

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.112 of 2017

=====

Arun Kumar Verma son of Late Janak Kishor Lal Das Resident of Village -
Kashimpur, P.O. Dumra, Via Sukhupur, District Saharsa.

... .. Petitioner/s

Versus

1. The Chairman Cum Managing Director, Bihar State Power Holding Company Ltd. and Ors
2. Managing Director, The North Bihar Power Distribution Company Ltd. Vidyut Bhawan, Bailey Road, Patn
3. The Officer on Special Duty HRD/Adm North Bihar Power Distribution Company Ltd. Vidyut Bhawan, Bai

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Nilesh Kumar Nirala, Advocate
		Mr. Dhananjay Mishra, Advocate
		Mr. Shankar Kumar Thakur, Advocate
For the Respondent/s	:	Mrs. Namrata Mishra, Advocate
		Ms. Archana Jha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
C.A.V. JUDGMENT

Date : 27-09-2023

Heard Mr. Nilesh Kumar Nirala, learned
counsel appearing on behalf of the petitioner and Mrs.
Namarata Mishra, learned counsel appearing on behalf of
the State.

2. The instant writ petition has been filed by the
petitioner for quashing the impugned order contained in
Resolution No. 1055 dated 23.11.2016, by which the
petitioner has been awarded punishment of reduction of
10% pension for a period of 5 years and consequent thereto



for payment of 10% pension along with interest and cost of litigation.

3. The brief facts of the case are that a work order was issued by the Financial Controller (Revenue), the then Bihar State Electricity Board, vide order no. 1959 dated 02.12.2010, for the work of meter reading of the consumer and bill distribution (Annexure-2 to the writ petition). According to clause 4 of the work order, the firm (M/s Crystal Computer Informatics Centre Pvt. Ltd., Ranchi) had to deposit Rs. 10,00,000/- (Rs. Ten Lakhs) as performance securities in shape of Bank Guarantee, in prescribed format, before the Electric Supply Circle, Saharsa by 31.12.2010, failing which, the work order would be treated as cancelled and work would then be allotted to other valid contractor. The firm was also directed to execute agreement with Electrical Superintending Engineer, Electric Supply Circle by December 2010 (Annexure-2 to the writ petition).

4. The date on which tender notice was published, the petitioner was posted as Head Clerk Electric Supply Circle at Saharsa. The petitioner had superannuated



from the same post on 31.10.2012. It is alleged that the petitioner has committed negligence, irregularity and demanded illegal gratification for placing the documents required for executing an agreement with the firm M/s Crystal Computer Informatics Centre Pvt. Ltd., Ranchi before the Electrical Superintending Engineer. For the said charges, the petitioner was issued show cause vide Resolution No. 1932 dated 07.09.2011 and subsequently, a departmental proceeding was initiated against him vide Resolution No. 677 dated 30.03.2012 after finding his reply unsatisfactory. The Dicipinary Authority vide Memo No. 124 dated 08.01.2013 issued additional charges against petitioner (Annexure-4 to the writ petition) and served a second show casue, vide Memo No. 282 dated 01.07.2013, to the petitioner. The petitioner filed his reply on 07.02.2014 denying all the charges. On examination of the reply to the second show cause of the petitioner, the inquiry report and the materials available on record, the Dicipinary Authority found that the charges were proved against the petitioner and accordingly passed order of punishment for reduction of 10% pension vide Resolution No. 729 dated



10.04.2014 (Annexure-G & H to the writ petition).

5. Being aggrieved by the aforesaid order of punishment, the petitioner had filed appeal on 07.06.2016 before the Appellate Authority (the Secretary-cum-Managing Director, Bihar State Power Holding Company Ltd. and Ors.), who modified the order of punishment vide Resolution No. 1055 dated 23.11.2016 by reducing 10% pension for 5 years only.

6. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had submitted his written objection against the alleged charges denying the allegations made therein that he was on leave on 15.05.2012. In his written statement the petitioner had stated that he endeavored to bring the matter to the notice of Electrical Superintending Engineer, who was persuaded to look into the matter and several times he reminded him on telephone as well. Thus, the allegation was deprived of negligence of duty on the part of the petitioner.

7. He further submitted that the respondents have admitted that the matter was already being monitored by the Electrical Superintending Engineer, Saharsa,



regarding submission of Bank Guarantee and execution of agreement, which the firm failed to comply by 31.12.2010, as per the terms and conditions of the work order and for any delay caused, the concerned firm is responsible, mislead, it filed frivolous complaint against the petitioner of illegal gratification bribe. He further submitted that allegation of negligence of duty is also misconceived and not sustainable.

8. He further submitted that a witness Dineshwar Pandey in his examination in chief held on 03.11.2012, had stated that the petitioner had demanded a sum of Rs. 40,000/- as bribe from him for completion of the work. The Inquiry Officer found the aforesaid charge not proved against the petitioner for want of evidence in support of the aforesaid allegation, but the Disciplinary Authority has not recorded any finding on the basis of evidence for disagreement with the finding of the Inquiry Officer nor assigned any reason and passed the aforesaid punishment order reducing 10% pension of the petitioner in complete violation of principle of natural justice. He further submitted that the petitioner was not afforded any opportunity to cross examine the witnesses based on the facts that the supplementary charges were issued to the petitioner on



08.01.2013, but the Inquiry Officer had conducted the last hearing of the departmental proceeding already on 30.11.2012. Thus, the petitioner was not afforded opportunity to cross examine the witness. The aforesaid witness and the Disciplinary Authority proceeded in complete violation of Rule 17 (14) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

9. The appellate authority modified the penalty order by reduction of 10% pension limited to five years by Resolution No. 1055 dated 23.11.2016, which asserts too harsh for the Class-III retired employee, as well as, considering the charge of negligence of duty being not proved in absence of any evidence. The contractor company too did not suffer any financial loss.

10. Learned counsel in the above background submitted that unless and until the action of the petitioner had resulted to financial loss in terms of Rule 3 of the Bihar Government Servant Rule, 1976 the impugned order is fit to be set aside. In support, he has relied upon law laid down by the Apex Court in the case of *Union of India vs. J. Ahmad* reported in *1979 (2) SCC 286* and *State of Punjab vs. Ram Singh* reported in *AIR 1992 SC 2188*. He further claimed parity by



placing a similarly situated case of one Accounts Officer namely, Ashok Kumar Sinha against whom a departmental proceeding was initiated under Rule 43(b) of the Bihar Pension Rules, 1950 for negligence of duty vide Resolution No. 677 dated 30.03.2012, with respect to the same transaction. In the said proceeding the punishment awarded to the Accounts Officer was of deduction of 10% pension vide Resolution No. 729 dated 18.04.2014 and subsequently, the punishment was withdrawn by Appellate Authority vide Resolution No. 32 dated 20.01.2015. He further submitted that in view of the above admitted position, it is a clear case of discrimination with the petitioner who was Head Clerk and was vested with less responsibility than the Account Officer and was not responsible to execute an agreement in his own name rather the same was to be executed by the Assistant Electrical Engineer (Technical Section) after being vetted by the Accounts Officer.

11. Learned counsel has placed his reliance on the following judgments:

(a) 1995 (2) PLJR 6421

(b) 1992 (2) PLJR 233

(c) 2017 (4) PLJR 383

(d) 1998 (7) SCC 84



(e) 2011 (3) SCC 436

(f) 2016 (2) PLJR 467

(g) 2005 (4) PLJR 786/63

12. Per contra, learned counsel for the State submitted that the petitioner had committed negligence, irregularity and demanded money for executing an agreement with M/s Computer Informatics Center Pvt. Ltd., Ranchi for Meter Reading and Bill Distribution. For the said charges, the petitioner was issued show cause vide Resolution No. 1932 dated 07.09.2011. Upon the due consideration of the reply filed by the petitioner and the record, the reply of petitioner was found not satisfactory and the departmental proceeding was initiated against him vide Resolution No. 677 dated 30.03.2012. Further, vide Memo No. 124 dated 08.01.2013, additional charges were also issued against the petitioner.

13. He further submitted that the Appellate Authority/ the Chairman-cum-Managing Director found that the petitioner was responsible for taking initial steps for sending reminders and other necessary action for deposit of the performance guarantee leading to execution of the agreement but he failed to do so. He next submitted that the Inquiry Officer submitted the inquiry report vide Letter No. 05 dated



04.02.2013 finding the charges proved in respect of negligence and carelessness committed by the petitioner in executing the agreement for meter reading and bill distribution work by M/s Computer Informatics Center Pvt. Ltd., Ranchi. However, the supplementary charge of demanding Rs. 40,000/- from M/s. Computer Informatics Center Pvt. Ltd., Ranchi was found not proved. He further submitted that the petitioner failed to take prompt action to remind the agency for depositing the earnest money by the required time. Thus, the petitioner cannot be held not guilty for the said charges.

14. Learned counsel further submitted that the witness Dineshwar Paney, the CEO of M/s Computer Informatics Center Pvt. Ltd., Ranchi in his examination in chief on 02.11.2012 deposed that whenever he approached the petitioner regarding the execution of agreement he was asked to deposit money as the petitioner had already talked to the Accounts Officer. The Enquiry Officer held final hearing on 30.11.2012. Thus, on the basis of examination of Dineshwar Pandey and the record, it became clear that the petitioner had demanded money for execution of agreement. The petitioner was issued second notice vide Memo No. 282 dated 01.07.2013. He further submitted that on examination of the reply to the



second show cause of the petitioner, the inquiry report and the available record, it was found that the charges were proved against the petitioner and accordingly, order of punishment for reduction of 10% pension has been passed vide Resolution No. 729 dated 10.04.2014.

15. Learned counsel further submitted that due to the negligence and carelessness on the part of the petitioner, the agreement for meter reading and bill distribution work by M/s. Crystal Computer Informatics Center Pvt. Ltd., Ranchi could not be executed. The said non-execution of agreement has caused loss to the Respondent Company as meter reading and bill distribution for collection of electricity charges could not be done.

16. Learned counsel further submitted that from perusal of the duty/job content brought on record as 'Annexure-6' to the supplementary rejoinder it is very evident that it is the duty of the Selection Grade Clerk to put up letters, drafts and files before the officer concerned. The petitioner has been negligent and careless in getting the agreement for meter reading and bill distribution work executed by not placing the file relating to the tender. Thus, it is not correct that the duty of Head Clerk is only to deal with the establishment matter of



workmen, but he being the custodian of the office records is responsible for placing the file promptly before the competent authority. Learned counsel further submitted that the petitioner has not suffered any discrimination at the hands of the authorities. In the case of Ashok Kumar Sinha the then Accounts Officer, who was also awarded the same punishment of reduction of the 10% of pension vide Resolution No. 729 dated 18.04.2014 but the said punishment order was set aside by the Appellate Authority vide Resolution No. 32 dated 20.01.2015 as the Appellate Authority was convinced that Ashok Kumar Sinha was concerned with vetting of the agreement only and as no agreement was executed, it was not placed before him for vetting for which the present petitioner is responsible.

17. Learned counsel further submitted that the petitioner filed appeal against the order of punishment on 07.06.2016. The petitioner was given personal hearing on 15.10.2016 by the Secretary-cum-Managing Director, who found that the petitioner was responsible for taking initial steps for sending reminders and other necessary actions for deposit of the performance guarantee leading to the execution of the agreement but he failed. The Appellate Authority was thus of the view that the petitioner cannot be completely exonerated of the



charges, accordingly, the order of punishment was modified vide Resolution No. 1055 dated 23.11.2016 to reduction of 10% pension for the period of 5 years only.

18. Heard the parties.

19. The undisputed facts of the case are that initially the departmental proceeding was initiated against the petitioner on 30.03.2012, a Memo of Charge containing three charges was served upon the petitioner thereafter, departmental proceedings proceeded and a witness Dineshwar Pandey was examined by the department and in his examination he alleged that the petitioner demanded Rs. 40,000/- as illegal gratification. It is important to note here that the said Dineshwar Pandey was examined on 03.11.2012 and as on that date three charges were under inquiry against the petitioner which did not include demand of illegal gratification. In the meantime, the petitioner superannuated on 31.10.2012. The proceeding was converted into 43(b) of the Bihar Pension Rules, 1950. Subsequently, a supplementary Memo of Charge was issued to the petitioner on 08.01.2013 containing an additional charge relating to demand of illegal gratification from the representatives of Ms. Crystal Computers Pvt. Ltd., Ranchi. The contractor and the basis of the statement recorded before the disciplinary authority. The Inquiry



Officer had not inquired the contractor, as the last date of inquiry held on 30.11.2012. In the impugned order it has been recorded that the Inquiry Officer still proceeded to submit an inquiry report with a finding that the additional charge stood not proved, while he found the rest three charges to be proved. The Disiplinary Authority issued a second show cause to the petitioner on 01.07.2014 disagreeing with the inquiry report and sought reply from the petitioner regarding all the four charges. Though the Disciplinary Authority gave reasons for disagreeing with the Inquiry Officer. However, I find that the said reasoning appears to be insufficient and based on statement of witness Dineshwar Pandey taken on 03.11.2012 on which date the petitioner was not even charged with the allegation of demand of bribe and as such no effective opportunity to cross examine was provided to the petitioner. The petitioner had submitted his reply to the second show cause notice. The Disciplinary Authority proceeded to pass the impugned order dated 18.04.2014 on the basis of allegation made by the contractor and withholding of 10% pension was imposed upon the petitioner in gross violation of principle of natural justice.

20. The petitioner preferred an appeal against the order of penalty before the Appellate Authority, who modified



the punishment and directed for withholding 10% of pension limited for the period of five years only. During the course of hearing, the records of Disciplinary Authority was call for and produced by the respondent. Upon the perusal of the records, I find that the record reveals that the petitioner was not given an effective opportunity to cross examine the vital witness the contractor on the charge relating to the demand of bribe, in as much as, the said such charge was not proved against the petitioner in the inquiry report. The said charge was framed as an additional charge subsequently without any documentary or oral evidence of the witness recorded before the Inquiry Officer. Admittedly the last proceeding of the inquiry was held prior to framing of the additional charge. The dereliction in holding disciplinary proceeding and sloppiness in the manner in which the authorities concerned took the final decision in imposing penalty upon the petitioner ought to be scrutinized under the lens of judicial review and the decision/order of penalty requires interference of this Court and matter requires interference as the order is inconsistence with the statutory Rules.

21. I find that both the orders of punishment, as well as, the appellate order are completely non-speaking order, which reflect non-application of mind by the authorities. In want



of discussing the statement of petitioner the finding of Inquiry Officer and charge made in the second show cause notice without any evidence in support of the alleged demand of bribe by the petitioner is bad in the eye of law. The agreement was to be executed by the Assistant Electrical Engineer (Technical Section) in terms of the tender notice dated 02.12.2010 (Annexure-2 to the writ petition), which contained the manner in which it was to be executed. The Assistant Electrical Engineer (Technical Section), was aware of the tender notice, its terms and conditions and at the same time he was vested with more responsibility, but the petitioner has been made a scapegoat to face the consequences on oral allegation to save the higher authorities. The Accounts Officer, at the same time, who was required to vet the agreement has been exonerated from the similar charges by the appellate authorities, whereas, even without giving the petitioner, an opportunity to cross-examine the contractor has caused the petitioner to face the suffering of departmental proceeding and penal consequences. The penalty order as already discussed appears *prima facie* to be in complete violation of principles of natural justice.

22. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the



domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. In this regard the relevant paragraph of the Apex Court judgment in the case of ***Union of India v. P. Gunasekaran*** reported in ***(2015) 2 SCC 610*** is reproduced hereinunder:

“13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate 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.”

23. The Principle laid down in ***B. C. Chaturvedi v. Union of India and Others*** reported in ***1995 SCC (6) 749*** has been reiterated by the Hon’ble Supreme Court in the case of ***Union of India and Others Vs. Subrata Nath*** reported in ***2022 LiveLaw (SC) 998*** may be referred which reads as follows:



“15. It is well settled that courts ought to refrain from interfering with findings of facts recorded in a departmental enquiry except in circumstances where such findings are patently perverse or grossly incompatible with the evidence on record, based on no evidence. However, if principles of natural justice have been violated or the statutory regulation have not been adhered to or there are malafides attributable to the disciplinary authority then the courts can certainly interfere.”

23. It is a settled proposition of law that the reasons should be recorded as it is incumbent upon to authorities to pass a reasoned and speaking order. The Apex Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan*** reported in (2010) 9 SCC 496, Para 47 elaborately considered as how the judicial, quasi-judicial and other orders should be paragraph 47 reads as under:

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any



possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about



his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37].)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the



decision is of the essence and is virtually a part of “due process.”

24. The Hon’ble Supreme Court in the case of ***Victoria Memorial Hall vs. Howrah Ganatantrik Nagrik Samity*** reported in ***(2010) 3 SCC 732*** reiterated that the decision of the quasi-judicial authorities were to be reasoned one.

25. Apart from this, when an action suffers from *mala fide* or oppression or bias, the courts may lift the veil to find not only the motive behind action but correctness of the allegations raised against a person.

26. The Disciplinary Authority by passing order of punishment for reduction of 10% pension vide Resolution No. 729 dated 10.04.2014 (Annexure-5 series) at page no. 45 to the writ petition and the Appellate Authority, who modified the order of punishment vide Resolution No. 1055 dated 23.11.2016 (Annexure-5 series) at page no. 55 to the writ petition, by reducing 10% pension for five years only have failed to have acted according to the procedure prescribed and violated the provisions of Rule 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 provisions by exercising their pure will and whims, have exercised arbitrarily and capriciously.

27. Reference may be made to the judgment of the



Supreme Court in the case of ***S.L. Kapoor vs. Jagmohan and others***, reported in ***AIR 1981 Supreme Court 136*** where the subject with regard to the compliance of the principal of natural justice has been dealt with quite exhaustively with a conclusion that compliance of the principal of natural justice is an integral part of rendering justice and ante-thesis of arbitrariness in any form, an avowed object and guiding principle of Article 14 of the Constitution of India.

28. It would have been appropriate to remand back this case in light of law laid down in the case of ***B. C. Chaturvedi (supra)*** in Paragraph Nos. 12, 13 and 18 of the said judgment the Apex Court has held as under:

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support



therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co- extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel [(1964) 4 SCR 781], this Court held at page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.

18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. It the punishment imposed by the disciplinary authority or the appellate authority



shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases. impose appropriate punishment with cogent reasons in support thereof.”

29. The charges levelled against the petitioner were entirely vague, irrelevant and unspecific. As per Statutory Rules 17 of the Bihar C.C.A, Rules, 2005 stood vitiated. No charge was proved with the aid of any documentary evidence along with the statement of the witnesses even the evidence of complainant was never forwarded to the petitioner. He was not given opportunity to explain himself. The demand of illegal gratification remained entirely irrelevant, therefore, allegation of integrity against the petitioner cannot sustain.

30. In view of the discussions made in preceding paragraphs, I find that the departmental proceeding stands vitiated due to reasons recorded hereinabove, accordingly order of withholding of 10% of pension for a period of five years contained in Resolution No. 1055 dated 23.11.2016 is hereby set aside and quashed. In the ordinary course, this Court would have remitted the matter back to the Disciplinary Authority to proceed afresh in light of law laid down in ***B.C. Chaturvedi (supra)***. However, in the present case the charges relate to the



year 2010 and the petitioner, a Class-III employee had superannuated on 31.10.2012. I have already held in this order that the charges levelled against the petitioner were not proved and it will not be in the interest of justice to remand back to the Disciplinary Authority in view of the law laid down by the Apex Court in case of *Anant R. Kulkarni v. Y.P. Education Society* reported in *(2013) 6 SCC 515* and judgment passed in case of *Jayantibhai Raojibhai Patel v. Municipal Council, Narkhed*, reported in *(2019) 17 SCC 184*. I deem it fit and proper to direct the respondent to make payment of entire arrears of pension and other retiral dues payable to the petitioner in accordance with law within a period of three months.

31. With the above observations and directions, the present writ petition stands disposed of.

32. There shall be no order as to costs.

(Purnendu Singh, J)

Niraj/Nilmani

AFR/NAFR	A.F.R.
CAV DATE	21.08.2023
Uploading Date	27.09.2023
Transmission Date	N/A

