the investigation must be held to have caused prejudice to the appellant in making his defence at the inquiry.

The need to plead prejudice

24. It is repeatedly urged by the learned counsel for the Respondent that the Appellant had to plead prejudice on account of the above procedural violations so that the enquiry could be said to be vitiated. The learned Single

Judge has referred to the decision in *State Bank of Patiala v. S. K. Sharma (1996) 3 SCC 364* to hold that since the Appellant had made only 'general averments' in the writ petition and since 'no specific prejudice' was alleged by the Appellant the objection 'was only a technical objection (not having any substance) to get orders from the department authorities set aside.'

25. The Court finds this approach to be contrary to the record. In other words, it overlooks the stand taken by the Appellant in numerous letters written by her to the IA during the course of the enquiry for being permitted to undertake inspections of the documents and obtain copies of the additional documents which were yet to be provided to her before fixing a schedule for examination-in-chief and cross-examination of the witnesses. She repeatedly drew the attention of the IO to the provisions of the CCS (CCA) Rules in this regard. She also submitted medical certificates to explain her absence on certain dates or the absence of her DA.

26. The Court notes that the learned Single Judge has only gone by the refrain that 'specific issues of prejudice' to the Appellant were not pleaded at all. A perusal of the record reveals the numerous letters written by the Appellant to the IA in the course of the enquiry from which the prejudice pleaded by her on account of the violations of the procedure is palpable. Other than this, the learned Single Judge has quoted extensively from the report of the IA and accepted that as representing the correct state of affairs. The Court finds that there has been a failure to deal with the specific issues raised by the Appellant and this was perhaps because the learned Single Judge decided to dismiss the writ petition on the very first hearing without

even calling for a reply from the Respondent.

27. It may be noted here that as regards charge (i) the enquiry report sets out in a tabular form the details of the cash withdrawn between 16th September, 2008 and 28th July, 2009 in the sum of Rs.1,50,500/-. Pursuant to orders passed by this Court the Appellant has on 19th November, 2018 given a full explanation for each of the cheques. She also enclosed an opinion dated 20th November, 2015 of an expert referring to the possible alterations in the cheques in question.

28. It is interesting that the explanation offered by the Appellant was on the basis of documents in the form of attendance register, cash book, obtained through RTI. The Appellant has sought to show how on the dates some of the cheques were drawn she was not even on duty. This only goes to show that the denial of relevant documents to the Appellant and the denial of an opportunity to lead defence evidence has severely prejudiced her case leading to a miscarriage of justice as far as Charge (i) is concerned.

29. Article (iii) of the charge was that a sum of Rs.10,000/- was drawn on 2nd September, 2009 in cash and was 'misappropriated' by the Appellant. The IA's report notes that on the direction of the CA a letter dated 4th November, 2009 was sent by the DM (Vigilance) to the Appellant directing her to refund immediately the aforementioned sum. It further notes that on 9th November, 2009 it was refunded and deposited in the Respondent's bank account by the Appellant.

30. The Appellant has in this Court submitted a detailed note referring to

guidelines issued by the Ministry of Tribunal Affairs on reimbursement of children education allowance made to the officers/officials in cash. The Appellant made an application under the RTI Act in response to which the Respondent by a letter dated 3rd July, 2014 enclosed 92 copies of cash book, children's education accounts ledger for the period 2006-07, 2007-08, 2008-09 and 2009-10. It does appear that there was a practice of withdrawing sums for the purpose of reimbursement of children's education allowance and this was the explanation in fact given by her at the very first instance. In any event the Appellant has offered a reasonable explanation and has also refunded the amount. This again goes to show that relevant documents having a bearing on the charge were not examined by the IA and this has possibly led to a miscarriage of justice.

31. The violations of procedure in the present case are numerous and appear to be incurable. This by itself is sufficient to invalidate the subsequent orders of the DA and the AA removing the Appellant from service.

32. It was then pleaded by learned counsel for the Respondent that if this Court found lapses in the procedure, the matter may be remanded to the IA for a fresh enquiry. The Court is not inclined to accept this plea. The illegal procedure adopted has severely prejudiced the Appellant and this stands compounded by her long ten-year wait for justice. The tortuous process has itself turned out to be the worst form of punishment. On account of the long lapse of a decade since the enquiry against the Petitioner commenced, the Court considers it to be in the interests of justice to put the matter at rest instead of ordering a fresh enquiry.

Conclusions

33. The Court accordingly directs as under:

- (i) The impugned judgment dated 2nd December, 2013 of the learned Single Judge is hereby set aside.
- (ii) The report of the IA is hereby held to be unsustainable and is accordingly set aside. Correspondingly the order of the DA removing the Appellant from service and the order of the AA affirming it are hereby set aside.
- (iii) The Appellant is directed to be reinstated in service forthwith, and in any event not later than 10th February 2020, with all consequential benefits but without arrears of pay. The period between the date of her removal and the date of her reinstatement shall be treated as period in service for the purposes of increments, promotion, seniority and retiral dues.

34. The appeal is allowed in the above terms with costs of Rs.20,000/- which shall be paid by the Respondent to the Appellant within two weeks from today.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 29, 2020/rd /tr