

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SMT. JUSTICE NANDITA DUBEY**

**th**

**ON THE 6 OF JULY, 2023**

**WRIT PETITION No. 9491 of 2019**

**BETWEEN:-**

**B.L. JATAV S/O LATE SHRI GOVIND JATAV, AGED ABOUT  
53 YEARS, OCCUPATION: UNEMPLOYED (TERMINATED  
FROM SERVICE), R/O 101 ASHIT APARTMENT SOUTH  
CIVIL LINES, JABALPUR (MADHYA PRADESH)**

**....PETITIONER**

**(BY SHRI ASHISH SHROTI - ADVOCATE )**

**AND**

- 1. THE STATE OF MADHYA PRADESH THR. PRINCIPAL  
SECRETARY, FARMER WELFARE AND  
AGRICULTURE DEVELOPMENT DEPARTMENT,  
GOVT. OF MADHYA PRADESH, VALLABH  
BHAWAN BHOPAL (MADHYA PRADESH)**
- 2. PRINCIPAL SECRETARY (APPELLATE AUTHORITY)  
FARMER WELFARE AND AGRICULTURE  
DEVELOPMENT DEPARTMENT VALLABH  
BHAWAN BHOPAL (MADHYA PRADESH)**

3. **MANAGING DIRECTOR (DISCIPLINARY AUTHORITY) MADHYA PRADESH RAJYA BEEJ EVAM FARM VIKAS NIGAM BEEJ BHAWAN 36 MOTHER TERESA MARG ARERA HILLS (MADHYA PRADESH)**
4. **SHRI VINAY KUMAR BARMAN EX. MANAGING DIRECTOR MADHYA PRADESH RAJYA BEEJ EVAM FARM VIKAS NIGAM R/O H.I.G 484 E-7 ARERA COLONY, BHOPAL (MADHYA PRADESH)**

**(BY SHRI V.P. TIWARI – GOVT. ADVOCATE FOR RESPONDENT/STATE AND SHRI P.K. SHUKLA – ADVOCATE FOR RESPONDENT NO.3)**

**...RESPONDENTS**

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*This petition coming on for hearing this day, the Court passed the following:*

## **ORDER**

This petition under Article 226 of the Constitution of India has been filed by the petitioner aggrieved by the order dated 18.03.2019, whereby his appeal against the order dated 28.06.2018 was dismissed.

2. The petitioner was initially appointed on the post of Assistant Manager in the respondent/Corporation on 07.01.2003.

He was posted as Regional Manager at Jabalpur on 12.10.2015 (Annexure P-5) and was also assigned the charge of Regional Manager, Satna vide order dated 20.01.2017. A show cause notice dated 03.05.2017 was issued to the petitioner asking him to submit his reply by 15.05.2017, failing which exparte departmental enquiry would be initiated against him. The petitioner submitted a fairly long explanation on 19.05.2017. The respondent No.4 rejected the reply of petitioner vide order dated 08.06.2017 and decided to initiate departmental enquiry against him on the ground that it was not answered parawise.

3. Disciplinary proceeding was thereafter initiated against him by issuing a charge sheet dated 17.07.2017. The petitioner was granted 15 days time to file reply to the charges levelled against him. It is alleged that the petitioner did not submit reply to the charge sheet within the time limit by the authority. An enquiry officer was appointed vide order dated 08.12.2017 to conduct the departmental enquiry upon the petitioner.

4. The enquiry officer alleging deliberate non-appearance by the petitioner, conducted exparte enquiry and submitted his report on 25.05.2018 (Annexure R-3/4) before the competent authority to proceed further. By order dated 28.06.2018 (Annexure P-78) the disciplinary authority accepted the report and

dismissed him from service. Being aggrieved, the petitioner appealed this order, the appellate authority, however dismissed the appeal vide order dated 18.03.2019 ( Annexure P-80).

5. After retirement of respondent No.4, the petitioner made an application to the new Managing Director for re-examining the matter, who initially called for a report from the standing committee and on considering the report found serious lapse in the matter and thereafter constituted a committee of five members on 10.09.2020 to reexamine the matter and if necessary to give an opportunity of hearing to the petitioner. The committee submitted its report on 18/21.12.2020, but on the advise of Mr. Osari, no action was taken on it by the then Managing Director.

6. It is argued on behalf of the petitioner that the departmental enquiry was done with malafide intent and at the behest of respondent No.4. It was vitiated as the procedure prescribed under the CCA Rules was not followed. The enquiry officer Shri O.L.Osari, who was junior to petitioner and working as Assistant Manager was appointed as Enquiry Officer in violation of the government circular and his objections in this regard to change the enquiry officer were not considered. His reply to show cause notice was not accepted on the frivolous ground of drafting (parawise) issues. No witness was examined

and the report by the enquiry officer was submitted even before the petitioner received information to submit his reply. It was urged that no final chance for defence was given before major punishment of dismissal from serve was imposed. It was next urged that out of the four charges levelled against the petitioner, three relates to an application submitted under RTI Act, 2005 by one Karamveer Singh, wherein he has already been imposed a cost of Rs.25,000/-, and though the petitioner had already deposited the said amount but the respondent again got deducted the said amount from his salary. It is further stated that the fourth charge relates to the complaint submitted by Smt. Kiran Singh with regard to his misbehaviour and making racial (nasliya) remarks against her, for which enquiry was pending before the Collector, hence the same could not form the basis to initiate the departmental enquiry.

7. Learned counsel further urged that appellate authority summerly dismissed the appeal and failed to appreciate that the Enquiry Officer's finding of guilt leading to petitioner's dismissal was not based on any evidence. The entire action taken by respondent was therefore, exfacie illegal. The finding of enquiry officer was not based on any evidence and purely conjectual. The witnesses named in the charge sheet were not examined but on the

basis of statement of some persons, recorded earlier in a separate enquiry, the finding of guilt has been reached.

8. Per contra, the stand of respondent is that the disciplinary and the appellate authorities acted within their rights and after appreciation of evidence, concluded that there was sufficient evidence to impose the penalty of dismissal from service. Learned counsel further urged that the High Court in the case of judicial review cannot act as an appellate authority to reappraise and weigh the evidence produced in the departmental enquiry. Learned counsel further contended that charges have been levelled in connection with the petitioner's tenure at Jabalpur. As evident from the report of the enquiry officer that he did not co-operate with the direction issued by the State Chief Information Commissioner(CIC), for which he was imposed a cost of Rs.25,000/-. Further he has passed racial remarks and misbehaved with one Smt Kiran Singh.

9. It was further argued that the petitioner did not submit the reply to the charge sheet within the fixed time limit, therefore, the Enquiry Officer was appointed to conduct the departmental enquiry, but petitioner refrained from appearing at the departmental enquiry proceedings and remained absent on account of unsanctioned leave citing the ground of his daughter's marriage.

Since he failed to co-operate in the departmental enquiry, he is therefore, estopped from raising any question regarding the way the departmental enquiry was conducted. The counsel has further argued that due to his own negligence petitioner was declared *exparte* and the enquiry was concluded on the basis of evidence and documents on record, which deserves no interference from this Court.

10. Heard the learned counsel for the parties and perused the record.

11. In the case of **Union of India Vs. H.C. Goel 1964 Vol. 4 SCR 718**, the Supreme Court has observed that where a public servant is punished for a misconduct after a departmental enquiry, interference under Article 226 of the Constitution of India is warranted, if the finding is perverse or suffers from patent error or based on no evidence at all to establish the official's guilt and held thus:-

*22. We are not prepared to accept this contention. Malafide exercise of power can be attacked independently on the ground that it is malafide. Such an exercise of power is always liable to be quashed on the main ground that it is not a bonafide exercise of power. But we are not prepared to hold that if malafides are not alleged and bonafides are assumed in favour of the appellant, its conclusion on a question of fact*

*cannot be successfully challenged even if it is manifest that there is no evidence to support it. The two infirmities are separate and distinct though, conceivably, in some cases, both may be present. There may 47- 2 S. C. India/64 be cases of no evidence even where the Government is acting bonafide; the said infirmity may also exist where the Government is acting malafide and in that case, the conclusion of the Government not supported by any evidence may be the result of malafides, but that does not mean that if it is proved that there is no evidence to support the conclusion of the Government, a writ of certiorari will not issue without further proof of malafides. That is why we are not prepared to accept the learned Attorney General's argument that since no malafides are alleged against the appellant in the present case, no writ of certiorari can be issued in favour of the respondent.*

23. *That takes us to the merits of the respondent's contention that the conclusion of the appellant that the third charge framed against the respondent had been proved, is based on no evidence. The learned Attorney-General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by he appellant is a reasonably possible view, this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely*



*sound. The only test which we can legitimately apply in dealing with this part of the respondent's case is, is there any evidence on which a finding can be made against the respondent that charge No. 3 was proved against him? In exercising its jurisdiction under Art. 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which dealt with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not. Applying this test, we are inclined to hold that the respondent's grievance is well-founded because, in our opinion, the finding which is implicit in the appellant's order dismissing the respondent that charge number 3 is proved against him is based on no evidence.*

12. Other than the cases of no evidence, judicial review can also be restored to, to ascertain whether the enquiry has been fairly and properly held or whether the rules of natural justice are complied with.

13. In **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya (2011) 4 SCC 584**, the Supreme Court held thus :-

*"7. 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 enquires. Therefore, courts will not interfere with findings of fact recorded on departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide [B.C. Chaturvedi V. Union of India](#), [Union of India V. G. Ganayutham](#), [Bank of India V. Degala Suryanarayan](#) and High Court of Judicature at [Bombay V. Shashikant S. Patil](#))"*

14. In the case of **Sher Bahadur Vs. Union of India and others (2002) 7 SCC 142**, the Supreme Court has observed that "sufficiency of evidence" postulates existence of some evidence which links the charged officer with the misconduct alleged against him. Evidence, however, voluminous it may be, which is

neither relevant in a broad sense nor establishes any nexus between the alleged misconduct and the charged officer, is no evidence in law. The mere fact that the enquiry officer has noted in his report, "in view of oral, documentary and circumstantial evidence as adduced in the enquiry", would not in principle satisfy the rule of sufficiency of evidence.

15. In the present case, the charge sheet dated 17.07.2017 alleged petitioner's complicity in four major charges, set out as below :-

**आरोप क्रमांक— 1.** श्री बी.एल. जाटव सहायक प्रबंधक सह क्षेत्रीय प्रबंधक जबलपुर द्वारा श्री कर्मवीर सिंह चौहान द्वारा राज्य सूचना आयोग में दायर अपील पर स्थिति से मुख्यालय को अवगत नहीं कराकर स्वयं के स्तर से आयोग के समक्ष उपस्थित होकर सही एवं स्पष्ट जवाब प्रस्तुत नहीं किया, जिसे कारण आयोग द्वारा प्रकरण रिमांड में लिया गया। इस प्रकार श्री जाटव द्वारा प्रकरण के संबंध में मुख्यालय को अवगत नहीं कराकर अपने कर्तव्यों के प्रति लापरवाही बरतकर म.प्र. सिविल सेवा आचरण नियम 1965 के नियम— 3 का उल्लंघन कर अपने आपको दोषी बना लिया है जैसा कि अभिकथन पत्रक में दर्शाया गया है।

**आरोप क्रमांक— 2.** श्री बी.एल. जाटव सहायक प्रबंधक सह क्षेत्रीय प्रबंधक जबलपुर के पद पर पदस्थ अवधि में इन्हें लोक सूचना अधिकारी का दायित्व सौंपा गया था इनके द्वारा बिना वरिष्ठालय की अनुमति लिये श्री कर्मवीरसिंह चौहान द्वारा राज्य सूचना आयोग में की गई अपील में सही एवं स्पष्ट जानकारी प्रस्तुत नहीं करने के कारण आयोग द्वारा प्रकरण रिमाण्ड पर लेने के कारण लोक सूचना अधिकारी के दायित्व से मुक्त करने हेतु

मुख्यालय प्रस्ताव भेजा, परन्तु प्रकरण से संबंधित मूल नस्ती एवं अभिलेख श्री जनकसिंह को नहीं सौंप कर अपने कर्तव्यों के प्रति लापरवाही बरतकर, म.प्र. सिविल सेवा आचरण नियम 1965 के नियम – 3 का उल्लंघन कर अपने आपको दोषी बना लिया है जैसा कि अभिकथन पत्रक में दर्शाया गया है।

**आरोप क्रमांक– 3.** श्री बी.एल. जाटव सहायक प्रबंधक सह क्षेत्रीय प्रबंधक जबलपुर द्वारा श्री कर्मवीरसिंह चौहान द्वारा राज्य सूचना आयोग के समक्ष की गई अपील पर आयोग द्वारा दिनांक 23.01.2017 को तिथि नियत कर लोक सूचना अधिकारी एवं श्री जाटव को सयुंक्त रूप से उपस्थित होकर पक्ष रखने हेतु निर्देशित किया गया था, परन्तु श्री जाटव उक्त दिनांक को उपस्थित नहीं हुए जिसके कारण आयोग द्वारा पुनः 24.04.2017 को सुनवाई हेतु तिथि नियत की गई। श्री जाटव द्वारा उक्त दिनांक को लोक सूचना अधिकारी के माध्यम से जानकारी नहीं भेजते हुए सीधे अपने स्तर से जानकारी आयोग को भेजी गई, जिसके कारण राज्य सूचना आयुक्त द्वारा क्षुब्ध होकर राशि रूपये 25000/- जमा करने की शास्ति अधिरोपित की गई। जिस कारण निगम प्रबंधन की छवि धूमिल हुई। श्री जाटव ने उक्त कृत्य कर म.प्र. सिविल सेवा आचरण नियम 1965 के नियम – 3 का उल्लंघन कर अपने आपको दोषी बना लिया है जैसा कि अभिकथन पत्रक में दर्शाया गया है।

**आरोप क्रमांक– 4.** श्री बी.एल. जाटव सहायक प्रबंधक सह क्षेत्रीय प्रबंधक जबलपुर द्वारा श्रीमती किरन सिंह कनिष्ठ सहायक क्षेत्रीय कार्यालय जबलपुर को अपमानजनक शब्द एवं नस्लीय टिप्पणी करने के कारण श्रीमति सिंह द्वारा मुख्यालय को शिकायत की गई कि वे इस अपमान के कारण स्वैच्छिक सेवानिवृत्त चाही गई है। इस प्रकार आपके द्वारा पदीय कर्तव्यों के विरुद्ध आचरण कर, म.प्र.सिविल सेवा आचरण नियम 1965 के नियम – 3 का उल्लंघन कर अपने आपको दोषी बना लिया है जैसाकि अभिकथन पत्रक में दर्शाया गया है।

16. The charges No.1, 2 and 3 relates to the proceedings taken on the application of one Karamveer Singh under RTI, whereupon the petitioner was held guilty of negligence by CIC for non-supply of documents asked for and a penalty of Rs.25,000/- was imposed on him, which petitioner subsequently deposited.

17. From the enquiry report dated 25.05.2018, it can be seen that for the charges No.1, 2 and 3 no witness was examined and on the basis that, earlier as punishment/cost of Rs.25,000/- was imposed on the petitioner for his negligence in not supplying the copies of documents as asked for under RTI by one Karamveer Singh, the charges of misconduct were found proved. It is pertinent to note that the CIC while imposing the cost of Rs.25,000/- as punishment on petitioner, did not propose or direct any enquiry against the petitioner, hence the said charges could not have been made a ground for initiating the present departmental enquiry. Further once the petitioner has already been punished for his negligent conduct, then initiating a departmental enquiry against him on the same charges and holding him guilty and asking him to deposit the fine again amounts to double jeopardy.

18. With regard to the charge No.4, i.e., the complaint made by Smt. Kiran Singh regarding petitioner's misbehaving and making racial remarks against her, it can be seen from the report

that the findings in the present departmental enquiry were based on the statements of Smt. Kiran Singh, Shri P.K. Sahu, Janak Singh, Mira Sahu and Ram Singh Rajput, recorded earlier on 21.08.2017 and 28.08.2017 in separate proceedings, held by internal complaint committee prior to the appointment of enquiry officer on 08.12.2017. These proceeding was held illegal and without jurisdiction by the Directorate of Women Empowerment and returned to the department on the ground of competency as the power/competency to enquire into complaint against the department head (petitioner), as per Section 6 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is with the Collector. It is pertinent to note that there is nothing on record to show that any enquiry was thereafter conducted by the Collector. These five persons were not named in the list of witnesses in the present departmental enquiry. On the contrary, the witnesses named in the list of witnesses supplied to the petitioner alongwith the charge sheet were never examined nor any opportunity to cross examine them was given to the petitioner. Such being the case, there was no evidence to support a valid finding of complicity of the petitioner. Therefore, the finding of the Enquiry Officer that 'in view of the oral and documentary evidence, the charges against the petitioner were proved', is erroneous and cannot be sustained.

19. Coming now to the second aspect whether procedure was properly followed, while conducting the departmental enquiry. As evident from Annexure P-59, Shri Osasri, a Class II Officer and junior to the petitioner was appointed as Enquiry Officer on 08.12.2017, contrary to the circular dated 02.03.1998 (Annexure P-60), as set out below, which requires that enquiry officer should be at least one cadre senior to the delinquent employee. The circular is reproduced as under :-

अध्याय – 6  
विभागीय जांच संबंधी निर्देश  
(वर्गीकरण नियम – 14 )  
शिकायतों की जांच  
मध्यप्रदेश शासन  
सामान्य प्रशासन विभाग  
मंत्रालय, वल्लभ भवन, भोपाल

क्रमांक एफ – 5-5/98/9-1 भोपाल, दिनांक 2 मार्च, 1998

प्रति,

शासन के समस्त विभाग,  
इत्यादि।

**विषय:- शिकायतों की जांच कराये जाने के संबंध में।**

**संदर्भ:-** इस विभाग का ज्ञाप 144/41/व्ही.आई.पी./97/1/9, दिनांक 9-7-97, इस विभाग के संदर्भित ज्ञाप दिनांक 9-7-97 के द्वारा यह निर्देशित दिये गये थे कि जिस अधिकारी के विरुद्ध शिकायत प्राप्त हुई हो, उसकी जांच उसके उत्तराधिकारी या समकक्ष अधिकारी से न कराई जाए। ऐसी जांच कम से कम एक स्तर वरिष्ठ अधिकारी से कराई जाए। परन्तु यह देखने में आया है कि विभागों द्वारा उपरोक्त निर्देशों का पालन न करते हुए अधिकारियों के विरुद्ध शिकायतें उनके उत्तराधिकारियों अथवा समकक्ष अधिकारियों की जांच हेतु भेजी जा रही हैं जो उचित नहीं हैं। भविष्य में अधिकारियों के विरुद्ध प्राप्त शिकायतों की जांच कम से कम एक स्तर वरिष्ठ अधिकारी से ही कराई जायें।

शिकायतों की जांच के संबंध में उपर्युक्तानुसार कार्यवाही सुनिश्चित की जाये।

किरण विजय सिंह  
प्रमुख सचिव

Record indicates that the objection dated 16.10.2018 raised by the petitioner in this regard were not considered and ignored and Mr. Osari continued as Enquiry Officer. The petitioner was asked to submit his brief by 24.05.2018, but record reveals that the report of Enquiry Officer dated 25.05.2018 was already prepared even before when reply was called from the petitioner/employee.

20. Rule 14 of the CCA Rules prescribes the procedure for imposing penalties. Proviso to sub-rule (1) of Rule 14 prescribes that no order imposing any of the penalties specified in clauses (v) to (ix) of Rule 10 shall be made except after an enquiry held, as far as may be, in the manner provided in this rule and rule 15 or in the manner provided by the Public Servants (Inquiries) Act, 1950, where such enquiry is held under that Act.

21. Proviso to sub-rule 2 provides that in the case of sexual harassment, the complaints committee established in each department/office shall be deemed to be enquiring authority appointed by the disciplinary authority for the purpose of these rules and the complaints committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the enquiry into the complaints of sexual harassment,



the enquiry as far as practicable in accordance with the procedure laid down in these rules.

22. Section 6 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides that the power/competency to enquire into the complaint against the department head, the same would be enquired by the Committee constituted by the local authority.

23. Sub rule (14) of Rule 14 provides that on the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Officer and may be cross-examined by or on behalf of the Government servant.

24. Rule 15 read with instruction 20 of General Book Circulars that after receipt of the enquiry officer's report, the competent authority should make a preliminary examination of the case to find out if the finding of the enquiry officer are correct and come to a definite conclusion on the charges. The government servant concerned should then be supplied with a complete and unabridged copy of the enquiry officer's report and he should be called upon to show cause within a reasonable period to be specified in the notice why the proposed punishment should not be

imposed. The precise penalty proposed to be inflicted must be indicated in the show cause notice and the final decision by the authority competent should be taken after taking into consideration the representation that may be made by the government servant.

25. It is settled position of law that in a departmental enquiry, the enquiry officer is not permitted to collect any material from outside sources during the course of enquiry, which was not made available to the petitioner/delinquent officer and make use of the same in enquiry proceedings. A perusal of the report of the Enquiry Officer, shows that there is absolutely no reference to any evidence or material, if any collected by him during the present enquiry but as aforesaid in para 17 and 18 for proving the charge against the petitioner, the enquiry officer has not only relied on the statement of witnesses examined during a previous enquiry by internal complaint committee, which was subsequently held illegal but also on cost imposed on him by CIC in another proceedings. This makes the entire enquiry proceedings improper and vitiated.

26. As further evident from record, the enquiry officer submitted his report on 25.05.2018 (Annexure R/3-4) and the disciplinary authority accepted the report vide order dated 28.06.2018 (Annexure P-78) and passed the order of dismissal.

There is nothing on record to show that before imposing major penalty, an opportunity of hearing or notice was given to the petitioner. A reading of the disciplinary authority's order reveals that petitioner's past record of misconduct, played a major role in determining his guilt in the present departmental enquiry despite lack of evidence. From the aforesaid, it is clear that procedure prescribed under Rules 14 and 15 of CCA Rules was not followed.

27. In a domestic enquiry, fairness in the procedure is a part of the principle of natural justice. However, that part is seriously lacking in present case. In view of the matter, it is held that enquiry proceedings are violative of the principles of natural justice.

28. In **Apparel Export Promotion Council Vs. A.K. Chopra (1999) 1 SCC 759**, the Supreme Court has observed thus :-

*" 16.The High Court appears to have overlooked the settled position that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to re-appreciate the evidence and come to its own conclusion, on facts, being the sole fact-finding authorities."*

An appellate order if in agreement with that of disciplinary authority may not be a separate order but it must show

that there is proper application of mind on his part as regards the compliance of procedural requirements. Unfortunately, in the present case, the appellate authority also without application of mind to this aspect confirmed the order of disciplinary authority.

29. The documents relating to the departmental enquiry leading to his dismissal from service and also the enquiry report submitted by the committee constituted pursuant to order dated 10.09.2020 filed by the petitioner are obtained under RTI Act and there is no reason to doubt their validity or genuinity. These documents indicate that the then RTI Officer, Mr. O.L. Osari, who incidentally was also the enquiry officer in the departmental enquiry conducted against the petitioner, had earlier refused vide letter dated 11.11.2022 (Annexure A-5) to supply the copy of report by five member Committee constituted pursuant to order dated 10.09.2020 on the ground that the committee has not submitted any report, though the same had been submitted by the committee on 18.12.2020 as evident from Annexure A-10.

30. In the instant case, the manner in which the departmental enquiry was initiated and proceeded with and the report that was submitted demonstrate that the enquiry officer as well as disciplinary authority had made up their mind to find the petitioner guilty any how and to impose the extreme penalty of

dismissal from service. The appellate authority also concur with the finding and order of punishment without any application of mind.

31. In view of the aforesaid and having regard to the record, the impugned order of dismissal dated 28.06.2018 and the appellate order dated 18.03.2019 cannot be sustained and are hereby quashed. The petitioner is held entitled to be reinstated with all consequential benefits, including arrears of salary, pay increase, increment etc. The exercise of determination of these benefits and payment of all the amounts shall be concluded within 120 days from the date of order, failing which interest at the rate of 6% per annum will be payable, on the delayed payment.

32. With the aforesaid direction, this petition is allowed.

**(Nandita Dubey)**  
**Judge**

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