



2024:DHC:2451



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

% Judgment reserved on: 19.03.2024
Judgment delivered on: 28.03.2024

+ W.P.(C) 9005/2016 & CM APPL. 36514/2016

ANOOP KUMAR MISHRA Petitioners

versus

AIRPORT AUTHORITY OF INDIA & ANR. Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Bharat Sangal, Senior Advocate with Ms. Babita Kushwaha, Advocate

For the Respondents : Ms. Anjana Gosain and Ms. Nippun Sharma, Advocates for AAI

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J.

1. The petitioner has filed the instant writ petition seeking the following prayers:-

a) Issue a writ of Certiorari to quash the order dated 10.05.16 by the appellate body i.e. sub- committee of the board of Airport Authority of India, and

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b) Issue a writ of Certiorari to quash the order dated 29.10.2015 of the Disciplinary Authority i.e. the Chairman of Airport Authority of India, and

c) Issue a writ or direction in the nature of Mandamus directing/commanding the Respondent to remove /withdraw the penalty of withholding of one increment of pay for a period of one year with cumulative effect or,

2. Brief facts, as alleged by the Petitioner and culled out from the present petition are as follows:-

2.1 That the petitioner was serving the respondent in the capacity of Senior Manager in the year 2009-2010. *Vide* his letter dated 25.05.2010, the petitioner officially conveyed the approval/sanction of the competent authority for the empanelment of M/s. Nazareth Hospital for a period of one year from 02.05.2010 to 24.05.2011.

2.2 On 28.03.2012, *vide* the Circular No.9/2012, the respondent notified the revision of Room/Bed entitlement for indoor medical treatment and policy guidelines for empanelment of hospitals. The Director of the Nazareth Hospital issued a revised Schedule of Hospital Charges *vide* his letter dated 31.03.2012 to the Civil Aviation Training College (hereinafter referred to "CATC") effective from 01.04.2012.

2.3 *Vide* the letter dated 15.05.2013, the respondent informed the Nazareth Hospital that it had been granted 1 year extension of the empanelment w.e.f. 25.05.2013 to 24.05.2014 at CGHS Rates. On 13.07.2013 the said Nazareth Hospital forwarded the Bills



pertaining to one of the employees of the respondent CATC at revised rates for clearance. The same were stated to be cleared and the excess amounts were recovered from the account of the employee.

- 2.4 An employee of the respondent Airports Authority of India (in short “AAI”), namely Sh. V.K. Aggarwal submitted a complaint to the Corporate Headquarters, AAI, New Delhi regarding overcharging by the Nazareth Hospital in collusion with CATC, Allahabad. The basic complaint being that the said employee was charged Rs.3000/- per day towards A/C room for the medical treatment of his mother and the excess room rent was recovered from his salary during the year 2012 – 2013. In December 2013 the said employee wrote to the Member (HR) Corporate Headquarter that he has not received the response to his complaint nor has the deducted amount of Rs.17,600/- been remitted back into his account.
- 2.5 In pursuance of the above, the Member (HR) *vide* the letter dated 26.06.2014 corresponded with the Principal, CAT regarding the aforesaid complaint of overcharging in hospital bills regarding one of the employees. The same was replied to by the Principal, CATC *vide* the letter dated 11.07.2014.
- 2.6 A vigilance investigation was ordered and carried out which submitted its report dated 16.10.2014 regarding the complaint of



Sh. V.K. Aggarwal in respect of his allegation of the nexus between the Principal, CATC and Nazareth Hospital, Allahabad.

- 2.7 Consequent thereto, consent of the authorities was obtained for imposition of minor punishment on the petitioner without issuance of show cause notice vide the order dated 25.11.2014. Vide the Memorandum dated 21.04.2015, the petitioner was held guilty by the Chairman and disciplinary Authority who recommended imposition of minor penalty under Regulation 27 of the Airports Authority of India Employees (Conduct, Discipline and Appeal) Regulations, 2003 (hereinafter referred to as “*CDA Regulations, 2003*”).
- 2.8 The petitioner was afforded an opportunity to submit his written defence statement against the proposed minor penalty under Regulation 31 of the said AAI Employees (CDA) Regulations 2003. Accordingly, the petitioner submitted his defence statement to the Chairman, AAI in terms of procedure stipulated in Regulation 31 of the CDA Regulations on 12.05.2015.
- 2.9 In the meanwhile upon an explanation called for by the DGM (HR), the Nazareth Hospital explained that it was the employee V.K. Aggarwal at whose request the single AC private room was provided. On 07.10.2015 the petitioner wrote a letter addressed to the Chairman cum Disciplinary Authority giving explanation for the charges framed against him.



2.10 By the impugned order dated 29/10/2015, the Disciplinary Authority held the petitioner guilty of the charges framed and imposed minor penalty of withholding of one increment of pay for a period of one year with cumulative effect. On 15.12.2015, the petitioner preferred a Statutory Appeal before the Appellate Authority which too was dismissed vide the impugned order dated 10/5/2016. Hence the writ petition.

ARGUMENTS ON BEHALF OF PETITIONER:

3. Mr. Bharat Sangal, learned Senior counsel appearing for the petitioner at the outset submits that the impugned orders ought to be set aside alongwith the Inquiry Report and the proceedings since the same were held in gross violation of the CDA Regulations, 2003 of the respondent.

4. Learned senior counsel submits that in the official capacity, the petitioner had *vide* the letter dated 25.05.2010 conveyed to the Nazareth Hospital, the approval/sanction of the competent authority to the empanelment of the said hospital for a period of one year from 25.05.2010 to 24.05.2011 on certain conditions. He submits that the petitioner was not the responsible officer for appending his signatures on the agreement. He submits that the Corporate Headquarters issued a Circular dated 28.03.2012 whereby revisions of room/bed entitlement for indoor medical treatment was effected. Directions were simultaneously issued to implement the same by 31.05.2012 and compliance report thereon was sought by 15.06.2012.



He submits that the Nazareth Hospital sent a communication to CATC informing that their room rates are lower than CGHS rates however, though their costs for other facilities were higher, they would bring those at par with the CGHS rates.

5. Learned senior counsel submits that it is this renewal which is in controversy. According to learned senior counsel, the respondents have charged the petitioner with negligence of not getting the principal agreement executed with Nazareth Hospital which lead to the said hospital overcharging the room rent from the employee who would have otherwise been entitled to lower charges and there would have been no question of recovery of excess amount from the salary of the said employee. He submits that things came to light only after the Nazareth Hospital sent its bills for reimbursement to CATC that the higher room rent charged came to light and the consequent recovery of excess amounts were implemented against the employee.

6. Learned senior counsel submits that the vigilance inquiry was initiated upon the complaint dated 21.08.2013 of the employee. He submits that in the complaint the employee has made an allegation that he was charged Rs.3000/- room rent which was restricted at Rs.1400/- at that time and he had to pay the excess charges of Rs.1600/- per day totaling to Rs.17,600/-. Whereas, the Nazareth Hospital had by its letter dated 23.09.2015 clearly indicated that it was at the instance of the employee that the facility of Single AC Room was provided. On this basis, learned senior



counsel submits that the higher rental room was provided on the asking of the employee who fully well knew at that time that the room rent was higher than usual. As such, the excess charges being recovered from the employee was natural and the blame for such excess charges cannot be placed upon the petitioner.

7. Learned Senior Counsel submits that upon the complaint, an inquiry report was called for, which was submitted on 14/19.11.2014. Even in the said Inquiry Report the officer concluded that normally as per CGHS, treatment in the higher accommodation is not permissible. However, in case of emergency when the entitled category is not available, the employee can be given immediate higher accommodation till the entitled category is available. According to learned senior counsel, all this was in the knowledge of the employee while seeking higher accommodation and as such there cannot be any complaint regarding higher charges.

8. Learned Senior Counsel invites attention of this Court to the para 4.3 of the said Report wherein the responsibilities against the petitioner have been enumerated. The same are as under:

“4.3 Sh. A K Mishra, AGM(HR) is responsible:

i) For empanelment of Hospitals but he has not made agreement with M/s Nazarth Hospital.

ii) Did not follow CHQ guidelines.

iii) Not mentioned basic pay and designation in authority letter when the CHQ guidelines were revised in respect of room entitlement of employees.”



So far as the point no (i) is concerned, learned Senior Counsel submits that the responsibility to execute the Agreement is with the Negotiations Committee and not the petitioner, and thus, this cannot withstand the scrutiny of law. With respect to issue nos. (ii) and (iii), he submits that the Corporate Headquarters Guidelines were fully followed by the petitioner. So far as the non mentioning of basic pay and designation in the authority letter in terms of the Circular of CHQ is concerned, learned Senior Counsel submits that the same has been succinctly noted in the Vigilance Report itself which vindicates the stand of the petitioner. Learned Senior Counsel submits that as per the Vigilance Report, the room rent entitlement was linked to the Level of the Officer i.e., E-1, E-2, NE-6 etc. and not the basic pay and mentioning the same was not necessary. Insofar as the excess charges are concerned, the Vigilance Report also noted that empanelment was agreed on CGHS rates as a complete package and as such the treatment in higher category will have to be reimbursed either by the Hospital or the AAI. According to the learned Senior Counsel, this observation too vindicates the innocence of the petitioner. Learned Senior Counsel submits that the Report concluded with an observation that the entire matter is related to systematic error and no financial loss to AAI or any personal gain by any of the officers. This too proves the innocence of the petitioner.



9. In order to buttress the aforesaid arguments, learned Senior Counsel has also read in detail the Brief containing the gist of Allegations, reply of the charged officers and the comments of the HRM Department. Various portions examining the issues in detail were read by Mr.Sangal, learned Senior Counsel. According to learned Senior Counsel, no case, muchless any charges have at all been made out by the respondent and the petitioner is entitled for clean discharge from the allegations and the minor punishment be set aside.

10. Learned Senior Counsel also submits by inviting attention of this Court to the impugned order dated 14/19.11.2015 of the Disciplinary Authority, that the Authority overlooked and infact ignored the fact that the execution of the Agreement was the responsibility of the Negotiations Committee and not the petitioner. According to learned Senior Counsel, the presumption upon which the Disciplinary Authority proceeded, itself was without any factual foundation. As such, the conclusion reached by Disciplinary Authority is without foundational facts and ought to be quashed and set aside.

11. He also submits that with respect to the second allegation of non mentioning of the basic pay of the employee is concerned, the Disciplinary Authority has observed that no documentary proof has been brought on record by the petitioner to show that the relevant information was shared with the Hospital coupled with the fact that the Credit Letter issued by the petitioner did not even contain the employees Level of entitlement, e.g., E-



8, E-9 etc which was a relevant information to be provided to the Hospital in accordance with the Circular No.9/2012 dated 28.03.2012. Learned Senior Counsel submits that this conclusion is contrary to the observations of the Vigilance Report itself and having ignored the same, the impugned order passed by the Disciplinary Authority is liable to be quashed and set aside.

12. Learned Senior Counsel next refers to the Appellate Authority's impugned order dated 10.05.2016 to submit that none of the grounds of appeal were at all considered by the Appellate Authority. According to him, the said order is non speaking and no reasons as to why the Appellate Authority has agreed with the Disciplinary Authority were mentioned rendering the said order liable to be set aside on the grounds of violating principles of natural justice as per administrative law.

13. Mr. Sangal then referred to Regulations 29 and 31 of the CDA Regulations which are applicable to the facts of the present case. He submits that the provisions of the said regulations have been grossly violated in the present case and as such the impugned orders and the penalty imposed should be quashed and set aside with consequential benefits to the petitioner. Once proper procedure as laid down is not followed, then as a consequence, this Court should quash the entire proceedings from the stage of Inquiry proceedings ending up with the Appellate Authority passing its order.



14. Mr. Sangal also submits that though the inquiry proceedings were initiated against other officers too, only the petitioner was imposed such a harsh punishment and the others were not even punished. Thus on the basis of discrimination too, learned Senior Counsel submits that the impugned orders should be quashed and set aside.

CONTENTIONS OF RESPONDENT -

15. For the respondent, Ms. Anjana Gosain learned counsel at the outset submits that the punishment as imposed has already been undergone by the petitioner. She submits that the same did not have any effect upon the retiral benefits of the petitioner since all the employees of the AAI who were inducted into service originally with the AAI were covered under the EPFO Scheme and as such the minor punishment which was imposed did not impact the retiral benefits of the petitioner.

16. In order to buttress the aforesaid argument Ms. Gosain invites attention of this Court to Regulation 27 of the CDA Regulations to submit that the proposed punishment being a minor punishment, the procedure as prescribed under Regulation 31 of the said Regulations were to be followed by the respondent. She further submits that the petitioner cannot quarrel with the procedure prescribed since he as well as the respondent is bound to follow the same in letter and spirit.

17. According to Ms. Gosain, Regulation 31 prescribes the charged officer being informed in writing the imputations of misconduct or misbehavior; given an opportunity to submit written defence statement



within a specified period; the said defense statement ought to be taken into consideration by the Disciplinary Authority before passing orders. Ms. Gosain submits that only when the Authority proposes to impose any penalty of withholding of increments for more than three years or such withholding would affect the retirement benefits alone, that the procedure prescribed under Regulation 29 is to be undertaken. Since none of the ingredients of the proviso were proposed nor fulfilled in the present case, the procedure Regulation 31 was correctly followed.

18. On facts, Ms Gosain submits that Circular 9/2012 dated 28.03.2012 was very clear in its purport. In that, officials like the petitioner were to implement the same in letter and spirit and there was no room for any doubt on that. She invites attention to the Subject under which the Circular was issued to impress that the petitioner was to ensure that a written agreement is executed between the Nazareth Hospital and the respondent with all the material particulars. Admittedly, this Agreement was never signed and executed. This lead to the employee paying an excess amount. According to Ms.Gosain, had the agreement been executed, the Nazareth Hospital would have known the entitlement of the employee and the said employee would have received the benefits thereunder. It is her vehement argument that the excess payment charged upon the employee is the direct result of petitioner's negligence. As such, despite the observations in Vigilance report, there being no argument regarding non execution of the agreement, the present writ petition deserves to be dismissed with costs.



ANALYSIS AND CONCLUSIONS :-

19. This Court has heard the elaborate arguments of Mr. Sangal, learned senior counsel as well as Ms. Gosain, learned counsel for the respondent and perused the records.

20. The issue pertaining to the scope and jurisdiction of a High Court under Article 226 of the Constitution of India while undertaking judicial review of the disciplinary matters is concerned, is no more *res integra* with the Supreme Court laying down clear and cogent parameters for such exercise in its landmark judgements in the case of ***B.C. Chaturvedi Vs. Union of India & Ors.*** reported in (1995) 6 SCC 749, (03 Judges Bench) and ***Union of India & Ors. Vs. P. Gunasekaran*** reported in (2015) 2 SCC 610. It would be apposite to refer to the relevant paragraphs of both the judgements before advertng to the facts of the present case. The same are extracted hereunder:

B.C. Chaturvedi Vs. Union of India & Ors.

“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 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 reappraise 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 coextensive power to reappraise 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 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p. 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.”

Union of India & Ors. Vs. P. Gunasekaran

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappraising even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. 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 Articles 226/227 of the Constitution of India, shall not venture into reappraisal 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.

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.”

21. It is clear from the ratio laid down by the Supreme Court in the aforementioned judgements that the High Courts are highly circumscribed in their exercise of powers of judicial review in disciplinary matters. Infact, there is a clear preclusion from even considering the observations or factual errors in the Inquiry Report etc. The only remainder scope is in respect of such cases where there is gross violation of the prescribed Rules, Regulations or statutory procedure coupled with violation of the principles of natural justice or an imposition of a punishment grossly disproportionate to the charges leveled. Other than these, the Writ Court cannot sit as in Appeal against the orders of the Disciplinary Authority and the Appellate Authority which are prescribed Statutory Authorities under the Rules and Regulations.

22. Having regard to the above principles, this Court would now examine the issue of allegation of violation of prescribed procedure.

23. Despite the fact that Mr. Sangal had argued that there has been violation of the Regulations and that the punishment imposed would have impact upon the retiral benefits, this Court finds that such arguments have no basis and are untenable. This is for the reasons enumerated in the following paragraphs.

24. To appreciate this issue, it would be apposite to extract Regulations 27 and 31 of the CDA Regulations, 2003, which are as under:



“27. Penalties.- The following penalties may be imposed on an employee, as hereinafter provided for misconduct committed by him or for any other good and sufficient reasons :-

MINOR PENALTIES :

- (a) Censure;
- (b) Withholding of increment of pay with or without cumulative effect;
- (c) Withholding of promotion;
- (d) Recovery from pay of the whole or part of any pecuniary loss caused to the Authority by the negligence or breach of orders or such other amount as may be due to him;

MAJOR PENALTIES :

- (e) Reduction to a lower grade or post, or to a lower stage in a time scale;
- (f) Compulsory retirement;
- (g) Removal from service which shall not be a disqualification for future employment;
- (h) Dismissal.

Explanation - The following shall not amount to a penalty within the meaning of this regulation :-

- (a) withholding of increment of an employee on account of his work being found unsatisfactory or not being of required standard, or for failure to pass a prescribed test or examination ;
- (b) non-promotion, whether in an officiating capacity or otherwise, of an employee to higher post for which he may be eligible for consideration but for which he is found unsuitable after consideration of his case ;
- (c) reversion to a lower scale or post of an employee officiating in a higher grade or post, on the ground that he is considered, after trial, to be unsuitable for such higher grade or post, or on administrative grounds unconnected with his conduct;
- (d) reversion to his previous grade or post of an employee appointed on probation to another grade or post, during or at the end of the period of probation in accordance with the terms of his appointment;
- (e) Termination of service –
 - (i) of an employee appointed on probation, during or at the end of the period of probation, in accordance with the terms of his appointment;
 - (ii) of an employee appointed in a temporary capacity otherwise than the expiration of the period for which he was appointed or earlier in accordance with the terms of his appointment;
 - (iii) of an employee appointed under a contract or agreement in accordance with the terms of such contract or agreement; and
 - (iv) of any employee on reduction in establishment.



“31. Procedure for imposing minor penalties.- (1) When it is proposed to impose any of the minor penalties specified in clauses (a) to (d) of regulation 27, the employee shall be informed in writing of the imputations of misconduct or misbehaviour against him and given an opportunity to submit his written statement of defence within a specified period (not being less than 15 days from the date of receipt of statement of imputations). The defence statement, if any, submitted by the employee shall be taken into considerations by the disciplinary authority before passing orders.

(2) The record of the proceedings shall include, -

- (i) a copy of the statement of imputations of misconduct or misbehaviour delivered to the employee ;
- (ii) his defence statement if any; and
- (iii) the orders of the disciplinary authority together with the reasons thereof.

Provided if it is decided to impose any penalty either to withhold increments for more than three years or to impose a penalty of withholding of increment and which would adversely affect retirement benefits with cumulative effect, the procedure of holding enquiry under Regulation 29 will be followed.

(3) Before imposing any penalty, the disciplinary authority may forward the report of the inquiry to the delinquent official with the following endorsement:-

“The report of the Inquiry Officer is enclosed. The Disciplinary Authority will take an appropriate view after considering the reply. If the delinquent officer is to make any representation, he may do so within 15 days.”

Wherever the charges are not proved and disciplinary authority agrees with the findings of the Inquiring Authority, and decided to "exonerate", copy of the inquiry report need not be sent.”

25. A plain reading of Regulation 27 particularly clause (b) would reflect that the punishment of withholding of increment of pay with or without cumulative effect would be considered as a minor penalty. It is not disputed that the petitioner was imposed a penalty of withholding of one increment



for a period of one year with cumulative effect. However, as stated by Ms. Gosain, the cumulative effect has not affected the retiral benefits of the petitioner and nothing has been brought on record to establish that the retiral benefits were affected by this punishment. In that view of the matter this Court is unable to appreciate the argument of Mr.Sangal on that count.

26. That apart, so far as Regulation 31 is concerned, this Court has closely scrutinized the said provision. The petitioner does not dispute that in terms of Regulation 27, he was informed in writing of the imputations of misconduct/misbehavior; does not dispute that he was indeed given an opportunity to submit his written statement of defence which he availed of; does not dispute that the Disciplinary Authority had indeed considered such defence statement, in which case in the considered opinion of this Court, the respondent had followed the due procedure. So far as the allegation that the Disciplinary Authority or the Appellate Authority did not appreciate the defence statement or the grounds of Appeal in the right perspective is concerned, that would not be the matter which can be looked into by this Court as if sitting in Appeal. The only prescription is to consider whether any rule or regulation has been violated. None has been brought to the attention of this Court nor could this Court find one.

27. This Court also considered the proviso to Regulation 31 just in order to satisfy its conscience, as to whether in the facts of the case, the same would be operative. The proviso prescribes that in case the proposed punishment is to withhold increments for more than three years or that the



said withholding would adversely impact the retiral benefits, then the procedure prescribed under Regulation 29 was to be adopted. In the present case the punishment was withholding of one increment for one year cumulative and had no effect or adverse impact upon the retiral benefits of the petitioner. As such, the proviso would not be applicable. Thus, the argument of the learned Senior Counsel that the procedure under Regulation 29 was violated is untenable and is rejected.

28. Adverting to the facts of the case, this Court has considered the arguments of Mr.Sangal learned Senior Counsel but unable to agree with him. This is for the reason that even if the Vigilance Report's observations are considered favourable to the petitioner, however, the same does not answer as to why the petitioner did not comply with the directions mentioned in Circular No.9/2012 dated 28.03.2012. Even the Brief of Allegations etc. referred to, do not point out to this aspect of the matter. Even the petitioner, except to orally argue that the execution was the responsibility of the Negotiations Committee, has not placed on record any circular or guideline delineating any such specific responsibility either of the Negotiations Committee or his own responsibilities. In the absence whereof, it is nigh well impossible to consider the arguments predicated on such issue lacking foundational facts. Thus, the same is rejected.

29. As a consequence, the writ fails and is dismissed along with pending application, without any order as to costs.

TUSHAR RAO GEDELA, J

MARCH 28, 2024/rl