

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 310 Of 2019

Sanjay Nhobat Singh]
Residing at Wadhwa Meadows]
Pearl Building C Type]
A wing 302]
Near Icon Plaza Hall,]
Khadakpada,]
Kalyan West, District Thane – 421 301]Petitioner

Versus

1. Union of India through]
Minister of Railways,]
Rail Bhavan, Raisinna Marg,]
New Delhi – 110001.]
2. Minister of State, Railway,]
Rail Bhavan, Raisina Marg,]
New Delhi – 110001.]
3. Director General,]
RPF (Railway Protection Force)]
Rail Bhavan, Raisina Marg,]
New Delhi – 110001.]
4. Principal/Chief Security Commissioner,]
RPF (Railway Protection Force)]
Central Railway, Parcel Building 3rd Floor,]
Mumbai CSTM Railway Station,]
Mumbai – 400001.]
5. Sr. Divisional Security Commissioner,]
RPF/(Railway Protection Force) Pune]
Central Railway C/o Divisional Railways]
Manager Office,]
Rajabahadur Mill Road,]
Near Sheretan Grand Hotel,]
Pune – 411 001.]Respondents

Mr. Rajshekhar Ganesh Panchal a/w A. A. Keri a/w Mr. Sarang
Gundajwar - Adv. for the Petitioner

Mr. T. J. Pandian - Adv. for the Respondents

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

**RESERVED ON : 08th DECEMBER, 2021.
PRONOUNCED ON : 06th MAY, 2022**

JUDGMENT (PER S. M. MODAK, J.):-

1. By this Petition, the Petitioner-Inspector of Railways Protection Force is challenging the Charge-sheet issued to him and Order of dismissal from service passed in departmental proceedings by Respondent No. 4-Principal/Chief Security Commissioner, RPF Pune. The Petitioner exhausted the remedies available as per Rules and when unsuccessful filed this petition.

2. The main grounds of challenge are:-

- (a) Enquiry was conducted by Assistant Security Commissioner and Senior Divisional Security Commissioner who are incompetent to inflict major penalty of dismissal from service and in spite of that they conducted enquiry.
- (b) Fact of making over the case by Senior Divisional Security Commissioner to Chief Security Commissioner is not contemplated as per the provisions of Railway Protection Rules 1987 (hereinafter referred as the 1987 Rules).
- (c) Presenting officer is not appointed.

- (d) Even though the Circular says about not conducting departmental enquiry particularly when case is pending still departmental enquiry was conducted during pendency of Criminal proceedings.
- (e) Though he was acquitted by the Sessions Court and though it was brought to the notice of the Revisional authority, they have not considered the said fact.
- (f) The findings given by the Enquiry Officer are perverse.

3. The Respondents supported procedure followed in conducting the enquiry and contended that there is no violation of principles of natural justice and the findings are perfectly supported by evidence on record. On this background, we have heard Mr. Rajshekhar Panchal, the learned counsel for the Petitioner and Mr. T. J. Pandian, learned counsel for the Respondents.

4. Perused the record and citations relied upon by both the sides.

5. The relevant facts for initiation of departmental enquiry can be summarized as follows:-

The Petitioner was deputed as Inspector Railway Protection Force Kurla at the relevant period. There was news published in news paper “Mumbai Mirror” under caption as “RPF officers run fake court on Platform No. 9 to commuters”. On that basis preliminary enquiry was conducted and

report was submitted. On 17/03/2009 in all 8 persons were arrested for contravening the provisions of Railways Act. They were arrested by raiding team party consisting of RPF persons Shri Amit Kumar Zha, Shri P. P. Singh, Shri V. Pandey and Shri Sambhaji Patil and others. There is an entry to that effect in the Roznama dated 17/03/2009 entry no. 56. It was further revealed that only two persons by name Amar Dada Khaj and Sachin Sudam Mane were sent to Railway Court, Mumbai. Whereas there is no corresponding record so far as other six accused persons are concerned either in the bail bond register or in the Railway Act Register. Even no corresponding record is found from the Court papers, so far as these six persons are concerned.

6. That is why the allegation of lack of supervision of the Petitioner over the subordinate staff, not maintaining record properly are the allegations. The Petitioner pleaded that he was not at all responsible for those alleged misconduct and in fact it is the duty of the concerned RPF personnel to maintain records properly and unnecessarily blame is put on me.

7. This is a background of issuing a charge-sheet to the Petitioner. There was a fact finding enquiry by Assistant Security Commissioner Shri S. C. Parhi. He recorded statements of some of the witnesses and even of

the Petitioner. Shri Parhi concluded that major penalty Charge-sheet be issued against the Petitioner and he gave report to that effect dated 14/06/2010 (page 47). The Divisional Security Commissioner, RPF issued a charge sheet for contravention of a Rule No. 146.2 (i)(iv), 146.4, 146.6(i)(ii)(iii), 146.7 (ii) and 147 of RPF Rules 1987 (page no. 23). on 02/11/2010 (page 23). Enquiry is conducted initially by Assistant Security Commissioner Shri A. T. Tayade and then by Shri Vinod Kumar. Presenting Officer was not appointed in that enquiry. This is one of the grievance. In all 17 witnesses (page 73) were examined. The Petitioner-Delinquent neither examined himself nor any witnesses. Enquiry Officer concluded that all charges are proved against the Petitioner. He made over the case to the Divisional Security Commissioner. He realized that major penalty of dismissal from service is warranted considering the nature of mis-conduct. (Page 88).

8. Accordingly, as per the provisions of RPF Rules, he made over the case to Chief Security Commissioner. Finally, Chief Security Commissioner after giving the opportunity to the Petitioner was pleased to pass an order of dismissal from the service on 08/05/2012. The Petitioner being aggrieved filed an appeal before the Director General Railway Protection Force. Petitioner was not successful there and it was dismissed on 20/11/2013.

9. On the said decision, the Petitioner filed Revision before the Ministry of Railways. Initially, Petitioner was communicated (page 106) that the Revision will be decided after the Criminal case is concluded. The criminal case was decided by way of acquitting the Petitioner and other persons vide judgment dated 03/11/2017. The Petitioner brought this fact to the notice of the Revisional authorities. It does not appeal to their conscience and accordingly Revision Application was dismissed on 06/07/2018. That is why the Petitioner has filed this petition.

10. As we are aware that the scope of the judicial review under Article 226 of the Constitution is very limited. In this case, the Appellate Authority and Revisional Authority have already confirmed the findings given by the Disciplinary authority and only when there are lapses in the process of decision making then only this Court can interfere. One of the important factor is following principles of natural justice. We can get some guidance from the provisions of RPF Rules 1987.

11. On this background, the grievance made by the Petitioner needs to be answered :-

- (a) Lack of competence of the Disciplinary Authority.
- (b) Non appointment of the Presenting Officer.

(c) Simultaneous prosecution of departmental enquiry and criminal enquiry.

(a) Lack of competence of the Disciplinary Authority.

12. The Petitioner made following grievances:-

- a) Charge-sheet not issued by competent officer (as such there is violation of the provisions of Rule 153.4 & Rule 153.5 of RPF Rules).
- b) Additional Chief Security Commissioner is the discretionary authority for the Inspector (Schedule III of RPF Rules) & charge sheet is issued by Divisional Security Commissioner.
- c) Inquiry was conducted by Assistant Security Commissioner & making over the case by him to Divisional Security Commissioner & in turn to Additional Security Commissioner is not supported by any provisions of Rules.

13. As against this Respondents invited our attention to following provisions of RPF Rules:-

- i) Rule 152.1
- ii) Rule 152.2
- iii) Rule 153.2.1
- iv) Rule 154.2

14. It will be material to consider the ration laid down in the judgments relied upon by the Petitioner.

- a) Union of India and Ors. V/s B. V. Gopinath¹

¹ (2014) 1 Supreme Court Cases 351

b) Satish/ORamprasad Agnihotri V/s Union of India²

15. Observations in *B.V. Gopinath* case is relied upon by the Petitioner so as to buttress his submission that charge has to be drawn by the discretionary authority himself & he cannot delegate that power. Whereas according to learned Advocate for Respondents, the ratio is not applicable to the facts for two reasons:-

i) It was a case under Central Civil Services Rules and the rules from CCS Rules similar Rules to quoted above from RPF Rules were not referred in the judgment delivery by Hon'ble SC (probably for the reasons that those rules does not find place in the Central Civil Services rules or they were not pointed out.

16. We have perused the judgment in *B.V. Gopinath* case very minutely. Hon'ble SC dealt with group of Petitions. *B.V. Gopinath* was working as Assistant Commissioner of Income Tax. There was an allegation that he tried to influence transfer by bribing PA to minister through one Chartered Accountant. Finance Minister being disciplinary authority granted approval to initiate disciplinary inquiry. Whereas charge sheet was not issued by him. It was considered as a defect. The wordings in Rule 14 (3) & 14 (4) of Central Civil Rules were relied upon by the Government. It was considered as a defect. It pertains to “delivered or cause to be delivered”.

² R/Special Civil Application No. 7466 of 2019 decided on 01/05/2020.

Interpretation sought for either personally or through someone was turned down. The principle “delegatee further cannot further delegate” was considered. **(para No.44)**

17. On this background, it will be material to consider the provisions of RPF Rules and the facts. Facts are as follows:-

A)	Chargesheet is issue by	Divisional Security Commissioner Ashok Singh (Page 23)
B)	Inquiry conducted by & report submitted by	Assistant Security Commissioner Shri. Tayade & Vinod Kumar (Page 88)
C)	Findings confined by & forwarded by	Divisional Security Commissioner Shri Ashok Singh (Page 43)
D)	Final Order passed by	Additional Chief Security Commissioner (Page 97)

18. The rules referred by Respondents in detail are as follows:-

a) Initiation of Disciplinary Proceedings Rules 152.1.

“The appointment authority or any authority otherwise empowered by general or special order, may -

(a) institute disciplinary proceedings against any enrolled member; or

(b) direct a disciplinary authority to institute disciplinary proceedings against any enrolled member of the Force on whom the disciplinary authority is competent to impose, under these rules, any of the punishments specified in rules 148 and 149.”

b) Disciplinary authority.

Schedule III is reproduced. Relevant clause of point No.2:-

<i>Sr. No.</i>	<i>Nature of Powers</i>	<i>Director General</i>	<i>Chief Security Commissioner</i>	<i>Additional Security Commissioner /Deputy Chief Commissioner / Principal RPF Academy</i>	<i>Divisional Security Commissioner/ Security Commissioner/ Commanding Officer/Senior Security Commissioner</i>	<i>Assistant Security Commissioner /Assistant Commandant of RPSF/ Adjutant</i>
2	Dismissal	All enrolled members of the Force	All enrolled members of the Force	All enrolled members of the Force below the rank of Inspector	All enrolled members of the force below the rank of Sub-Inspector	No Power

c) Delegation by disciplinary authority.

i) **Rule 152.2:-**

“A disciplinary authority competent under these rules to impose any of the minor punishments may institute disciplinary proceedings for the imposition of any of the major punishments notwithstanding that such disciplinary authority is not competent, under these rules, to impose any of the latter punishments.”

ii) **Rule 153.2.1.**

“Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against an enrolled member of the Force, it may itself inquire into, or appoint an Inquiry Officer higher in rank to the enrolled member charged but not below the rank of Inspector, or institute a Court of Inquiry to inquire into the truth thereof”.

iii) Rule 154.2.

“Where such disciplinary authority is of the opinion that the punishment warranted is such, as is not within its competence, that authority shall forward the records of the inquiry to the appropriate disciplinary authority who shall act in the manner as hereinafter provided.”

19. If we record all above provisions we may find that the disciplinary inquiry may be initiated either by appointing authority or by disciplinary authority. Now who can be said as “disciplinary authority”. It is given in schedule III. There are 5 disciplinary authorities prescribed in that schedule. They are:-

(a)	Director General
(b)	Chief Security Commissioner
(c)	Additional Security Commissioner
(d)	Divisional Security Commissioner
(e)	Assistant Security Commissioner

20. This classification is related to the post held by the delinquent. Higher will be the post of delinquent higher will be the rank of disciplinary authority. Now in this case charge-sheet is issued by Divisional Security Commissioner and inquiry is conducted by Assistant Security Commissioner. We have considered above quoted Rules. It permits the Respondents to do the same because:-

- a) Rule 153.2.1 permits disciplinary authority to appoint inquiry officer.

- b) Rule 152.1 permits authority to institute proceedings.
- c) Rule 152.2 permits disciplinary authority to institution--- disciplinary proceedings involving major punishment even though he is not competent to inflict that.
- d) Rule 154.2 empowers such disciplinary authority to forward the case to appropriate disciplinary authority.

21. We think all above provisions were not quoted before Hon'ble Supreme Court. There is provision for disciplinary authority to appoint an inquiry officer. Merely because a particular disciplinary authority is not competent to inflict major punishment, it does not mean that he is debarred from conducting an inquiry involving such punishment. Only requirement is that he must be competent to inflict atleast minor punishment. Even legislatures have foreseen a contingency "when a disciplinary authority feels that he is not Competent to inflict major punishment". In that contingency, he has to make over the case to appropriate disciplinary authority and then he will deal with the inquiry further. So what we feel is that care is taken to see that the conduct of disciplinary inquiry is not halted for some reason or the other. At the same time, precaution is taken to see that incompetent disciplinary authority should not deal with the inquiry. So if we consider all the above provisions of Rules, the word disciplinary authority appearing in Rule 153.4 about drawing up charges and Rule 153.5 (delivering charges) has to be understood as "a disciplinary authority falling under any of the clauses of

schedule III of RPF Rules”.

22. If we consider above interpretation to the facts, we do not find any infirmity in the disciplinary inquiry. Even though charge is framed by Divisional Security Commissioner & even though inquiry is conducted by Assistant Security Commissioner ultimately final order is passed by Competent disciplinary authority of Additional Chief Security Commissioner (who is competent to dismiss an employee of the rank of Inspector. On 02.12.2018 there was an amendment to RPF Rules. Earlier power to dismiss an Inspector was with Chief Security Commissioner. But now it is with Principal Chief Security Commissioner. But the impugned Order was passed on 08.05.2012 by Inspector General RPF – Cum - Chief Security Commissioner. At that time, he was competent to pass that order. For the above discussion with respect we feel that observation in case of ‘B. V. Gopinath’ will not be useful to the Petitioner.

23. With respect, we are also not inclined to consider the observations of Gujarat HC in case of *Satish Agnihotri* referred above. Petitioner was a Sub-Inspector of RPF. He was Charge-sheeted by Senior Divisional Security Commissioner for not accounting the entire amount collected from a Railway Passenger. The facts are as follows:-

1	Memorandum issued by (page 18)	Senior Divisional Security Commissioner
2	Inquiry conducted by (page 18)	Assistant Security Commissioner
3	Punishment order (page 22)	Deputy Inspector General & Additional Chief Security Commissioner

24. As Divisional Security Commissioner was not Competent to inflict major punishment, the file is forwarded to Deputy Inspector General-Cum-Chief Security Commissioner (page 55). It was held that Petitioner being Sub-Inspector the Disciplinary authority will be ‘Additional Deputy Chief Security Commissioner’ (page 58) and “initiation of proceeding & initiation of charge sheet by lower authority would be without jurisdiction” (para 60). There was no dispute about authority. Additional Chief Security Commissioner to dismiss Sub-Inspector. But dispute was about authority of Assistant Security Commissioner and Divisional Security Commissioner to initiate disciplinary proceedings. We differ with these observations. We agree to the submission, made on behalf of Respondents that certain Rules were not considered and not pointed out before Gujarat High Court. Because Rule 152.2 of RPF rules is reproduced in para 59. But it is not interpreted in light of facts before them. At the same time Rule 154.2 was not pointed out.

25. For the above discussion, we do not feel that there is any lacunae, deficiency or bypassing to the provisions of RPF Rules, on the point of competency of disciplinary authority, we reject the grievance raised by the Petitioner in that behalf.

b) Non appointment of the Presenting Officer.

26. There is much emphasis on this issue. According to the Petitioner, Presenting officer is not appointed and the Enquiry officer himself acted as Presenting Officer and accordingly, he has taken the role of Presenting Officer and this has caused bias to the Petitioner. To buttress his submission, he relied upon the judgment in case of *Union of India and Others. Vs. Ram Lakhan Sharma*³.

27. Whereas according to the learned Advocate for the Respondents this issue was neither raised before the Enquiry Authorities and other Authorities nor even while drafting the petition. He wants to suggest that this was raised for the first time during the arguments. He relied upon Judgment in case of *Bharat Petroleum Corporation Limited and Ors. Vs. Anil Padegaonkar*⁴ whereas learned Advocate for the Petitioner relied upon judgment in case of *Saurav Jain and Anr. V/s M/s A. B. P. Design and Anr.*⁵ to buttress his submission that “this being a pure question of law”, this

³ (2018) 7 Supreme Court Cases 670

⁴ (2020) 5 SCC 474 iin CA No. 9778 of 2010 with 9779 of 2010 decided on 17.03.2020.

⁵ Civil Appeal No. 4448 of 2021 decided on 05/08/2021.

objection can also be taken subsequently.

28. We have perused RPF Rules 152 lays down the Authorities who can institute the proceedings whereas Rule 153 lays down the procedure for imposing the major punishments. It consists of in all 22 sub rules. It is true that there is no provision for appointment of Presenting Officer. That provision is silent. So grievance can be looked into from two angles.

29. One is when the Rule does not specifically provides for appointment of the Presenting Officer whether there can be grievance on account of non appointment of the Presenting Officer. If such grievance is justified, can it be said that principles of natural justice are not followed when the Enquiry is conducted without appointment of Presenting Officer. Secondly when Rules provides for appointment of presenting Officer and he is not appointed. In this Petition that is not the contingency. It will be material to consider the ratio laid down in case of ***Ram Lakhn Sharma Case (Supra)***.

30. In the said judgment Hon'ble Supreme Court disposed of various Civil appeals. In those appeals Union of India has challenged the judgment passed by the concerned High Courts. In those judgments, the orders of imposing penalty were set aside and one of the reason was Enquiry was vitiated on account of non appointment of the Presenting Officer. The

Hon'ble Supreme Court refused to interfere in those decisions. Various decisions given by the Hon'ble Supreme Court were referred including decision given by the Karnataka High Court in case of ***Bharath Electronics Limited Vs. K. Kasi⁶*** and the judgment given by the Divisional Bench of Madhya Pradesh High Court in case of ***Union of India Vs. Mohd. Naseem Siddiqui⁷***. The Division bench of Madhya Pradesh High Court was pleased to summarize the principles to be kept in mind while dealing with the grievance of the non-appointment of the Presenting Officer. It finds place in para No. 33 of the ***Ram Lakhan Sharma (Supra)*** Judgment.

31. The ratio laid down in ***Union of India and Ors. Vs. Ram Lakhan Sharma*** (supra) find place in para no. 34. It is reproduced as below :-

“We fully endorse the principles as enumerated above, however, the principles have to be carefully applied in fact situation of a particular case. There is no requirement of appointment of Presenting Officer in each and every case, whether statutory rules enable the authorities to make an appointment or are silent. When the statutory rules are silent with regard to the applicability of any facet of principles of natural justice the applicability of principles of natural justice which are not specifically excluded in the statutory scheme are not prohibited. When there is no express exclusion of particular principle of natural justice, the said principle shall be applicable in a given case to advance the cause of justice.”

Role of Enquiry Officer

32. On consideration of above, we may find that the Enquiry Officer may

⁶ (1986) SCC Online Kar 30:ILR 1987 KAR 366
⁷ ILR 2004 MP 821

perform different types of functions in the enquiry. It is not every function performed by the Enquiry Officer which may amounts to transgressing his limits. The Enquiry Officer in a given case may perform following functions:

- A) Himself put a question to the witnesses and get answers;
- B) Himself cross-examine the witnesses called by the Delinquent employee;
- C) The witnesses on behalf of the employer may state facts as recorded by the Enquiry Officer and his Cross-examined by the Delinquent and Enquiry Officer just records it;
- D)The Enquiry Officer may put certain question to the witnesses on his own to clear certain doubts.

33. When he performs last function, he is not transgressing his limits; however, when he himself cross-examined the witnesses called by the Delinquent or when he cross-examined the witnesses called by the employer (by crossing his limits of just elucidating any doubt) in that case he crosses his limits.

34. On the basis of above discussion when we have read the copies of the evidence made available (which are at page nos. 166 to 178) as we may find that the Enquiry Officer Shri Vinod Kumar has put question to almost on every witnesses after cross-examination of Delinquent is over. We have also noticed that after putting questions, the delinquent Petitioner has not put further questions.

35. So here we find that there is room for the Petitioner to make grievance. We are not going into the issue as to what is the effect of the answers given by those witnesses to the questions put by the Enquiry Officer. On this background we have got two options:-

- 1) to set aside the Order under challenge or
- 2) to remand the matter.

Not taking objection earlier

36. It is true that all these objections were not taken by the Petitioner at an earlier stage as contended on behalf of the Respondents. However does it amount to waiver of that objection. It is true that in case of *Bharat Petroleum Corporation Ltd.*, as referred above objection about competency of DGM was neither taken in reply to charge sheet or in the memo of appeal (Para No.6, Para No.11). However Hon'ble Supreme Court has dealt with that objection (as fundamental issue of jurisdiction was raised). Ultimately the said objection was not entertained on merits. In this case also we have decided the objection (even though it was not taken earlier), as it relates to conduct of fair departmental enquiry. Hence answer is certainly no. Because it is expected from the Enquiry Officer to conduct the proceedings in an impartial way. However we are not inclined to set aside the enquiry in its entirety but we are inclined to remind the matter back to the disciplinary authority. We are taking this view for the reason that the

cause of justice should not defeat on certain irregularities on the point of enquiry officer at the same time the Respondents needs to be given an opportunity to take the matter to its logical conclusion.

c) Simultaneous prosecution of departmental and Criminal proceedings.

37. It is true that the Petitioner was prosecuted in a Criminal trial apart from this departmental enquiry and the learned Advocate for the Petitioner relied upon the Circular dated 07/08/2004 issued by Deputy Commissioner, RPF/CST-Mumbai (Page No. 132). According to him, if departmental proceedings is conducted alongwith Criminal prosecution, the delinquent will be compelled to disclose his defence in that proceedings and it will affect his defence in Criminal trial. Whereas according to the learned Advocate for the Respondents if Criminal trial and departmental proceedings are based on different set of facts, then both can be prosecuted simultaneously. According to him the act of not supervising the work of subordinates, not maintaining the records properly, not accounting the cash accepted towards cash bail amounts to misconduct and enquiry is permissible as per RPF Rules. According to him similar act violates, provisions of Criminal law for which Criminal trial is warranted. He wants to submit that even though the foundational facts are same, on one hand they fall within purview of misconduct and on the other hand these acts are offences against the society and as such warrants criminal

prosecution.

38. We do not think this objection can be entertained. It is for the reason that at no point of time, the Petitioner raised these grievance before the Enquiry Officer. Nothing from the record pointed out to us that during enquiry the Petitioner has objected for continuance of the enquiry due to pendency of the criminal cases. It means that he was comfortable with simultaneous prosecution of both the proceedings Had it been the fact that continuance of the departmental proceedings have caused the prejudice to the Petitioner while defending the Criminal trial, he ought to have pointed out to the Enquiry Officer. But he has not done that.

39. Secondly, the Criminal trial resulted into acquittal vide Order dated 03/11/2017 whereas the impugned Order was passed by appropriate Disciplinary Authority on 08/05/2012. It means the Order was much earlier to the judgment in the criminal case. We do not find that the Revisional Authority committed wrong in refusing to accept the findings given by the Criminal Court when Petitioner has brought it to the notice of Hon'ble Minister of Railways vide his letter dated 13/12/2017 (page 127). It is for the reason that many of the witnesses before the Sessions Court have resiled from their statement they have turned hostiles. This fact is clear from para 15 of the said judgment (page 114). So for all these

reasons we do not accept the said contention of the Petitioner. When we are remanding the matter, the Petitioner is at liberty to point out to the authority the Judgment of his acquittal by the Court of Sessions and appeal if any filed by the prosecution.

Conclusion

40. As observed above we have turned down the objection about competency of the enquiry officer and irregularities in conduct of departmental enquiry. So also we have turned down the objection about simultaneous prosecution of the proceedings. However on the point of certain irregularities conducted by the enquiry officer we are inclined to remand the matter back. Hence following order is passed:

ORDER

- (i) The petition is partly allowed.
- (ii) The Order dated 08/05/2012 passed by the Chief Security Commissioner and consequent Orders passed by the Appellate and Review Authorities are set aside.
- (iii) The matter is remanded back to the disciplinary authority with direction to give an opportunity to Petitioner to cross examine only those witnesses to whom the enquiry officer Shri. Vinod Kumar has put questions after cross examination of Petitioner is over.
- iv) It is made clear that the cross examination by the Petitioner is only restricted to the answers given by those witnesses to the questions put by enquiry officer.
- v) It is made clear that fresh disciplinary enquiry is not ordered.

- vi) The disciplinary Authorities is directed to complete the enquiry within the period of 6 months from the date of appearance of the parties.
- vii) Both the parties are directed to appear before the authority nominated by appointing authority on 17th May, 2022 at 11 A.M.
- viii) Till that time the appointing authority is directed to nominate the officer to conduct further enquiry as ordered by us.
- ix) Parties to bear their own costs.

44. In view of the above directions Writ Petition is disposed of.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)