

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE
ORIGINAL APPLICATION NO.170/00417/2019
DATED THIS THE 05th DAY OF MARCH, 2020
HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER
HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Dr.(Mrs) Sania Akhtar
W/o. Mohammad Zubair
Aged about 59 years
Working as Principal Director
(Senior Principal Scientist)
o.o: Central Institute of Plastics Engineering & Technology
SARP, APDDL, No.488-B
Block-2, KIADB Building
14th Cross, Peenya 2nd Stage
Bangalore-560 058.Applicant

(By Advocate Sri Izzhar Ahmed)

Vs.

1. The Director General
Central Institute of Plastics Engineering & Technology
Ministry of Chemical & Fertilizers
Head Office, Guindy
Chennai-32.
2. Union of India
Through the Secretary
Department of Chemical & Petrochemicals
Ministry of Chemicals & Fertilizers
Dr.Rajendra Prasad Road
"A" Wing, Shastri Bhavan
New Delhi-01.Respondents

(By Advocate Sri M.Vasudeva Rao, Sr.PC for CG)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The factual matrix of the case is as follows:

The applicant was appointed to the post of Manager on 12.7.1993 and was promoted to the post of Chief Manager. Further she was promoted to the post of Deputy Director and was posted to Central Institute of Plastics Engineering &

Technology(CIPET), Mysore on 12.7.2007. The 1st respondent(Disciplinary Authority)(DA) had issued a charge memo dtd.18.1.2012(Annexure-A1) against the applicant on the following articles of charge:

Article-I: *Dr.Mrs.Sania Akthar while functioning as Deputy Director/Head CIPET Mysore during the period August 2007 to July 2008 was grossly negligent, lacked devotion to duty, failing to ensure the integrity of her subordinates which resulted in Mr.H.N.Aravind the then Tech Gr.I of CIPET Mysore Center (subsequently dismissed from service) in fraudulent diverting 151 cheques/demand drafts, amounting to Rs.40,30,205/- drawn in favour of CIPET Mysore to Mr.H.N.Aravind's Personal Current Account No.19 maintained at M/s Cauvery Kalpatharu Grameena Bank, Hebbal Layout Branch, Mysore. This illegal account was fraudulently opened and operated by Mr.H.N.Aravind in the name of a non existing firm M/s CIPET Poly Consulting Engineers (CIPET Mysore) with his residential address.*

This illegal diversion of 151 instruments (Rs.40,30,205/-) and consequent misappropriation by H.N.Aravind took place due to glaring lapses like mala fide non entry cheques/demand drafts in the tapal register on several locations, deliberate maintenance of the said register in loose sheets and deliberate non supervision of Mr.H.N.Aravind by Dr.Sania Akthar.

Article-II: *That during the aforesaid period and while functioning in the aforesaid office the said Dr.Sania Akthar had colluded with H.N.Aravind and facilitated misappropriation of money received by CIPET Mysore as detailed hereunder:*

Pro forma invoice No.PTC/2007-2008/026C dated 26-04-2007 for Rs.49,214/- was issued to M/s Jain Irrigation systems, Jalgaon by H.N.Aravind. They had issued a HDFC Cheque No.856451 dt.09-02-08 for Rs.48,102/- (Rs.49,214 less 1112/- TDS) and this amount was realized in CA-19 on 27-02-2008. For this transaction Dr.Sania Aktar had issued Test Report No.3758 (s.No.5834, 5835, 5836, 5837, 5838, 5839) Dated 17-12-2007.

The above acts of Dr.Sania Akthar confirms her connivance which resulted in H.N.Aravind misappropriating the above sum of Rs.48,102/- showing her lack of integrity, devotion to duty and her prejudicial behaviour against the interest of the institute.

Article-III: *That during the aforesaid period and while functioning in the aforesaid office the said Dr.Sania Aktar had approved payment of full salary for the period August 2007 to July 2008 to Mr.H.N.Aravind even though he was unauthorizedly absent for period of 46 days during the said period, resulting in a loss of Rs.19,591/- to CIPET which clearly shows that Dr.Sania Akthar failed to maintain absolute integrity, devotion to duty and acted in a gross and negligent manner.*

By the above acts, Dr.Sania Akthar had failed to maintain absolute integrity, devotion to duty, and acted in a manner unbecoming of a CIPET Employee. She also acted in a gross and negligent manner, acted

dishonestly and had failed to ensure the integrity and devotion to duty of her subordinates and acted in a manner prejudicial to the interests of the Institute in terms of Rule 2.1 (a) (b) (c) & 2.2(a) read with 2.4 (01) (09) & (12) of CIPET – Conduct and Discipline Rules.

2. The applicant filed defence reply dtd.9.3.2012(Annexure-A3) against the charge memo and requested to drop the charges. The 1st respondent appointed Inquiry Officer(IO) who is in the same rank as that of the applicant and Presenting Officer(PO) who is junior to the applicant in the designation, violating Rule 14(5) (c) of Rule-1965 vide order dtd.18.4.2013(Annexures-A4 & A5). The IO had conducted regular inquiry on 11.6.2013(Annexure-A6) without conducting preliminary inquiry. The IO and PO called the employees of CIPET in the regular departmental inquiry on 27.11.2013, 7.1.2014 & 14.3.2014(Annexures-A7-9). On 23.4.2014(Annexure-A10), the IO had submitted written brief of PO to the applicant to submit her written brief within 10 days. Then the applicant submitted her defence reply on 12.5.2014(Annexure-A11) against the report of PO. The 1st respondent communicated the IO's report dtd.15.7.2014(Annexure-A12) to the applicant to submit her representation within 15 days. The applicant submitted her defence reply on 31.7.2014(Annexure-A13) & on 18.5.2015(Annexure-A14). The 1st respondent without considering the facts on record and entire procedures in the regular inquiry, had passed order dtd.15.6.2015(Annexure-A15) imposing the penalty of reduction to a lower stage in the time-scale of pay by two stages from Rs.58,050/- per month to Rs.54,200/- per month in the Pay Band & Grade Pay of Rs.37400-67000 & Rs.8900(Grade Pay) for a period of one year with cumulative effect with effect from 15.6.2015. And she will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing her future increments of pay permanently. She will be eligible for regular annual increments, only after the

completion of one year from the date of order from the pay of Rs.54,200/- . The applicant submitted appeal dtd.27.7.2015(Annexure-A16) to the appellate authority who vide order dtd.3.11.2015(Annexure-A17) upheld the penalty order of the 1st respondent. Aggrieved by the same, the applicant filed the OA.No.514/2016 before this Tribunal which allowed the OA on 2.12.2016 quashing the appellate authority's order and remitted the matter back to the appellate authority to pass a reasoned and speaking order(Annexure-A18). In pursuance of the said order, the appellate authority(2nd respondent) issued order dtd.27.3.2017(Annexure-A19) confirming the penalty imposed by the DA. Aggrieved by the same, the applicant has filed the present OA seeking the following relief:

- a. Set aside the major charge memo CIPET/HO/SA/DIS/2011-12 dated 18.01.2012 (Annexure-A1), report of the presenting officer no.HO/INQ/SA/WB/2014 dated 23.04.2014 (Annexure-A10); report of the inquiry officer no.HO/Admn & Pers-II/SA/Findings-IR/2014/341 dated 15.07.2014(Annexure-A12), penalty order no.HO/PAF/SA/Final order/2015 dated 15.06.2015(Annexure-A15) and appellate order C-16/1/2015-Org.Estt (FTS: 8149) dated 27.03.2017(Annexure-A19) as illegal, without facts on records and against the parameters of the rules of law.*
- b. Direct the respondents to refund the recovered amount from pay under penalty with interest of 18% from the date of implementation of the penalty till the final payment with all consequential benefits, and*
- c. Grant relief or reliefs as deemed fit and proper, with costs, in the interest of justice and equity.*

3. The applicant submits that on promotion she was transferred from Lucknow to Mysore where she joined on 12.7.2007 and thereafter she had taken medical leave in the month of October 2007 and joined in November 2007. The Tapal was being entered in loose sheets from 1.4.2004 by Mr.Reddy and the same was in the knowledge of Manager(Accounts) who was also in charge of administration. This practice was not objected by any one even the vigilance officer also has not objected this practice. No written procedure or guidelines was

available in CIPET, Mysore with regard to entry of Tapal. The applicant stopped this practice and changed the entry of Tapal to the register in July-2008. Shri Arvind opened one account in the name of CIPET, Mysore on 15.10.2005 i.e. about 2 years prior to the joining of the applicant dtd.12.7.2007. The fraud was detected after transfer of Arvind from Testing department by the applicant on 2.4.2008. From April 2007 to March-2008, more than 300 works were opened and test certificates issued by the testing department. The applicant signed on the test report on 17.12.2007 in good faith only and with a view of facilitating the customer in the interest of the organisation. The task of ascertaining and verifying the attendance of every employee is that of Administrative Section and on verification, salaries were disbursed by the Accounts Section under the approval of the Centre head. The applicant was never reporting officer of Sri Arvind at any point of time during August-2007 to July-2008 and the allegation of deliberate and non-supervision of Mr.Arvind is baseless because he reported to Mr.R.P.Poovannan and further to Mr.B.N.Mohana. The Accounts Section also not verified the attendance of the administrative section prior to the disbursing of the salary. The applicant submits that the DA had not applied his mind before issuing major charge memo and memo is without any reporting authority and has not delegated powers to take departmental procedure. The 11 documents listed in major charge memo in Annexure-III have not proved the integrity and negligence of the applicant attached to the post and they only indicated the fraudulent act of Sri Arvind. Therefore the 1st respondent failed to act as a quasi judicial functionary in her case as she was a whistle blower. As per the list of documents at Annexure-III of the charge memo, the document-7 is related to Jain irrigation cheque for Rs.48,102/- which was realized in account of Arvind on

27.2.2008. The 1st respondent failed to establish the connivance between the applicant and Sri Arvind. Regarding test report dtd.17.12.2007, the applicant signed only one document on this report in good faith because the concerned officer was on leave. The IO who is in the same rank of the applicant was wrongly appointed under Rule 14 (2) of CCS(CCA) 1965 since the charge memo was not initiated under Rule-14 of CCS(CCA) Rule-1965. The PO in his report dtd.23.4.2014 submitted all the charges as proved, whereas the IO in his report dtd.15.7.2014 submitted that the Article-I was proved, Article-II was proved beyond reasonable doubt which is not applicable in departmental proceedings and Article-III was not proved. The applicant pointed out the procedural lapses in framing the charges, appointing IO & PO, examining the witnesses and initiation of major penalty proceedings. The respondents have not considered para-12 of DOPT OM dtd.14.5.2007(Annexure-A27 & 28) while imposing the penalty which is illogical and against the principles of natural justice and as a financial loss till her retirement. There is no rule prescribed for cumulative penalty in permanent nature till retirement. The respondents have not considered the appeal properly. Thus the respondents have violated Articles 14, 309 & 311(2) of the Constitution and violated Rule 14 of CCS(CCA) Rule-1965. The applicant has relied on the judgments of the Hon'ble Apex Court in the case of *UOI vs. J.Ahmed*(1979(2)SCC 286), *State of Punjab vs. Chaman Lal Goyal* (1995 SCC (2) 570), *D.Subramanyan Rajadevan* (AIR 1996 SC 2634), *Bachhittar Singh vs. State of Punjab* (AIR 1963 SC 395), *UOI vs.A.N.Suxena* (AIR 1992 SC 1233), *Tarun Kumar Banerjee*(AIR 2000 SC 2028), *Registrar Vs. Uday Singh* (AIR 1997 SC 2288), *Apparel Export Promotion Council vs. A.K.Chopra* [(1991) 1 SCC 759], *RP.Bhatt vs.UOI* [(1986 2 SCC 651] and *Kaushlesh Narain Singh vs.*

Upper Aayukt, Pratham Mandal, Allahabad[(2003) 4 UPLBEC 3149(Alld.)] in support of her contention. The applicant relied on the identical cases decided by the Principal Bench of this Tribunal in OA.No.1804/2012 in the case of *C.M.Sinha vs.Dept. of Revenue, OA.No.220/2006* in the case of *G.P.Sewali vs. UOI and TA.No.120/2013* in the case of *Dr.S.K.Das vs. Secy., Min. of Chemical & Fertilizers, N.Delhi* and the Bombay Bench of this Tribunal in the case of *Durga Prasad Kumar vs. UOI*(SLJ 2010(3) CAT 311). She also relied on the similar cases of *R.Dhakshinamurthy vs. Department of Posts in WP.No.28462/2013* decided by the Hon'ble High Court of Madras and *Ramesh Kumar Maheshwari vs. Director General, Central Institute of Plastics Engineering and Technology(CIPET), Lucknow* in *WP.1193(s)/2005* decided by the Hon'ble High Court of Allahabad.

4. Per contra, the respondents have submitted in their reply statement that the Central Institute of Plastics Engineering & Technology(CIPET) was established in 1968 at Chennai under the aegis of Min. of Chemicals & Fertilizers. It is an autonomous society and is headed by Director General who is stationed at the Head Office, Chennai. CIPET carries out testing of raw materials and plastic products as per various national & international standards. It also carries out third party/pre-delivery inspections on behalf of various governments, while so one Sri H N Arvind, Technician(Gr.I) attached to CIPET, Mysore had entered into a criminal conspiracy with the officials of CIPET, Mysore and DDs/Cheques issued in favour of 'CIPET Mysore' were credited into a fraudulent current account No.19 opened in a fictitious name of M/s.CIPET Poly Consulting Engineers'(CIPET Mysore) w.e.f.15.10.2005 in Cauvery Kalpataru Grameena Bank, Hebbal Branch, Mysore. The said Arvind had fraudulently diverted 573

nos. of DDs/Cheques for a total sum of Rs.1,25,71,209/- issued by various clients of CIPET towards testing charges/test certificates in favour of CIPET Mysore thereby causing loss to CIPET and wrongful gain to himself and others. Further, the officers namely Dr.B.Ramaraj, Sr.Tech. Officer, Shri R Poovai Poovanan, Technical Officer have directly participated in the fraudulent activities of Sri Arvind. The officers namely Sri KARL Murthy, Chief Manager(Project) and the applicant Dr.Sania Akhtar, Deputy Director of CIPET Mysore have neglected their work at CIPET Mysore and have signed in inspection reports and also facilitated Sri Arvind to divert and also deposit the DDs/Cheques to the fraudulent account maintained by him. The CBI Bangalore had investigated the matter and charge sheeted against Sri H N Arvind, his wife, Dr.B.Ramaraj and Sri Poovai Poovanan and also recommended Regular Departmental Action(RDA) for major penalty against CIPET officials Dr.B.Ramaraj, R.Poovai Poovanan, M V Raman Rao, KARL Murthy, Dr.Sania Akhtar, Sudhakar Reddy, V.Mugundan and K C Manohara. The CVC after perusing the report of CBI has advised CIPET Management to initiate disciplinary proceedings against the above persons for major penalty. As such the Disciplinary Authority(DA) after receiving the advice of CVC has initiated RDA against the above persons and awarded various punishments. In the inquiry against the applicant, it is well established that only due to glaring lapses on her part and deliberate non-supervision of her subordinates especially Sri H N Arvind, Sri H N Arvind diverted 151 DDs/Cheques during the tenure of applicant which belong to CIPET Mysore and deposited the same in his fraudulent account to the tune of Rs.40,30,205/-. Since this is a serious allegation and for the proved misconduct, DA after due enquiry imposed the punishment of 'reduction to a lower in the time scale of pay by two

stages for a period of one year with cumulative effect. Though the applicant alleged that the fraud was being perpetrated even prior to her joining in Mysore centre and she has no exposure or training in administration and accounts area and only her PA with collusion of testing department's staff has done this fraud, in the inquiry it is established that only due to her glaring lapses and deliberate non-supervision, these illegal acts were done by Sri H N Arvind. It is only during the period of 8 months of her tenure, 151 cheques/DDs amounting to Rs.40,30,205/- have been diverted to the fraudulent account of Sri Arvind. Her allegation that DA had not applied his mind before issuing major charge memo and memo is without any reporting authority and has not delegated the powers to take departmental procedure are all without any substance. Because CIPET is an autonomous society and it has its own administrative manual and Discipline and Conduct rules and the charge memo issued to the applicant is as per rules of CIPET conduct and discipline rules. The allegation that the 11 documents have not proved the integrity and negligence of the applicant attached to the post and they only indicated the fraudulent act of Sri Arvind is also without any substance, because the charges against the applicant are laxity in supervision by her as a CIPET Centre Head, Mysore, non-entry of all instruments in inward total register which are kept in loose sheets and she thus facilitated Sri Arvind in fraudulent diversion of the 151 DDs. Her contentions that the 1st respondent failed to act as a quasi judicial functionary and the applicant was a whistle blower etc. are all false and without any merit. In this case the CBI has taken cognizance of the matter and it has also enquired her in the investigation, under such circumstances, she cannot raise these pleas as an innocent person. Further, she has not raised all these pleas either in her written statement or defence or her

written brief and so she is precluded to raise these pleas at this late stage. The allegation that the 1st respondent failed to establish the connivance between the applicant and Sri Arvind is denied as it is well settled that connivance cannot be established by direct evidence and it can be inferred from the circumstances shown in the case. In this case, the applicant has signed the test reports and given certificates Ex-MD8 without verifying whether the charges for the testing were collected or not. From this it is established that she is connived with Sri Arvind who has misappropriated the amount. The applicant submitted that she has signed only one document on the test report in good faith. But Ex-MD8 consists of 6 test reports and test certificates and the applicant singed in all the test reports/certificates. Further, it is well settled when the administrative action is contrary to the objects, requirements and conditions of the valid exercise of administrative power, then it can be presumed that there is want of 'good faith'. Therefore, the contention of the applicant that she has signed the test report in good faith is without any merit. The contention that the procedure prescribed in CCS(CCA) Rules is violated has no merit since CIPET conduct and discipline rule 2.8.3(b) clearly says that 'if no written statement of defence is submitted by the employee, the DA may itself inquire into the articles of charge or may if it considers it necessary to do so, appoint, an IO for the purpose'. The committee of subordinate legislation(4th Loksabha) has considered and observed that though they agree it may not possible to entrust always enquiries against delinquent officer to gazetted officers, the enquiry should be conducted by an officer who is sufficiently senior to the officer whose conduct is being enquired into, as inquiry by a junior officer cannot command confidence which it deserves.

In 1997 (7) SCC 68 *Pankajesh vs. Tulsi Gramin Bank*, the Supreme Court held

that 'by mere delegating the inquiry, whether the inquiry officer is of the same cadre or of higher grade than that of the delinquent officer did not cause any material irregularity nor resulted any injustice to the delinquent officer. Hence, there is no point in the contention that the IO is in the same rank and he is not a proper person to be appointed as IO. Further as per rule 2.8.3(c), 'the DA may appoint a CIPET employee or a legal practitioner to be known as PO to present on its behalf the case in support of the articles of charge and it never says that the employee must be senior to the delinquent officer. After initiating the domestic inquiry, the IO need not do any preliminary inquiry and he has to conduct the first hearing as a preliminary hearing to inform about the procedures to be adopted in the domestic inquiry. The applicant has not complained about the procedure adopted by the IO either before the DA or before AA. Hence, she has stopped from raising this objection at this stage. The allegation with regard to the evidence is without any merit. Departmental actions were initiated against all the persons who are connected with the documents at CIPET Mysore centre and were also imposed punishments in the departmental enquiry, hence the management is handicapped from examining those connected departmental persons in the inquiry against the applicant. It is well settled that the admitted facts need not be proved during inquiry. The contention that she has unearthed the massive scam and exposed the perpetrators of the fraud is denied as the CBI has taken cognizance of this illegal diversion and fraud committed by the officers of the CIPET and in fact the applicant was also an accused in the FIR filed by the CBI and only because there is no sufficient evidence against the applicant to prosecute before the criminal court, they suggested that a regular departmental action may be taken against the applicant for her misconduct. Further the

quantum of punishment imposed on the applicant cannot be considered as harsh considering the seriousness of the charges levelled and proved against the applicant. The order passed by the DA is clear and without any ambiguity. The word 'cumulative effect' was put in the order only for clarity and it is made only to stress that the reduction will have the effect of postponing her future increments of her pay. The contention of the applicant that the respondents have not considered the DOPT OM dtd.14.5.2007 has no merit since in the punishment order, the DA clearly specified the period of reduction and also the reduction is made permanent. When the appellate authority concurs with the finding of the DA, it need not give elaborate and separate reasons. It is not necessary for the appellate authority to again discuss the evidence and come to the same findings as that of the DA for the same reasons for the finding. No doubt, that the rule cast a duty on the appellate authority to consider the relevant factors set forth in the appeal, but it is not the requirement of Article 311 (2) or of the rules of natural justice that in every case, the appellate authority should, in its order, state its own reasons except where it disagrees with the findings of the DA. The applicant has not made any valid or new contentions in the appeal, except the allegations made in her written statement. Hence, it cannot be said that the appellate authority has not discussed the pleadings of the applicant. The respondents have also relied on the judgments of the Hon'ble Apex Court in *General Officer Commanding-in-Chief vs. Subhash Chandra Yadav*(AIR 1988 SC 876 (879)), *UOI vs. J Ahmed* (1979 (3) SCR 504), *V.Padmanabhan vs. Govt. of AP* in CA.No.4717/2009, *State of Punjab vs. Chaman Lal Goyal* (1995 2 SCC 570) & *Narayan Ranteer Thakar vs. State of Maharashtra* (1997 1 SCC 299), the order of the Hon'ble High Court of Delhi in *Delhi Development Authority vs. H.L.Saini* in

LPA No.52/1999, the order of the Hon'ble High Court of Madras in *M.Sigamani vs. Director General, CIPET* and the order in OA.No.466/2010 passed by the Lucknow Bench of this Tribunal in support of their contentions. Therefore the orders passed by the DA & AA are well considered orders and it cannot be questioned by the applicant and there is no violation of Articles 14, 309 & 311(2) of the Constitution and Rule 14 of CCS(CCA) Rules, 1965. Therefore, the OA is liable to be dismissed.

5. The applicant has filed rejoinder reiterating the submissions already made in the OA and submits that it is not known as to how the 1st respondent has not known about the fraud regarding transfer of Govt. Money from 15.10.2005 and the Accounts Dept. is already available at CIPET Mysore under the administrative control of the 1st respondent. The 2nd respondent has exempted the 1st respondent knowingly when the fraud was done from 15.10.2005 to 18.10.2008 under the administrative control by the 1st respondent. There is serious lapse in account of the 1st respondent that the fraud was unaddressed from 2005. The respondents have not stated under what condition/rule the applicant was denied verification of original documents and under what conditions the Prosecution Witnesses were not appeared on behalf of the 1st respondent in the regular hearing and even not cross-examined by the applicant. They have not stated as to how the 1st respondent imposed a permanent penalty without listed prosecution witnesses on behalf of the DA(1st respondent). The respondents have falsely alleged the charges in retrospective effect from 15.10.2005 whereas the applicant joined duty at CIPET Mysore in the month of November 2007 and when she filed fact finding report of fraud against Sri Arvind to the 1st respondent on 18.10.2008, the 1st respondent suspended Sri Arvind immediately. Therefore,

the respondents have not considered the events of fraud and alleged the charges retrospectively. The respondents have not stated under which rule of CIPET, the DA imposed the penalty with cumulative effect till her retirement i.e. permanent in nature. The respondents have not denied para-12 of DOPT OM dtd.14.5.2007 that the penalty should be without cumulative effect.

6. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. The applicant has filed written arguments note. From a detailed examination of the charge memo issued and the proceedings thereon, it is obvious that certain fraudulent diversion of cheques and drafts to be credited to the respondent organisation were siphoned off by one individual by name Aravind from 2005 onwards and the applicant had joined in July 2007 and therefore, she was held responsible for supervisory lapses for the period till July 2008. Apparently the said culprit had siphoned off more than Rs.1.25 crores and during the period of the applicant's charge as Head of Office in the respondent organisation from July 2007, the amount involved was around Rs.40 Lakhs. The applicant would claim that when she was in-charge, she had transferred the concerned persons from their positions and on coming to know of the diversions of money from one Jain Irrigation, she had only initiated the process of arresting the same diversion and for causing an inquiry to the whole affair leading to the further criminal investigation and action. It is interesting to see from the confession statement of the said Aravind that the said diversions were going on merrily with the connivance of the senior officers who also took the benefit and so on. As rightly contended by the applicant, the said organisation was subjected to the several items of control relating to the Accounts and Audit and therefore holding her responsible for supervisory lapses especially after the

fact that there was not a single iota of evidence linking her to the malfeasance and in fact ignoring the fact of her own role in bringing out the whole episode is not *prima facie* acceptable. It is apparent that the punishment meted out to the applicant is grossly disproportionate to the role played by her. Even relating to the second charge of test report etc., it is obvious that the applicant had a very very minor role as only 6 reports out of several 100 reports were signed by her apparently in good faith in the absence of the designated officers. It is also pertinent to note that there were many vacancies in the Accounts and in the supervisory positions in the organisation and this led to issues of malfeasance etc. From a detailed perusal of the applicant's explanation and the facts of the case, we have to come to the conclusion that the applicant was punished in a very disproportionate and biased manner by the respondents. However, it is also clear that at least some portion of the blame has to be laid on her role since the diversion of amount due to the organisation continued during her time also even though she had no juncture directly. We therefore, quash Annexures-A15 & A19 and remit the issue back to the respondents to consider the issue in a proper perspective and taking note of the detailed explanation submitted by the applicant to pass an appropriate order confining this only to the direct supervisory lapses if any on the part of the applicant.

7. The OA is allowed to the above extent. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

Annexures referred to by the applicant in OA.No.170/00417/2019

Annexure-A1: Charge memo dtd.18.1.2012
Annexure-A2: Letter dtd.28.2.2012
Annexure-A3: Defence reply dtd.9.3.2012
Annexure-A4: Appointment of IO dtd.18.4.2013
Annexure-A5: Appointment of PO dtd.18.4.2013
Annexure-A6: Regular hearing dtd.11.6.2013
Annexure-A7: Regular hearing dtd.27.11.2013
Annexure-A8: Regular hearing dtd.7.1.2014
Annexure-A9: Regular hearing dtd.14.3.2014
Annexure-A10: Impugned PO report dtd.23.4.2014
Annexure-A11: Defence reply dtd.12.5.2014
Annexure-A12: Inquiry report dtd.15.7.2014
Annexure-A13: Defence reply dtd.31.7.2014
Annexure-A14: Additional facts dtd.18.5.2015
Annexure-A15: Penalty order dtd.15.6.2015
Annexure-A16: Appeal dtd.27.7.2015
Annexure-A17: Appellate order dtd.3.11.2015
Annexure-A18: Order dtd.2.12.2016 in OA.514/2016
Annexure-A19: Appellate order dtd.27.3.2017
Annexure-A20: Reply under RTI dtd.9.9.2016 and FIR dtd.12.8.2009
Annexure-A21: Organizational chart
Annexure-A22: Representation of Arvind dtd.4.12.2008
Annexure-A23: CIPET conduct rule
Annexure-A24: Defence reply of Arvind dtd.11.2.2009
Annexure-A25: Rule 14 of CCS(CCA) Rules-1965
Annexure-A26: Rule 11 of CCS(CCA) Rules-1965

Annexure-A27: Compiled Rule - 1965

Annexure-A28: DoP&T's OM dtd.14.5.2007

Annexures with reply:

-NIL-

Annexures with rejoinder:

-NIL-
