

**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH**

**LIBRARY**

OA 350/967/2016

Heard on: 15.01.2020

Date of Order: 27.01.2020



Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Subrata Goswami,  
Son of Late Santosh Goswami,  
Aged about 62 years, residing at A.H.Mitra Road,  
Nadiarpura, P.O. Krishnanagar, District- Nadia,  
PIN- 741101, retired P.A., SBCO, Kolkata GPO,  
Kolkata-700001.

... Applicant.

Versus

1. Union of India,  
Service through the Secretary,  
Department of Post,  
Government of India,  
Ministry of Communication and I.T.  
Dak Bhawan, New Delhi – 110 001.
2. Director General,  
Department of Post, Dak Bhawan,  
New Delhi-110001.
3. The Chief Post Master General,  
West Bengal Circle, Yogayog Bhawan,  
5<sup>th</sup> Floor, Kolkata – 700012.
4. The Director,  
Kolkata G.P.O.,  
Kolkata – 700 001.
5. Deputy Director (ADMIN-I),  
Kolkata G.P.O.,  
Kolkata – 700 001.

... Respondents.

For the Applicant(s) : Mr. P.Sanyal, Counsel  
For the Respondent(s) : Mr. S.Paul, Counsel

*[Signature]*

ORDERDr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal in second stage litigation  
praying for the following relief:



*"(i) An order directing the respondents to rescind, revoke and/or cancel the Minor Penalty Charge sheet dated 10.01.2015.*

*(ii) An order directing the respondent authorities to rescind, revoke and/or withdraw the purported order dated 24.3.2015 of recovery of Rs. 18,792/- from the pay the applicant in his retiring month and further directing them to refund the same with 10% interest per annum.*

*(iii) An order directing the respondents to rescind, revoke and/or cancel the appellate order dated 5.6.2015 passed by the respondent No.4.*

*(iv) An order directing the respondents to transit the entire records of this case so that the conscientious justice may be administered therein.*

*(v) And to pass such other or further order....."*

2. Heard rival contentions of both Ld. Counsel. Examined pleadings, documents on record as well as judicial pronouncements cited by the Ld. Counsel for the applicant in support. Written notes of argument have been filed by both Ld. Counsel.

3. The facts, in a narrow compass, are that, one Sri S.Pukrait, Chief Supervisor (SBCO), Kolkata GPO, proceeded on leave for 17 days during the period from 03.05.2012 to 19.05.2012 and applicant was asked to take charge of the said post for the said period in the absence of Sri S.Pukrait.

While the applicant was performing such duties, one reminder letter dated 08.05.2012 was issued to his office reminding him to supply certain documents (in original) to the investigation section of the Kolkata GPO in the background of alleged misappropriation of public money by an agent. In reply to the said letter

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dated 08.05.2012 (Annexure-A/1 to the O.A.), the applicant responded on 11.05.2012, submitting six SB-7 withdrawals as were asked for and further mentioned that the four SB-7 vouchers relating to the year 2006 were not readily traceable during such search.



Pursuant to the directions of the Director of the Kolkata GPO, remaining vouchers were subsequently weeded out.

The applicant also issued a letter dated 17.12.2014, long after his relinquishing the charge of Supervisor (SBCO), that there was no almirah to keep the documents appropriately and that the vouchers were kept in a disorderly fashion in certain poly propylene bagstocked in a non-ventilated room, devoid of air and light and not conducive to performance of official duties.

Thereafter, a memorandum of charge dated 10.01.2015 was served upon the applicant in which it was specifically mentioned in the statement of imputation of misconduct that, the applicant, being a P.A. or supervisor, neither gave any information to the investigation section nor did he obtain any permission that such records were liable to be destroyed, although the letter of requisition/reminder was received by the applicant on 08.05.2012. As the applicant failed to be vigilant and failed to communicate the importance of such vouchers on time, the vouchers were destroyed in the month of May, 2013.

The applicant submitted his defence against the memorandum of charges and, thereafter, on the basis of his prayers, he was advised by the respondent authorities to inspect/examine documents as related to the said proceedings.

The applicant represented with the plea, that, during the material point of time in 2013, when the alleged destruction of records took place, he was in no

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way working as Supervisor SBCO and, therefore, cannot be held guilty of destruction of such records. The applicant superannuated on 13.04.2015, and, the Disciplinary Authority, after holding that the charges have been established without any doubt, awarded the punishment of recovery vide his letter dated 24.03.2015.



The applicant preferred an appeal, which was subsequently rejected, and, thereafter, by virtue of the leave granted by this Tribunal in earlier O.A. 580/2015, the applicant has approached this Tribunal in this instant O.A.

4. The primary grounds advanced by the applicant, in support of his claim, *inter alia*, are as follows:

(a) That, the applicant has been made a scapegoat in the entire process of official mismanagement considering he was only officiating for 17 days in leave vacancy.

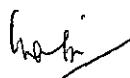
(b) That, no attempt was made in determining or ascertaining the real culprits or the cause behind such fraudulent transaction.

(c) The Disciplinary Authority ought to have been given applicant access to the relevant documents, which were denied to him.

(d) That the *ex parte* order of imposing penalty of recovery is illegal, *malafide*, motivated and in gross violation of the principles of natural justice.

5. The respondents, *per contra*, would defend their actions by arguing as follows:

(i) Admittedly, the applicant had functioned as Chief Supervisor (SBCO), Kolkata GPO for the period from 03.05.2012 to 19.05.2012. The applicant had

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received the reminder letter on 08.05.2012, and, made a note with regard to such letter on 11.05.2012 submitting six SB-7 vouchers relating to the year 2008. No note, however, was recorded by the applicant in respect of four SB-7 vouchers relating to the year 2006.



(ii) If the applicant had consciously made a note that four SB-7 vouchers for the year 2006 was vital for the investigation related to the fraudulent transaction, his successor in office would have had the opportunity to refer to his note and would not have destroyed or weeded out such vouchers relegating them as unimportant.

(iii) Although, the applicant has been claiming that he had been repeatedly raising the issue of preserving the SBCO vouchers in safe and secure condition, the only reference made by him on record is a letter dated 15.12.2014, issued almost two years after he had occupied that post against the leave vacancy.

(iv) That, the applicant had replied to the show cause notice dated 06.12.2014 mentioning that the vouchers were kept in an unsystematic manner in poly propylene bag. The applicant, however, suppressed the fact that one key of the said room is retained by the Caretaker and referred to the unsystematic record of vouchers only after the weeding out was completed in 2013. Accordingly, the applicant's behavior in alleging inaccessibility to the vouchers was at variance with the fact that the access to the record room was possible through the office of the Caretaker, and, that, actions could have been taken to search out the four SB-7 vouchers prior to weeding out the same.

(v) The respondents would also allege that the applicant was habitually negligent in respect of his duties allotted to him and, in this particular matter, it

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was his negligence which led to the subsequent destruction of records, which were vital to investigate into the fraudulent transaction leading to significant loss to the respondent authorities.

6. The applicant has alleged that the principle of natural justice has been violated as relevant documents were not furnished to him, and, that, the order of the Disciplinary Authority was *ex parte* in nature.

7.1 Upon reference to the Memorandum of charges at Annexure-A/4 to the O.A., we find that such memorandum proposed to take action against the applicant under Rule 16 of the CCS (CCA) Rules, 1965. A reading of Rule 16 of the CCS (CCA) Rules, lays down the procedure as follows:

***"16. Procedure for imposing minor penalties***

*(1) Subject to the provisions of sub-rule (5) of Rule 15, no order imposing on a Government servant any of the penalties specified in clause (i) to (iv) of Rule 11 shall be made except after-*

*(a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;*

*(b) holding an inquiry in the manner laid down in sub-rules (3) to (24) of Rule 14, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;*

*(c) taking the representation, if any, submitted by the Government servant under Clause (a) and the record of inquiry, if any, held under Clause (b) into consideration;*

*(d) consulting the Commission where such consultation is necessary. The Disciplinary Authority shall forward or cause to be forwarded a copy of the advice of the Commission to the Government servant, who shall be required to submit, if he so desires, his written representation or submission on the advice of the Commission, to the Disciplinary Authority within fifteen days; and*

*(e) recording a finding on each imputation or misconduct or misbehavior.*

*(1-A) Notwithstanding anything contained in Clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government servant under Clause (a) of that sub-rule, to*

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withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (24) of Rule 14, before making any order imposing on the Government servant any such penalty.



(2) The record of the proceedings in such cases shall include-

- (i) a copy of the intimation to the Government servant of the proposal to take action against him;
- (ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;
- (iii) his representation, if any;
- (iv) the evidence produced during the inquiry;
- (v) the advice of the Commission, if any;
- (vi) representation, if any, of the Government servant on the advice of the Commission;
- (vii) the findings on each imputation of misconduct or misbehavior; and
- (viii) the orders on the case together with the reasons therefor."

7.2 In this context, the DoPTO.M.No. 11012/18/85-Estt.(A), dated 28.10.1985 is relevant and the same is reproduced below:

**"Holding of an inquiry when requested by the delinquent: Instructions-**  
The Staff Side of the Committee of the National Council (JCM) set up to consider revision of CCS (CCA) Rules, 1965, had suggested that Rule 16 (1) should be amended so as to provide for holding an inquiry even for imposition of minor penalty, if the accused employee requested for such an inquiry.

2. The above suggestion has been given a detailed consideration. Rule 16 (1-A) of the CCS (CCA) Rules, 1965 provide for the holding of an inquiry even when a minor penalty is to be imposed in the circumstances indicated therein. In other cases, where a minor penalty is to be imposed, Rule 16 (1) *ibid* leaves it to the discretion of Disciplinary Authority to decide whether an inquiry should be held or not. The implication of this rule is that on receipt of representation of Government servant concerned on the imputations of misconduct or misbehavior communicated to him, the Disciplinary Authority should apply its mind to all facts and circumstances and the reasons urged in the representation for holding a detailed inquiry and form an opinion whether an inquiry is necessary or not. In case where a delinquent Government servant has asked for inspection of certain documents and cross examination of the prosecution witnesses, the Disciplinary Authority should naturally apply its mind more closely to the request and should not reject the request solely on the ground that an inquiry is not mandatory. If the records indicate that, notwithstanding the points urged by the Government servant, the Disciplinary Authority could, after due consideration, come to the conclusion that an inquiry is not necessary, it should say so in writing

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*indicating its reasons, instead of rejecting the request for holding inquiry summarily without any indication that it has applied its mind to the request, as such an action could be construed as denial of natural justice."*



DoPT O.M. categorically states that the Disciplinary Authority has to apply his mind on the facts and circumstances after perusal of the representation of the charged official. Whenever a delinquent Govt. servant asks for inspection of certain documents, the Disciplinary Authority should apply his mind more closely and should not reject the request merely on the ground that the inquiry is not mandatory and, in case, the Disciplinary Authority concludes that the inquiry was not necessary, the Disciplinary Authority's order should clearly indicate the reasons for rejecting the scope of inquiry against the charged official.

7.3 The orders of the Disciplinary Authority, which is annexed at Annexure-A/8 to the O.A. does mention that the official was given reasonable opportunity to submit his representation in defence and also that he had an opportunity to inspect such records as were relevant to the proceedings and that the Disciplinary Authority had carefully considered the contents of the representation of the applicant. The relevant extract of the orders of the Disciplinary Authority dated 24.03.2015 is reproduced as under:

Govt. of India  
Ministry of Communication & I.T.  
Department of Posts  
Office of the Director, Kolkata GPO  
Kolkata-700001.

No. Inv.-53 / Fraud / Disc./ S. Goswami / 2014-15

Dated at Kolkata GPO the 24-03-2015

Disciplinary proceedings was initiated against Sri Subrata Goswami, PA, SBCO, Kolkata GPO and proposed to take action under Rule-16 of CCS (CCA) Rules, 1965 vide this office memo of even no. dated 10-01-2015. A statement of the imputation of misconduct or misbehavior on the basis of which charges were framed and proposed to take action against him are as follows.

Statement of imputation of misconduct or misbehavior on the basis of which action is proposed to be taken against Sri Subrato Goswami, PA, S.B.C.O., Kolkata GPO,

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I have gone through the representation of the official dated 20-03-2015 very carefully with reference to the charges levelled against him mentioned in the statement of imputations, records & documents related to the case and my observations are as follows.

Disciplinary Proceedings under Rule 16 of CCS(CCA) Rules 1965 was initiated against Sri Subrata Goswami, PA, SBCO, Kolkata GPO vide Memo No. Inv-53/Fraud/Disc./S.Goswami/2014-15 dated 10-01-2015 owing to non-supplying the requisitioned withdrawal vouchers, related to the fraud case, before destroying the old records. The said memorandum of charge sheet was sent to the charged official through Regd. Post vide Kolkata GPO Receipt No. RW610047150IN dated 14-01-2015, which was received by the charged official, Sri Subrata Goswami on 15-01-2015.

On receipt of the said charge sheet, the charged official submitted a representation dated 24-01-2015 wherein he stated that as the matter relates to a long back period, it is not possible to him to submit any defense representation without consulting the relevant records. In the said representation dated 24-01-2015 he also prayed for inspecting eleven (11) items documents and also prayed for providing him photocopies of the said documents for the purpose of submitting his defense representation. Considering the facts and circumstance, the charged official was permitted to inspect / examine the available documents related to the case and also permitted to procure the available copies of the documents as asked for from this office Investigation Section, Kolkata GPO on 11-03-2015 vide this office letter of even no. dated 11-03-2015. In the said letter the charged official was also directed to submit his defense representation within three days from the date of inspection to be done by him. The charged official has inspected the documents on 11-03-2015 and also procured the photocopies of the documents from Investigation Section. After inspecting the documents, the charged official prayed for permitting him a period of ten days time for submision of his defense representation vide his letter dated 12-03-2015. He was permitted ten days time and also directed to submit his defense positively on 20-03-2015. And the charged official submitted his representation on 20-03-2015.

The charged official sated in his representation dated 20-03-2015 that the responsibility for segregating of requisitioned four vouchers does not lies upon him as he was not working as Supvr., SBCO at the time of destroying records in May 2013. The plea appealed by the official is completely baseless. Being a PA or Supervisor whatsoever, of the concerned branch, it was his mandatory duty to segregate the vouchers before destroying the records. And he is also well aware the fact that the remaining vouchers which was requisitioned by the Investigation Section has not been supplied by him at the time of performing his duty as Offtg. Supervisor, SBCO. During incumbency as Offtg. Supvr., SBCO, Sri Subrata Goswami reported vide his letter dated 11-05-2012 that the requisite vouchers in the year 2006 are not readily traceable at present. From the above letter, it is easily understood and implied that the requisite vouchers are available in the SBCO Branch and the same would have been find out if the searching work have been done thoroughly & perfectly. As such it is crystal clear that the charged official has not taken any initiation towards segregating the vouchers by assessing the gravity of the letter of requisition dated 23-03-2012 and reminder dated 08-05-2012, submitted by the Investigation under the signature of the Dy. Director PO(Admn).

*Sub:*





The charged official stated that the records of SBCO are also lying with the RCRB & SOSB Section without supervision of the Supervisor of SBCO. The RCRB & SOSB are also record section and so many office records are kept there. The question of misplaced or missing records from RCRB and/or SOSB sections does not arise at all, as no report has been given either by the RCRB or by the SOSB towards missing of any record from their end. The charged official stated that the requisitioned vouchers might have been lost / misused in any period since 2006 as the position of keeping the old records / vouchers in SBCO, Kol GPO is totally insecure and unsafe. The plea appealed by the charged official is not tenable as the matter of missing or misplaced of records in the year 2006 was not brought to the notice of the higher authority by the charged official or concerned authority of SBCO before destroying the old records.

As such, the charged official made a fake story by saying 'requisitioned vouchers might have been lost / misused' to divert the attention of the Competent Authority from his negligent part as Supervisor or PA of SBCO whatsoever.

The charges brought against Sri Subrata Goswami have been established without any doubt. If Sri Goswami would have been performed his duty properly by supplying the requisite documents to the concerned authority or/and segregate the requisite documents before destroying those vital records, the erring official(s) could easily be identified.

The observation of the undersigned on para no. 7 of the defence statement of the official concerned, It is pertinent to mention that gross or habitual negligence in performance of duty may constitute misconduct for disciplinary proceedings. An employee can be proceeded against for any misconduct relating to his work and disciplinary action / departmental action may be initiated if there is prima facie material to show recklessness or misconduct in the discharge of his duty or if the official is habitually negligent in respect of the duties for which he is deployed / engaged and also where the neglect of the servant, though isolated tends to cause serious consequences. [ As per list of serious misconduct constituted by Gujrat High Court in the matter of J.J.Mody vs. State of Bombay, AIR 1962 Guj.197 ] and as per findings of Supreme Court in the case of K.K.Dhawan [(1993)I SCR 296]. So far the prudence of disciplinary authority is concerned, it may not be treated as in fructuous by mentioning the violation of CCS(Conduct) Rules 1964 as well.

It has already been explained in the preceding paras, that the charged official did not take any initiation towards supplying the requisitioned documents to this office Investigation Section during his incumbency as Offig. Chief Supervisor, SBCO and also did not take initiation to segregate the requisitioned vouchers before destroying the old records, by assessing the gravity of the letter of requisition dated 23-03-2012 and reminder dated 08-05-2012, though he received the letter of reminder under his dated initial on 09-05-2012.

As a result the officials, who helped the miscreants to commit the fraud, could not be detected/identified and also the department had failed to realize the entire amount, involved in the fraud case, from the officials at fault.

As such, the charges framed against the official is proper and fair with sheer justification. The violation of Rule 3(1)(ii), 3(1)(iii), 3(2)(i) and Rule-3 G.O.I. Decision No.23(6) & (7) of CCS (Conduct) Rules 1964 by the charged official as mentioned in the charge sheet was clearly discussed.

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The charges brought against Sri Subrata Goswami have been established without any doubt as the lapse of sincerity on the part of the official is crystal clear. However, considering his retirement on superannuation due on 30-04-2015, I take a lenient view in this case. Punishment of recovery is awarded after assessing the contribution of lapse of the delinquent official pertaining to this fraud case, in order to adjust the pecuniary loss sustained to the department keeping in mind the provision of Rule 106, 107 of Postal Manual Vol -III and Dte's instructions communicated vide letter No. 8-3/INV-2003 dated 25-02-2003.

Therefore the undersigned acted as per GID 11 below Rule 11 of CCS(CCA) Rules 1965 and dispose off the case with the following order

ORDER

i, the undersigned, Sri Arun Sarkar, Dy. Director PO (Admin), Kolkata GPO being the disciplinary authority in exercise of the power conferred upon me vide Rule 12 of CCS (CCA) Rules, 1965 award punishment of "recovery of Rs.18,792/- (Eighteen thousand seven hundred ninety two) from the pay of Sri Subrata Goswami, PA, SBCO, Kolkata GPO; in the instant month i.e. March 2015 for the part of pecuniary loss caused by him to the Government by negligence of his duty as Offtg. Chief Supervisor / PA, SBCO, Kolkata GPO".

Sri Subrata Goswami,  
PA, SBCO,  
Kolkata GPO, Kolkata-700001.

24.03.2015

(A. Sarkar)

Dy. Director PO (Admin)  
Kolkata GPO, Kolkata-700001.

7.4 The following is inferred with reference to the process adopted by the Disciplinary Authority.

- (i) That, the charged official was given opportunity to submit his representation.
- (ii) That, the charged official had inspected the documents on 11.03.2015
- (iii) That, after inspection of documents, charged official prayed for a further period of 10 days for submission of defence representation, which was allowed and the charged official submitted his defence representation on 20.03.2015.
- (iv) That, the charged official defended his case through a fake story by saying that the requisitioned vouchers might have been lost or misused but it was subsequently revealed that they actually existed and were weeded out a year later.
- (v) As per the ratio of the Hon'ble Apex Court in the case of K.K.Dhawan [(1993) 1 SCR 296] when the charges against the applicant had been

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established without any doubt and that the charged official being habitually negligent, the employee could be proceeded against for any misconduct and disciplinary action can be initiated.

(vi) The Disciplinary Authority having concluded that the allegation of negligence having been established without any doubt a penalty of recovery was imposed on him.

8. The orders of the Appellate Authority at Annexure-A/11 to the O.A. are also examined in detail.

The applicant/appellant had submitted to the Appellate Authority that the decision of the Disciplinary Authority has been reached unilaterally without taking into account his defence statement and, that, he was denied reasonable opportunity by rejecting his prayer for inspection of two documents and, that, there was a mechanical imposition of penalty without any application of mind.

The Appellate Authority, in his orders dated 05.06.2015, did enumerate the grounds of the appeal as follows:

Sri Subrata Goswami preferred an appeal to the undersigned on 30-04-2015 against the order of the Disciplinary Authority and also prayed for setting aside the entire proceeding including the penalty imposed upon him by the Disciplinary Authority by order 24-03-2015 showing the following grounds :-

- 01) That the charges are not specific and precise.
- 02) That the charged official was unjustified charge sheeted.
- 03) That the irrelevant Rules have been mentioned in the charge sheet.
- 04) That the findings of the disciplinary authority are not based on documentary evidence and the punishment order does not stand on slightest scrutiny.
- 05) That the disciplinary authority did not pass self contained and reasoned order.
- 06) That the charged official was not permitted to inspect all the documents as prayed for by the charged official.
- 07) That the charged official was the victim of the punishment.
- 08) Observations of the Disciplinary Authority on some points are not clarified in speaking order.

The Appellate Authority, in his orders, inter alia, has observed as follows:

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The appellant was given opportunity to examine the nine items of documents out of eleven documents as prayed for. He was also permitted to procure the photocopy of the said documents from this office Investigation Section and he availed of the said opportunity on 11-03-2015. One of the remaining two documents is available at the SBCO branch where he is posted and the other is available in Swamy's Compilation of Conduct Rules 1964 and he could have easily seen the said documents if he desired. As such plea appealed by the appellant that by rejecting prayer for inspection of two documents, the disciplinary authority passed punishment order mechanically, is not at all tenable.



9. Nowhere in the entire proceedings, whether in the orders of the Disciplinary Authority or Appellate Authority, however, we find that there has been any conscious decision on rejection of the open inquiry although the applicant has refuted the charges and has called for inspection of certain documents.
10. In this, we would be guided by the ratio arrived at by the Hon'ble Apex Court in **Union of India Vs. Tulsiram Patel, (1985) 3 SCC 398**, wherein the Hon'ble Court, while referring to **ArjunChaubey Vs. Union of India, (1984) 2 SCC 578** stated as follows:

*"A disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and must fail. The finality given to the decision of the disciplinary authority by Article 311(3) is not binding upon the court so far as its power of judicial review is concerned and in such a case the court will strike down the order dispensing with the inquiry as also the order imposing penalty."*

In **Orissa Mining Corporation Vs. Anand Chandra Prusty, 1996 (11) SCC 600**, it was held that in the case of domestic inquiry, departmental authorities are not like Civil Court and only documentary evidence can be a basis of findings and such onus of proof also depend on the nature of charge and the nature of explanation given by the charged officer.

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In **Moni Shankar Vs. Union of India &Ors., 2008 SCC 484**, the Court observed that while exercising his powers, the Disciplinary Authority should be satisfied whether the doctrine of proportionality has been satisfied.

In **Managing Director, Ecil Hyderabad Vs. B. Karunakar, (1992) 3 JT (SC) 605**, the Constitution Bench held that the immunity test is the test of reasonable opportunity or test of fair hearing, namely, that the Court or Tribunal has to see whether, in the totality of the circumstances, the delinquent employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query.

Being guided by the above ratio, we would infer that, although the applicant refuted the allegations and, that, he did call for certain documents, which he would allege were not furnished to him despite such request, the authorities did not justify the reasons for not allowing him a fair hearing in an inquiry. Hence, we are of the considered view that the applicant/charged official should have been given an opportunity to participate in an inquiry and should have been heard therein.

11. Accordingly, having been convinced that the disciplinary authority ought to have conducted an inquiry prior to arriving at his decision of imposing a minor penalty on the applicant, we would quash the orders of the Disciplinary Authority and Appellate Authority and, upon following the ratio of the **Chairman LIC of India & Ors Vs A.Masilamani, (2013) 6 SCC 530**, would remand the matter back to the Disciplinary Authority to decide on the need of an inquiry, given the

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applicant/charged officer's refutation of the charges and calling for documents, and, thereafter, to conduct the proceedings *de novo*.

As the recovered amount has already been realized from the applicant, refund of the same with interest will be subject to final decision of the respondent authorities.

12. With these directions, the O.A. is partly allowed. No costs.

(Dr. Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)

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