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

Reserved on:- 30.08.2018
Date of Decision:-19.09.2018.

\+ W.P.(C) 3854/2017

SOM DUTT & ANR ..... Petitioners
Through: Mr. Nalin Kohli with Mrs. Harvinder Oberoi, Advocates

versus

COMMISSIONER OF POLICE & ORS ..... Respondents
Through: Mr. Anuj Aggarwal, ASC, GNCTD with Mr. Ravi Sehgal, Advocates for R-1 to R-4.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J

JUDGMENT

1. The present writ petition under Article 226/227 of the Constitution of India impugns the judgment dated 10.05.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi dismissing O.A. No.2050/2010, filed by the petitioners challenging the respondents' order dated 11.05.2010 whereunder the appeals filed by them against the penalty of permanent forfeiture of one year approved service with proportionate reduction in pay, were not only rejected but the penalty imposed on them

was enhanced from a period of one year to three years.

2. The facts relevant to decide the present petition are that the petitioners, both Constables (Executive) working with the Delhi Police, were posted at Police Station Mandawali, where one Sub-Inspector (SI) Badruddin was their superior officer. On 11.01.2003, the petitioners alongwith one Constable Kewal Singh, while working as members of the Special Staff of Police Station Mandawali, had accompanied SI Badruddin for investigating FIR No.17/2003, lodged under Section 38 Indian Penal Code, 1860, for which purpose they had visited the shop of one Mohd. Shaid alongwith two informers, Guddu and Pappu.

3. It transpired that Mohd. Shaid and his employee, Mr. Banwari Lal were brought to the Police Station and were released after about two to three hours. On 14.01.2003, on the statements made by the complainant, Mohd. Shaid and his brother-in-law Mobin Khan, a preliminary enquiry was initiated against the petitioners as also against Constable Kewal Singh and SI Badruddin on the following charges:-

> *" It is alleged that SI Badruddin, No. D-3024 (PIS No. 16900069) Ct. Kewal Singh No. 8947/DAP (PIS No. 28892823), Ct. Rajender No. 8223/DAP (PIS No. 289603343) and Ct. Som Datt No. 8985/DAP (PIS No. 28800564) while posted in police Station Mandawali and acted as a special staff of PS Mandawali, they were sent to the shop of Shri. Mohd. Shaid r/o. H. No. 1216, Gali No. 48, Jafrabad, Delhi alongwith two informers Guddu and Pappu. They brought Shri Mohd. Shaid and his employee Banwari Lal at PS Mandawali and beat them mercilessly. They took Rs.10,000 as a bribe and relieved them in midnight on 12.01.2003, they did not make any DD entry in the Roznameha of PS Mandawali in this regard.*

> *The above Act on the part of above mentioned police officials amounts to gross misconduct, negligence, carelessness and dereliction in the discharge of their official duty which renders them liable for department action under the provision of Delhi Police (Punishment & Appeal) Rules, 1980"*

4. Based on the aforesaid charges, on 09.06.2004, a Disciplinary Enquiry was initiated against the petitioners, Constable Kewal Singh and SI Badruddin. Vide order dated 23.06.2006, the aforesaid enquiry resulted in the imposition of a penalty of withholding the next increment of the petitioners temporarily for a period of one year. Aggrieved by the penalty imposed by the Disciplinary Authority, the petitioners approached the Appellate Authority, which vide order dated 30.01.2006 maintained the penalty order imposed by the Disciplinary Authority.

5. Aggrieved by the aforesaid order dated 30.01.2006 passed by the Appellate Authority, the petitioners filed O.A. No.694/2006, which was partly allowed by the Tribunal by quashing the penalty order of the Disciplinary Authority and the Appellate Authority on the ground of violation of Rule 15(ii) of the Delhi Police (Punishment and Appeal) Rules, 1980 as it was found that the mandatory prior approval of the Competent Authority had not been obtained before the initiation of the Departmental Enquiry against the petitioners. However, liberty was granted to the respondents to initiate proceedings against the petitioners afresh from the stage of obtaining prior approval of the Additional Commissioner of Police, who was the Competent Authority.

6. Pursuant to the Tribunal's orders, the respondents initiated another enquiry against the petitioners. In this Departmental Enquiry, six prosecution

witnesses were examined, including the complainant Mohd. Shaid, his brother-in-law, Mr. Mobin Khan and his relative, Mr. Zahid Khan in addition to three defence witnesses. Based on the evidence adduced in the enquiry both the petitioners and SI Badruddin were found guilty by the Enquiry Officer, whereas Constable Keval Singh, who had also accompanied the petitioners to the complainant's shop, was 'exonerated'. Consequently, by a common order dated 21.10.2009, a penalty of temporary forfeiture of one year of approved service was imposed on the petitioners and SI Badruddin.

7. Aggrieved by the punishment imposed on them, the petitioners and SI Badruddin preferred a Departmental Appeal, wherein after coming to a conclusion that the penalty imposed on the petitioners was not commensurate with the gravity of misconduct conducted by them, the Appellate Authority vide its order dated 11.05.2010 enhanced the said penalty to forfeiture of three years of approved service permanently, entailing proportionate reduction of their pay, after giving due opportunity to them to reply to a show-cause notice.

8. Aggrieved by the penalty imposed on them by the Disciplinary Authority as enhanced by the Appellate Authority, the petitioners preferred O.A. No. 2050/2010 before the Tribunal, which was dismissed by the impugned judgment dated 16.04.2012, *inter alia* holding that it was not for the Tribunal to go into the sufficiency of evidence.

9. Aggrieved by the rejection of their O.A No.2050/2010, the petitioners preferred a writ petition in the High Court, registered as W.P(C) No.

6290/2012 which was disposed of vide order dated 23.04.2013 by setting aside the Tribunal's order dated 16.04.2012 and remanding the matter back for fresh adjudication on merits.

10. It may be noted that while remanding the matter back to the Tribunal, on perusing the testimony of the complainant the High Court had observed as under:-

> *" 6. We have perused the testimony of the complainant PW-2. We have also perused the complaint made by him proved at the enquiry as PW-1/A and his earlier statement made at the stage of summary of allegations being proved as Exhibit PW-1/B.*
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> *7. In his statement recorded at the enquiry PW-2 has simply stated that SI Badruddin along with the three constables had brought to the police station.*
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> *8. He does not depose that the three constables remained present when SI Badruddin statedly extracted `10,000/- from him. In Exhibit PW-1/A and Exhibit PW-1/B no specific role of either of three constables is alleged.*
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> *9. Whenever more than one person faces joint enquiry, one has to carefully analyse the evidence even at a domestic enquiry for the reason care has to be ensured that tainted evidence qua one is not used to brush the others. More so, when a senior and a junior are facing a common domestic enquiry.*
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> *10. Illustratively, an Inspector may tell his subordinate officers to accompany him because he has some secret information about the presence of some accused at a particular place. Upon being apprehended the three police officers return to the police station. It is the senior police officer who is having the custody of the accused and it is for him to complete the necessary formalities of making*

entries in the daily diaries. It is he who takes the accused to the interrogation. Unless there is evidence that the constables were present along with him in the interrogation room; and if the allegation is of extorting money, unless it is proved that extortion took place in their presence, it would be difficult to hold guilty the junior officers with reference to the wrong committed by the senior officer.

11. We have written aforesaid only to illustrate and bring home a logic.

12. It is trite that a Tribunal is the first forum where evidence has to be noted with care. Suffice would it be to state that it is the duty of the Tribunal to highlight the same. It would be a completely misdirected approach by a Tribunal to write that it is not the job of a Tribunal to re-appreciate evidence in a case where the case projected is that it is a case of no evidence. Appreciation of evidence would mean to determine its creditworthiness and its weight. But a finding relating to existence of evidence or no evidence is mechanical in nature by referring to said part of the evidence which has something to do with the finding of guilt."

11. After hearing arguments in the matter afresh, vide the impugned judgment, the Tribunal has once again dismissed the petitioners' O.A No.2050/2010 by observing that the concerned Authorities had examined the matter in the right perspective and therefore it was not for the Tribunal to re-appreciate the evidence and to consider the adequacy of the evidence or reliability of the evidence laid in the departmental proceedings.

12. Aggrieved the dismissal of their O.A, the petitioners have preferred the present writ petition.

13. Arguing for the petitioners, Mr. Nalin Kohli, learned counsel for the

petitioners, at the outset submits that even though while remanding the matter back the High court had specifically observed that it would be completely misdirected to re-appreciate evidence in a matter where the plea taken is that it is a case of no evidence, still the Tribunal has failed to consider the said plea taken by the petitioners that this was a clear case of no evidence at all. He submits that the Tribunal has failed to appreciate that even in a department enquiry, the decision arrived by the enquiry officer must be on basis of some evidence and can't be based on mere surmises and conjectures. He submits that the Tribunal has proceeded on an erroneous presumption that it does not have the jurisdiction to examine as to whether there was any evidence at all before the inquiry officer to hold the petitioners guilty.

14. In support of his contention that there was absolutely no evidence against the petitioners in the Departmental Enquiry, learned counsel drew our attention to the statement of the five prosecution witnesses as also the three defence witnesses and contends that the same clearly show that none of them including the complainant himself had at any stage alleged that any of the two petitioners were involved either in the alleged beating of the complainant, or in receiving a bribe of Rs. 10,000/-, allegedly paid to S.I. Badruddin.

15. Learned counsel for the petitioners placed reliance of the decision of the Apex Court in the cases of ***Roop Singh Negi Vs. Punjab National Bank & Ors. (2009) 1 SCC (LS) 398 & State of Uttar Pradesh & Ors. Vs. Saroj Kumar Sinha (2010) 2 SCC 772*** to contend that a Departmental Enquiry cannot be treated as casual exercise and an employee can be held guilty only

if the charges are proved on basis of the evidence led in the enquiry.

16. He further submitted that merely because the petitioners had accompanied their superior officers to the shop of the complainant as a part of the team, cannot be a ground to hold them guilty of either misbehaving with the complainant or receiving any bribe from him. Placing reliance on Section 60 (e) of the Delhi Police Act it was canvassed before us that it was the duty of the petitioners to obey the orders of their superior officers and therefore they could not be held guilty for any alleged misconduct of their superior officers.

17. Mr.Kohli, learned counsel further submitted that instead of examining the plea of the petitioners that it was a case of no evidence, the Tribunal has rejected the O.A by merely stating that the enquiry officer had appreciated and evaluated the evidence of the parties in the right prospective and discussed in detail, the evidence produced by the parties. He submitted that a perusal of the impugned order itself shows that the approach of the Tribunal is contrary to the well settled legal position that even in a departmental enquiry, a decision as to the guilt of an employee has to be arrived at on the basis of some evidence. It was argued that in the present case, despite the absence of any evidence to link the petitioners with the charges levelled against them, they have been held guilty by the enquiry officer with a pre-determined mind.

18. On the other hand, Mr.Anuj Aggarwal, learned ASC appearing for the respondents while supporting the impugned judgment, contends that once the Departmental Authorities had after due appreciation of evidence held the

petitioners guilty, it was not open for the Tribunal to re-appreciate the same. He therefore contended that the Tribunal was fully justified in refraining from interfering with the well reasoned findings of the Enquiry Officer. He also produced the original file of the Departmental Enquiry which has been perused by us in order to examine the original complaint made by Mohd. Shaid as also the statements recorded in the preliminary enquiry.

19. Having considered the rival contentions of the parties we find merit in the contention of the learned counsel for the petitioners that an enquiry officer acts like a *quasi* judicial authority and while performing this quasi judicial function, it is incumbent upon him to carefully examine the evidence led before him and before holding a delinquent employee guilty, he is expected to ensure that the evidence led in the enquiry, is sufficient to hold that the charge is proved.

20. In this context, it would be apt to refer to the case of Roop Singh Negi (supra), the relevant para 10 & 17 whereof read as under:-

> *"**10. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof.** Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence. We have noticed hereinbefore that*

the only basic evidence whereupon reliance has been placed by the Enquiry Officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. Appellant being an employee of the bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the Enquiry Officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

17. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the Criminal Court on the basis of self-same evidence should not have been taken into consideration. ***The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the Enquiry Officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the Enquiry Officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof."***

In this regard it would also be appropriate to refer to the decision in the case of Saroj Kumar Sinha (supra), the relevant paras 26 to 28 whereof read as under:-

> *"**26. An inquiry officer acting in a quasi judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved.** In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the Respondents.*
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> ***27.** Apart from the above by virtue of Article 311(2) of the Constitution of India the departmental inquiry had to be conducted in accordance with rules of natural justice. It is a basic requirement of rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceeding which may culminate in a punishment being imposed on the employee.*
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> ***28.** When a department enquiry is conducted against the Government servant it cannot be treated as a casual exercise. **The enquiry proceedings also cannot be conducted with a closed mind. The enquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service."***

21. In the light of the aforesaid principles enunciated by the standing counsel, we may now refer to the conclusion of the enquiry officer as also the evidence of the prosecution witnesses which formed the basis for holding the petitioners guilty in the enquiry. As noted hereinabove, five prosecution witnesses were examined in the enquiry out of which two were formal in

nature. Before proceeding further, the statements of the said witnesses forming a part of the enquiry report, are being referred to hereinbelow *in extenso*:-

> ***"PW-2 Mhod. Shaid s/o Mohd.Saddique R/O H.No.1216 Jafrabad, Seelampur Delhi.***
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> *This PW stated that he has a kabari shop in Lastend Apts. New Ashok Nagar for the last 15-16 Years. On 11.01.03, at about 9:30 PM S.I. Badrudddin, Ct. Kewal Singh, Ct. Rajender Singh and Ct. Som Dutt came to his shop along with police informers Guddu and Pappu and at their instance the said police officials took him and his servant Banwari Lal Rickshaw puller to P.S Mandawali. In the P.S. they interrogated them and in the meantime his real brother Zahid and brother in law Mobin Khan also came there. The police officials had suspicion as he was working as a 'Kabari' and that was why they were brought to P.S. and interrogated. After interrogating for 2-3 hours they were allowed to go. Guddu and Pappu had enmity with him and used to make false complaints against him in P.S. and he had strong suspicion that only at their instance they were brought to P.S. On 14-01-2003 he made a complaint regarding this and identified the photocopy of the same which was on file and it was marked as Ex PW-2/A(1). His statements dt. 4-8-03 whose photocopies are attached were marked Ex PW-2/B (1, 2, 3).*
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> *During cross-examination the PW, on being asked that on 11-1-03 when they were brought to P.S. and after some time his brother and brother in law came, whether in between this any other person came there HC replied that no person related to him came there. At this point E.O. clarified that in his complaint dated 14-1-03 he had stated that at the instance of informers Guddu and Pappu, S.I. Badruddin and staff brought them to P.S. and gave then beatings and later on allowed to go after paying Rs.10,000/-. The same fact was there in his statement dated 4.8.03 whether the facts narrated were true. To this the P.W. replied that this was true that his brother Zahid paid Rs.10,000/- for getting him and his servant released. On*

being asked that he had stated in his above statement that Guddu and Pappu, informers used to make false complaints in P.S. against him and because of them he had made that false complaint. The P.W. replied that due to the excesses of S.I. Badurddin. He made complaint on 14.01.03 and gave subsequent statements.

PW-3 MOBIN KHAN s/o sh. CHOTTE KHAN R/O B-145, NEW ASHOK NAGAR, DELHI

This P.W. stated that about 6-6 ½ years ago S.I. Badruddin along with other police officials present today took his brother in law Mohd. Shaid to PS.Mandawali and on getting this information he went to P.S. with Zahid (brother of Shaid) in the night itself. There he came to know that police officials had given beatings to Shaid and later on he gave Rs.10,000/- to Zahid for giving to the police officials for release them. At that time the servant of Shaid, Banwari Lal was also present there and he was also released with Shaid. His statements in this connection was taken on 5.8.03 and the photocopy of the same were on file which was marked Ex. PW-3/A(1-2).

During cross examination the PW on being asked who told him that Shaid had been taken to P.S. Mandawali by police officials. He replied that one Rajesh, his neighbour, told him about this. To the question that with whom he went to P.S. he replied that he went to P.S. with Zahid. The brother of Shaid. Whether the money was paid in front of him to any police official he replied that no money was paid in his presence. To the question that where did he go after getting Shaid released, he replied that they went to their home. On further questioning that during their stay in P.S. whether he and Zahid were together all the time, the PW replied that he doesn't know as a lot of time had elapsed.

PW-5 SH. ZAHID S/O MOHD. SADDIQUE R.O. H.NO. 1216 GALI-1-8 JAFFRABAD SEELAMPUR DELHI.

This PW stated that about 6 years ago he came to know

that his brother Shaid and his servant Banwari had been taken to P.S. Mandawali by police officials. Later on he went to P.S. Mandawali to enquire about his bro5ther, where police released them afterwards. Now he doesn't remember why his brother was taken to P.S. and he can't identity the police officials involved as he met with an accident consequently lost memory.

During cross examination on being asked how did he come to know that Shaid was taken to P.S. Mandawali, the PW replied he doesn't remember. To the question who accompanied him to P.S. and who out of the present police officials was present in P.S. at that time the PW replied that he doesn't remember who went to P.S. with him and who met him at P.S. To the question that did any one demanded money in order to release that did you pay any money to police to get your brother released, he refused to have paid any money to any one. On being asked whether his brother Shaid had complained against any police official earlier also, the PW showed ignorance. I.O. sought clarification that in his statement dt. 5.8.03 this PW had stated that in order to get his brother Shaid and his servant Banwari Lal released he went to P.S., where Pappu and Guddu were present with SI Badruddin and police demanded Rs.15,000/- to release Shaid and Banwari. On this he and brother in law of Shaid brought Rs.10,000/- and gave to SI Badruddin and 2-3 other police officials were also present there. To this PW replied that he made statement dt 5.8.03 at the instance of Shaid and his advocate and identified his signatures on the photocopy of statement which was marked PW-5/A. On confronting with his statement that he had stated that Shaid and Banwari were beaten by police and they sustained injuries, the PW showed his ignorance. On being asked whether he was deposing of his free will or under duress he replied that he was deposing his own free will and without duress."

Discussion of Evidence:-

(i) It is correct that DD No.8A and DD No.17 A dt. 11.01.2003 were marked to SI Badruddin to enquiry and he made his arrival vide DD No.28 A dated 11.01.2003 at 9:40 pm after request proceedings and investigating of case FIR No.17/2003 u/s 380 IPC P.S. Mandawali Delhi. He did not mention in the arrival entry about briefing of Sh.Shaid and Banwari Lal etx. They were called for investigation and interrogation in the theft case by the defaulter SI Badruddin.
(ii) Complaint Mohd. Shahi and Banwari Lal were taken to the police station earlier. His brother Jahid (PW-5) and brother in law Mobin Khan (PW 3) reached there after receiving information to them later on, other public person came there afterwards. SI Badruddin had mentioned that i.e. CD No.1 dated 11.01.2003 in case FIR No. 17 of 2003.
(iii) Complainant stated also that he made his complaint dated 14.01.2003 and gave statements after words due to the atrocities/excesses by SI Badruddin PW 5 Jahid stated that he lost his memory due to an accident but he remember that he went to P.S. Mandawali to get his brother released. PW 6 went to P.S. Mandawali to get his brother released. PW-6 Banwari Lal and he however not stated about the money transaction.
(iv) DW No.2 Tahir Amin and DW No.3 Smt.Amna Khatoon reached there after Jahid and Mobin Khan, who were demanded money for the release of Mohd Shaid and Banwari Lal.
(v) This point has been discussed at S.No.(ii) above.
(vi) He requested that the allegations are base less so charge may be dropped.

22. On examining the statement of the aforesaid witnesses, we find that none of them had even attributed any role to the petitioners, except for stating that on 11.01.2003, they had accompanied their superior officer, S.I.Badruddin as a part of the investigation team to the shop of the complainant. In order to satisfy ourselves as to whether there is any merit in the plea of the petitioners that it is a case of no evidence, we have also

examined the original complaint dated 14.01.2003 filed by the complainant with the respondents as also his employee's statement, as recorded in the preliminary enquiry. Having examined the evidence led in the enquiry, we have no hesitation in coming to the conclusion that the enquiry officer has acted in a most mechanical and casual manner and the inferences drawn by him were not at all supported by any evidence. It appears that instead of ensuring that his conclusions are based on evidence which would prove the guilt of the petitioners, the enquiry officer acted with a pre-determined mind so as to hold them guilty. In our view for the aforesaid reasons, the enquiry report cannot be sustained and stand vitiated.

23. We may next refer to the impugned judgment. On perusing the same, we are constrained to observe that despite the High Court clearly holding in remand order dated 23.04.2013, that the Tribunal being the first forum, where the evidence has to be appreciated and it is the duty of the said forum to examine whether it is case of no evidence, in its impugned judgment, the Tribunal has simply brushed aside the pleas of the petitioners by stating that it is not open for it to re-appreciate the evidence led in the Departmental Enquiry. In our view, the Tribunal has failed to draw a distinction between a situation where re-appreciation of evidence is required as against a situation, where a case of no evidence is pleaded. In the present case, it has been the consistent stand of the petitioners that the findings of the enquiry officer are based on no evidence. We are therefore unable to fathom as to why the Tribunal did not consider the aforesaid plea in its proper prospective. In view of the above discussion, we are not persuaded to concur with the view expressed in the impugned judgment and the same is accordingly quashed

alongwith the orders dated 11.05.2010 passed by the Appellate Authority and the initial penalty order dated 21.10.2009, passed by the Disciplinary Authority.

24. Having come to a conclusion that the enquiry report as also the original penalty order and the Appellate order are liable to be quashed, we may now deal with the issue as to whether in the facts of the present case, the matter should be remanded back to the disciplinary authority for conducting a *de novo* enquiry against the petitioners in accordance with law from the stage of issuance of the charge sheet. The record reveal that the charge sheet based on which the penalty was imposed on the petitioners relates to an incident of 11.01.2003 i.e. more than 15 1/2 years ago, during which period, the petitioners have not only suffered the penalty, which in our opinion was wholly unwarranted, but have also had to approach the Tribunal thrice. Even the present petition is the second round of litigation before this Court. In any event, having examined the evidence led not only during the Departmental Enquiry, but also in the preliminary enquiry and keeping in view the time period which has elapsed since the date of the incident, we are convinced that ordering a fresh departmental enquiry at this stage, would be highly prejudicial to both the petitioners and the respondents. Therefore, no useful purpose shall be served in remanding the matter back to the respondents, for holding de novo enquiry.

25. For all the aforesaid reasons, the impugned orders dated 10.05.2016 of the Tribunal as also orders dated 11.05.2010 & 12.03.2010 passed by the respondents are quashed and set aside. The writ petition is allowed with a direction to the respondents to grant all the consequential

benefits to the petitioners within a period of 12 weeks from today. Parties are left to bear their own costs.

REKHA PALLI
(JUDGE)

HIMA KOHLI
(JUDGE)

September 19, 2018
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