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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.462/2004

New Delhi this the 24th day of December, 2004.

HON'BLE MR. SHANKER RAJU, MEMBER (J)
HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

Tejvir Singh,
S/o late Shri Bhim Sen,
R/o 13/205, Trilok Puri,
Delhi-110091. -Applicant

(By Advocate Shri Rajender Khatter, proxy for
Shri Arun Bhardwaj, Counsel)

-Versus-

1. Union of India,
through Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.

2. Director General of Health Services,
Director General of Health,
Nirman Bhawna,

3. Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
New Delhi. -Respondents

(By Advocate Shri Madhav Panikar)

1. To be referred to the Reporters or ~~not~~? Yes.

2. To be circulated to other Benches of the Tribunal or ~~not~~? Yes

S. Raju
(Shanker Raju)
Member(J)

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O R D E R

Mr. Shanker Raju, Member (J):

Applicant impugns respondents' order dated 18.11.2002, whereby on the direction of the Tribunal as affirmed by the High Court of Delhi, the disciplinary authority imposed a punishment of removal from service as well as order dated 5.1.2004 passed by the appellate authority, upholding the punishment.

2. Applicant, who was working as a Nursing Attendant and being General Secretary of the Association was proceeded against along with S/Shri Daya Nand, Om Prakash, Vinod Bist

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and Rishipal in a joint enquiry under Rule 14 of the CCS (CCA) Rules, 1965 for the allegation that he along with others on 24.9.1997 unauthorisedly entered into the chamber of Dr. Ved Bhushan, Chairman of the Selection Committee, where interviews were being held for the posts of Mechanic and threatened the members that the proceedings would not be allowed to continue unless one Ram Kumar, a departmental candidate is selected. It is also stated that applicant along with others displayed rude behaviour and intimidated the members of the Selection Committee and while doing so they abandoned their respective places of duty without any permission.

3. The enquiry officer held applicant guilty of the charge and on punishment same was challenged in OA-2080/99, which was allowed on 8.1.2001 by the Tribunal, remanding back the case to the disciplinary authority, having reference of differential treatment accorded in imposing punishment to the persons who are levelled identical charges and to pass a fresh order in the wake of one Om Prakash having been inflicted lesser punishment of reduction in pay whereas in the case of Rishipal, Sukhbir and Vinod Bist increments were stopped and in the case Dayanand his services were terminated.

4. Aforesaid order of the Tribunal was assailed by the respondents in CWP No.2536/2001. By an order dated 28.5.2002 the decision of the Tribunal was affirmed and the contention of discrimination in the matter of punishment and the observation made by the Tribunal was also re-iterated being affirmed. Respondents by an order dated 18.11.2002 on remand again inflicted the punishment of removal from service,

which was challenged in an appeal. As the appellate authority has not passed orders, OA-2265/2003 was filed by applicant which was disposed of on 16.9.2003, directing the respondents to dispose of the appeal. As the appeal was disposed of, present OA has been filed.

5. Among other contentions raised by the learned counsel of applicant, it is contended that whereas Dayanand who was terminated has filed OA-2932/2003, which was disposed of on 20.8.2004 by the Tribunal in the light of the decision of the High Court (supra) and the matter was remitted back to the respondents to pass fresh order and till date no orders have been passed. It is also contended that against this order RA-261/2004 filed by respondents was also rejected in circulation on 4.10.2004.

6. Learned counsel stated that whereas allegations are identical in respect of all the delinquents in the disciplinary proceedings and the enquiry officer has held applicant as well as others equally liable for the misconduct, yet without any reasonable basis, discrimination has been meted out to applicant in the matter of punishment, whereas one Om Prakash was inflicted a punishment of reduction in rank and on three others, viz. Rishipal, Sukhbir and Vinod Bisht their increments were stopped. This, according to applicant has been done by the Disciplinary Authority without taking into consideration the direction of the High Court as well as Tribunal and there is no whisper in the order of penalty as to how applicant's misconduct is distinct from others except recording a finding that applicant being a leader has played a pivotal role in the entire episode.

7. Referring to the appellate order it is contended that the only ground to justify punishment is that applicant has played a lead role.

8. On the other hand, respondents' counsel vehemently opposed the contentions and contended that the disciplinary as well as the appellate authorities have already considered the discrimination in the matter of punishment and as Dayanand was also terminated, allegations against applicant are distinct from others as he has played a leading role in the entire episode and moreover, referring to the findings of the Enquiry Officer it is stated that it is only Daya Nand and applicant who had started misbehaving with Dr. Ved Bhushan and other members of the Selection Committee which is a distinct feature. As there is an intelligible differentia and reasonable nexus with the objects sought to be achieved, punishment cannot be interfered with.

9. We have carefully considered the rival contentions of the parties and perused the material on record.

10. Arbitrariness and hostile discrimination are anti thesis to the fair play and offend principle of equality under Articles 14 and 16 of the Constitution of India. The following observations have been made by the Apex Court in the matter of discrimination in punishment in **Sengara Singh & Ors. v. State of Punjab & Ors.**, 1983 (4) SCC 225:

> "What then is the situation? As a sequel to police agitation, the State Government dismissed about 1100 members of the Police Force on the allegation that they participated in the agitation. The State Government also filed criminal prosecutions against a large number of agitators. Subsequently, the State Government reinstated 1000 dismissed members of the Police Force in their original posts and withdrew the criminal cases against them. If the filing of the criminal cases was the distinguishing

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> feature, which would distinguish the case of the present appellants from others, that feature has become irrelevant because the criminal cases against those who were subsequently reinstated have been withdrawn. It is not suggested that the present appellants were leaders or indulged into more violent activities. We repeatedly questioned the learned counsel to specify the distinguishing features of the present appellants from those in whose cases the Committee recommended the reinstatement and the State Government accepted the recommendations. There is not an iota of evidence, which would distinguish the case of the present appellants from those who were the beneficiaries of the indulgence of the Committee and the largesse of the State. The net result has been that the present appellants have been arbitrarily weeded out for discriminatory and more severe treatment than those who were similarly situated. This discrimination is writ large on the record and the Court cannot overlook the same".

11. The conclusions arrived at by the High Court in CWP No.2536/2001, while affirming the decision of the Tribunal in so far as discrimination of punishment is concerned, is reproduced below:

> "Furthermore, directions of the learned Tribunal to the effect that reasons were required to be assigned because of the fact that according to the petitioner, he pleaded discrimination vis-à-vis the employees, who are similarly situated, cannot also be faulted. It is now well known that the persons similarly placed are entitled to be treated similarly".

12. If one has regard to the above, there is affirmation of the contentions raised by respondent in CWP, i.e., applicant in the OA that he is identically situated vis-à-vis other employees to whom a lesser punishment has been imposed.

13. Having regard to the aforesaid fact, the finding has attained finality as the decision of the High Court has not been assailed before the Apex Court. The respondents now are estopped from taking a different stand as to a different

misconduct attributed to applicant in the disciplinary proceedings or his case rested on a different footing.

13. The Apex Court in **Tata Engineering and Locomotive Company Ltd. v. Jitendra Prasad Singh**, 2002 SCC (L&S) 909 held as follows:

> "On an enquiry being held, the enquiry authority found that the allegations of misconduct is proved and the disciplinary authority on consideration of the report of the enquiry authority and the other relevant material dismissed the first respondent from service. Thereafter, a reference to the Labour Court at the instance of the first respondent was made. The Labour Court though held on a preliminary question that the disciplinary enquiry conducted against the first respondent is valid came to the conclusion after perusing the documentary and oral evidence on record that the dismissal was not justified and held that he was entitled to reinstatement with full back wages with continuity in service and other consequential benefits. A writ petition was filed in the High Court which was allowed but on the basis of certain offer made, the learned Single Judge also directed that the appellant shall pay to the first respondent salary from the date of discharge till the date of the orer in a lump sum of Rs.50,000. Thereupon, both the management and the workman filed two appeals. In the appeals, several questions were raised as to whether the act attributed to the first respondent would amount to misconduct at all which will entail a disciplinary enquiry at the instance of the management to end up with the dismissal; strong reliance was placed on Glaxo Laboratories (1) Ltd. V. Presiding Officer, Labour Court, Meerut. Ultimately, however, the two learned Judges were agreed on one aspect of the matter that the question, whether on misconduct attributed to the workman there should have been casual connection between misconduct and employment of the workman may not be of much significance when such acts have taken place within the premises of the factory, should be decided in an appropriate case. What influenced the Court in deciding the matter is that:
>
> > "Since as many as three workmen on almost identical charges were found guilty of misconduct in connection with the same incident, though in separate proceedings, and one was punished with only one month's suspension, and the other was ultimately reinstated in view of the findings recorded by

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> the Labour Court and affirmed by the High Court and the Supreme Court, it would be denial of justice to the appellant if he alone is singled out for punishment by way of dismissal from service".

14. In **State of U.P. v. Rajpal Singh**, 2002 (2) SCSLJ 60, the following observations have been made:

> "...Though, on principle the ratio in aforesaid cases would ordinarily apply, but in the case in hand, the High Court appears to have considered the nature of charges leveled against the 5 employees who stood charged on account of the incident that happened in the same day and then the High Court came to the conclusion that since the gravity of charges was the same, it was not open for the disciplinary authority to impose different punishments for different delinquents. The reasonings given by the High Court cannot be faulted with since the State is not able to indicate as to any difference in the delinquency and once charges are established to award appropriate punishment. But when the charges are same and identical in relation to one and the same incident, then to deal with the delinquents differently in the award of punishment, would be discriminatory. In this view of the matter, we see no infirmity with the impugned order requiring our interference under Article 136 of the Constitution. Though the High Court by the impugned judgment has directed that the delinquent would be paid 50% of the backwages, but having regard to the nature of charges against the respondent, we are not inclined to allow any backwages from the period of dismissal till the date of reinstatement. We are told that he has been reinstated on 5.11.1997. We make it clear that respondent will not be entitled to any backwages from the date of dismissal till 5.11.1997".

15. What is discernible from the ratio laid down in these two cases is when the charges are same and identical in relation to one and the same and the same incident, then meeting out a differential treatment to the delinquent in the matter of awarding punishment would be discriminatory.

16. In **Balbir Chand v. Food Corporation of India**, 1997 (3) SCC 371, the following observations have been made:

> "6. It is further contended that some of the delinquents were let off with a minor penalty while the petitioner was imposed with a major penalty of removal from service. We need not go into that question. Merely because one of the officers was wrongly given the lesser punishment compared to others against whom there is a proved misconduct, it cannot be held that they too should also be given the lesser punishment lest the same mistaken view would be repeated. Omission to repeat same mistake would not be violative of Article 14 and cannot be held as arbitrary or discriminatory lading to miscarriage of justice. It may be open to the appropriate higher authority to look into the matter and take appropriate decision according to law".

17. If one has regard to the above, the ratio is to the effect that once wrongly a lesser punishment has been inflicted on a proven misconduct others are not entitled to be meted out the same treatment. This, in our view, is in consonance with the principles of law and to the effect that concept of negative equality does not exist under the Constitution of India.

18. In **Om Kumar v. Union of India**, 2001 (2) SCC 386 while relying upon the wednesbury principle which clearly precludes interference in a judicial review of the discrimination of administrative authority or empowers the Court to substitute the choice in the conspectus of Article 14 of the Constitution of India, the following observations have been made:

> "66. It is clear from the above discussion that in India where administrative action is challenged under Article 14 as being discriminatory, equals are treated unequally or unequals are treated equally, the question is for the Constitutional Courts as primary reviewing courts to consider correctness of the level of discrimination applied and whether it is excessive and whether it has a nexus with the objective intended to be achieved by the administrator. Hence the court deals with the merits of the balancing action of the administrator and is, in essence, applying "proportionality" and is a primary reviewing authority.

67. But where an administrative action is challenged as "arbitrary" under Article 14 on the basis of Royappa (as in cases where punishments in disciplinary cases are challenged), the question will be whether the administrative order is "rational" or "reasonable" and the test then is the Wednesbury test. The courts would then be confined only to a secondary role and will only have to see whether the administrator has done well in his primary role, whether he has acted illegally or has omitted relevant factors from consideration or ahs taken irrelevant factors into consideration or whether his view is one which no reasonable person could have taken. If his action does not satisfy these rules, it is to be treated as arbitrary. In G.B. Mahajan v. Jalgaon Municipal Council (SCC at p. 111), Venkatachaliah, J (as he then was) pointed out that "reasonableness" of the administrator under Article 14 in the context of administrative law has to be judged from the stand point of Wednesbury rules. In Tata Cellular v. Union of India (SCC at pp.679-80), Indian Express Newspapers Bombay (P) Ltd. V. Union of India (SCC at p.691), Supreme Court Employees Welfare Assn. V. Union of India (SCC at p. 241) and U.P. Financial Corpn. V. Gem Cap (India) (P) Ltd. (SCC at p.307) while judging whether the administrative action is "arbitrary" under Article 14 (i.e. otherwise than being discriminatory), this Court has confined itself to a Wednesbury review always.

68. Thus, when administrative action is attacked as discriminatory under Article 14, the principle of primary review is for the courts by applying proportionality. However, where administrative action is questioned as "arbitrary" under Article 14, the principle of secondary review based on Wednesbury principles applies.

69. The principles explained in the last preceding paragraph in respect of Article 14 are now to be applied here where the question of "arbitrariness" of the order of punishment is questioned under Article 14.

70. In this context, we shall only refer to these cases. In Ranjit Thakur v. Union of India this Court referred to "proportionality" in the quantum of punishment but the Court observed that the punishment was "shockingly" disproportionate to the misconduct proved. In B.C. Chaturvedi v. Union of India this Court stated that the court will not interfere unless the punishment awarded was one which shocked the conscience of the court. Even then, the court would remit the matter back to the authority and would not normally substitute one punishment for the other. However, in rare situations, the court

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> could award an alternative penalty. It was also so stated in Ganayutham.

Thus, from the above principles and decided cases, it must be held that where an administrative decision relating to punishment in disciplinary cases is questioned as "arbitrary" under Article 14, the court is confined to Wednesbury principles as a secondary reviewing authority. The court will not apply proportionality as a primary reviewing court because no issued of fundamental freedoms nor of discrimination under Article 14 applies in such a context. The court while reviewing punishment and if it is satisfied that Wednesbury principles are violated, it has normally to remit the matter to the administrator for a fresh decision as to the quantum of punishment. Only in rare cases where there has been long delay in the time taken by the disciplinary proceedings and in the time taken by the disciplinary proceedings and in the time taken in the courts, and such extreme or rare cases can the court substitute its own view as to the quantum of punishment".

19. If one has regard to the above, our confinement is as a role of secondary reviewing authority.

20. In **Chairman and Managing Director, United Commercial Bank & Ors. v. P.C. Kakkar**, (2003) 4 SCC 364, after analyzing the wednesbury principle and the decision of the Apex Court in Om Kumar (supra) in the conspectus of the facts where the High Court has directed the authorities to consider punishment of the petitioner therein in the light of punishment imposed upon one M.L. Keshwani, observed as under:

> "13. In the case at hand the High Court did not record any reason as to how and why it found the punishment shockingly disproportionate. Even

there is no discussion on this aspect. The only discernible reason was the punishment awarded in M.L. Keshwani case. As was observed by this Court in Balbir Chand v. Food Corporation of India Ltd. even if a co-delinquent is given lesser punishment it cannot be a ground for interference. Even such a plea was not available to be given credence as the allegations were contextually different."

21. If one has regard to the above, the ratio which is discernible is that the plea of discrimination would not be available if the contending party and the other delinquents are un-equals in so far as allegations being contextually different.

22. Article 141 of the Constitution of India mandates the law declared by the Apex Court as a binding precedent on the lower Courts. However, the decision of the Apex Court cannot be interpreted as a statute. The only thing which has to be considered is the ratio decidendi. Blind reliance on judgment without considering the fact situation has been held to be improper by the following observations made by the Apex Court in **Ashwani Kumar Singh v. U.P. Public Service Commission,** (2003) 11 SCC 584:

"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are not to be read as Euclid's theorems nor as provisions of the statute. These observations must be read in the context in which they appear. Judgment of Courts are not to construed as statute. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark upon lengthy discussion but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In circumstantial flexibility one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper."

23. As regards ratio decidendi, a Constitution Bench of the Apex Court in **Islamic Academy of Education v. State of Karnataka**, (2003) 6 SCC 697 held as follows:

> "The answers to the questions, in the majority judgment in T.M.A. Pai case (2002) 8 SCC 481 (in para 161 therein) are merely a brief summation of the ratio laid down in the judgment. The ratio decidendi of a judgment has to be found out only on reading the entire judgment. In fact, the ratio of the judgment is what is set out in the judgment itself. The answer to the question would necessarily have to be read in the context of what is set out in the judgment and not in isolation. In case of any doubt as regards any observations, reasons and principles the other part of the judgment has to be looked into. By reading a line here and there from the judgment, one cannot find out the entire ratio decidendi of the judgment."

24. In **Kesar Devi v. Union of India**, (2003) 7 SCC 427 the Apex Court ruled that the judgment of the Court is not to be incorporated like a statute, where every word, as far as possible, has to be given a literal meaning and no word is to be ignored.

25. A co-joint reading of the above, clearly holds that the ratio decidendi which is binding under Article 141 has to be found out on reading the entire judgment and is what has been set out in the judgment itself. In case of doubt, other parts of the judgment are to be looked into.

26. In Kakkar's case (supra) the High Court while allowing the case as to discrimination in punishment has not assigned any reasoning and application of Article 14 of the Constitution of India in the matter of punishment has been left out because the allegations were contextually different. Moreover, the above decision though latest, is binding as per the doctrine of precedent laid down under Article 141 of the Constitution of India but where a decision is rendered per incuriam, i.e., decision in Kakkar's case has neither taken into consideration

the decisions in Jitender Prasad Singh as well as Tata Locomotive (supra). The ratio decidendi is more important to be discernible which, to our considered view makes applicability of this case not as a judgment in rem but on the peculiar facts and circumstances. This leads to referral to the decision of the Apex Court in Raj Pal Singh (supra). What has been held is that when the incident is common and the charges are identical discrimination in punishment violates articles 14 and 16 of the Constitution of India. The wednesbury principle though prevents abuse of the process of law and unreasonableness in administrative action but the mother law, i.e., Constitution of India where equality before law is paramount under Article 14 of the Constitution any discrimination meted out has to pass the twin test of intelligible differentia and reasonable nexus with the objects sought to be achieved in the light of the decision of the Apex Court in **D.S. Nakara v. Union of India**, 1983 SCC (L&S) 145.

27. In the conspectus of the above, we may now refer to the findings recorded by the enquiry officer to hold applicant and other co-delinquent guilty of the charge. These are reproduced as under:

> "Sh. M.K. Malhotra, Dy. Director (Admn) and a member of the Selection Committee (PW-5) stated that when he entered into the room of Dr. Ved Bhushan, he noticed S/Sh. Dayanand, Tejveer and 4 others entering into heated arguments with Dr. Ved Bhushan over non-inclusion of the nameof Sh. Ram Kumar, in the list of candidates for the post. Sh. Malhotra said that the way S/Sh. Dayanand, Tejveer & 4 others were seated in the room of Dr. Ved Bhushan and the language they used, was offensive. These officials left the room of Dr. Ved Bhushan when the interview was postponed by the Chairman, Selection Committee, Dr. Ved Bhushan.

10. In their defence the charged officials did not produce any oral or documentary evidence. They only cross-examined the prosecution witnesses who supported the prosecution case. In view of assessment of assessment of evidence as in paras 5 to 9 above, I hold the six charged officials responsible for committing the following misconducts:-

(1) Unauthorisedly entering into the chamber of Dr. Ved Bhushan, Addl. Medical Superintendent, and Chairman of the Selection Committee.

(2) Threatening the members of the Selection Committee that the proceedings of interview would not be allowed to continue unless Sh. Ram Kumar, Kahar, a departmental candidate (who was stated to be not fulfilling the eligibility condition prescribed for the post) was considered and selected.

(3) Displaying rudely behaviour calculated to intimidate the members of the Selection Committee and preventing them from holding interview proceedings and for using foul language for members of the Selection Committee.

(4) Causing inconvenience to the candidates sponsored by the Employment Exchange for the posts.

(5) In the process, they also obstructed implementation of the directions of the Supreme Court for Ambulance Services in Dr. R.M.L. Hospital.

(6) They abandoned their respective places of duty without any permission thereby causing inconvenience to the patients.

11. In their defence, the charged officials stated that they were union leaders and were connected with the welfare of a departmental employee. If they had behaved sincerely like trade union leaders, they would not have misbehaved with the senior doctors of the hospital who were members of the Selection Committee. Union leaders are expected to work with the administration of an office for smooth functioning. In fact one of the charged officials Sh. Vinod Bist, Helper, during inquiring proceedings, submitted a petition stating that he alongwith Sh. Sukhbir, another charged official, had entered into the chamber of Dr. Ved Bhushan only to listen to conversation between Sh. Dayanand and Dr. Ved Bhushan and he alongwith Sh. Sukhbir, left the room when Sh. Dayanand and his three

accomplices, started misbehaving and abusing Ved Bhushan and other members of the Selection Committee. Sh. Vinod Bist and Sh. Sukhbir were neither examined by the P.O. nor cross-examined by the defence, yet the petition of Sh. Vinod Bist which was read out during inquiry, gives an idea of the rude behaviour meted out to the members of the Selection Committee at the hands of S/Sh. Dayanand, Tejveer Singh and others.

12. Therefore, I hold the charges framed against the six officials, as under:-

Article of Charge I	Proved
Article of Charge II	Proved
Article of Charge III	Proved
Article of Charge IV	Proved

Sd/-
Dr. (Smt.) Raj Bala Yadav
Inquiry Officer"

28. If one has regard to the above, the allegations against Dayanand and Om Prakash which arose out of a common incident and they have been imputed the same misconduct and have been held guilty of the same, as the over-whelming evidence of the witnesses not only alleged applicant but also Daya Nand and Om Prakash. There is no evidence to show that applicant had led or has a different role played in the misconduct.

29. The disciplinary authority on remand from the Tribunal, as affirmed by the High Court has recorded the following findings in respect of discrimination in punishment:

"AND WHEREAS in the light of the report of the Inquiry Officer and perusal of the relevant documents, as mentioned above, it has become abundantly clear that Shri Tejveer Singh, Nursing Attendant and Sh. Dayanand, OT Assistant, played a leading role in the whole episode. The Inquiry Officer at several places in his report has specifically named Sh. Tejveer Singh alongwith Sh. Dayanand, OT Assistant, with four others responsible for this episode which clearly shows the pivotal role played in the entire episode both by Sh. Tejveer Singh Nursing Attendant & Sh. Dayanand, OT Assistant, as that of a

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> leader markedly distinct from others who followed them. It cannot be gainsaid that quantum of punishment has to be commensurate with the gravity of misconduct of each official involved in an incident like the present one".

30. If a regard is made to the above, the only ground to come to a finding, which distinguishes applicant from others is that applicant has acted as a leader.

31. In the appellate order the following is the justification for discrimination in punishment, which is reproduced as under:

> "The penalty imosed on Sh. Tejveer Singh is based on the evidence, documentary and oral, adduced during the inquiry and the records clearly indicate the leading role played by Sh. Tejveer Singh in obstructing the proceedings of the DPC".

32. This is also re-iteration of the findings by the disciplinary authority. In our considered view there is nothing in the enquiry report which has distinct the role of applicant from the role of other delinquents who have been let off with a lesser punishment. The allegations arise out of a common incident and on a joint enquiry all the delinquents have been held equally responsible for the misconduct. Picking out one person in isolation on unfounded and misconceived grounds is not the reasonableness shown by the disciplinary authority. There is no other material to indicate that applicant has played a pivotal role. In such an event concept of equality is extendable to the punishment as well, as it forbids discrimination to equals or similarly circumstanced. We do not see any intelligible differentia or any reasonable nexus with the objects sought to be achieved in the action of the respondents. Having failed to pass the twin test under Article 14 of the Constitution the punishment imposed upon applicant and maintained by appellate authority is

discriminatory and violates the mandate of Articles 14 and 16 of the Constitution.

33. In the result, OA is partly allowed. Impugned orders are set aside. Respondents are directed to consider imposing the punishment upon applicant as done in the case of Om Prakash and others and on his re-instatement after an order is passed by the respondents he would be entitled to all consequential benefits except back wages. The compliance shall be done within a period of two months from the date of receipt of a copy of this order. No costs.

(Sarweshwar Jha)
Member(A)

(Shanker Raju)
Member (J)

'San.'