CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA/021/00730/2020

Date of CAV : 27.04.2021

Date of Pronouncement : 30.04.2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

Mr.T.Nehru S/o.T.Bheema,
Aged about 45 years,
Ex-Depot Material superintendent/Diesel,
Stores Depot/Gooty, O/o SMM/DSD/GY (Under Dismissal),
Guntakal Division, South Central Railway, Gooty. ...Applicant

(By Advocate :Mr. K. Sudhaker Reddy)

Vs.

1.Union of India, Rep by its General Manager,
South Central Railway, Rail Nilayam, III Floor,
Secunderabad-500 071.

2. The Dy CMM / LOCO & Appellate Authority,
South Central Railway, Rail Nilayam, III Floor,
Secunderabad-500 071. ....Respondents

(By Advocate : Mr. N. Srinatha Rao, SC for Railways)

ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed in regard to the enhanced penalty of removal from service imposed on the applicant by the appellate authority.

3. The applicant while working as Depot Material Superintendent was suspended on 02.12.2011. Later, the suspension was revoked on 29.5.2012 and a major penalty charge memo was issued on 27.11.2012 under Rule 9 of Railway Servants (Disciplinary & Appeal) Rules, 1968 (for short '***RSDA Rules***"). Inquiry was conducted and the Inquiry Officer (for short "***IO***") submitted report on 02.06.2015. Based on the report of the IO, the Disciplinary Authority vide order dt. 25.01.2019 imposed a penalty of reduction to a lower grade of Rs.2800/- in time scale of pay of Level -5 of Pay Matrix for a period of 18 months with cumulative effect and reduction of basic pay from Rs.49000/- in Level - 6 to Rs.40,400/-. Applicant made an appeal on 09.03.2019 and the appellate authority enhanced the penalty to removal from service. Aggrieved over the same, applicant filed OA.

4. The contentions of the applicant are that the appellate authority took 16 months to dispose of the appeal. The penalty of removal has been imposed by the appellate authority without issuing a notice. The appellate authority has not passed any order on the appeal preferred by the applicant, instead enhanced the penalty. The penalty of removal imposed by the appellate authority vide orders dt. 10.07.2020 and 27.10.2020 is illegal and arbitrary. He cited judgment of the Hon'ble Supreme Court in ***Makeshwar***

Nath Srivastava v. State of Bihar & ors, 1971 AIR 1106 1971, in support of his contention. He also cited orders of this Tribunal in different OAs to support his contention that the action of the respondents in removing from service is violative of law laid down on the subject. The action of the respondents is also violative of Articles 14 and 21 of the Constitution. Further, the respondents have not appointed Presenting Officer (for short "PO") and therefore, the IO has acted as PO, which is contrary to law laid down by the Hon'ble Supreme Court. Applicant also cited orders of this Tribunal in OA No. 938/2009 dt.15.10.2012 in support of his plea in regard to appointment of PO and claims that the appellate authority has power only to confirm or set aside the penalty when an appeal is preferred, but he cannot enhance the penalty without issuing notice.

5. The respondents, in the reply statement state that the applicant has not exhausted alternative remedy available and therefore, the OA is not maintainable as per Section 20 of Administrative Tribunals Act, 1985. The applicant was suspended for alleged corrupt acts while working as Depot Material Superintendent in the respondent organization. Charge sheet was issued on 27.11.2012 and the applicant tried his best to delay the inquiry. In fact, he filed OA 888/2015 to change IO and later, when reply statement was filed, the OA was withdrawn. However, inquiry was completed and the based on the IO report, DA imposed the penalty of reduction to lower grade pay of Rs.2800/- along with associated consequences. The applicant has preferred appeal on 09.03.2019 and the appellate authority has enhanced the penalty to that of removal from service on 10.07.2020. Challenging the said order of appellate authority, the applicant once again approached this

Tribunal in OA 351/2020 and also filed MA 242/2020 with additional grounds. This Tribunal, after hearing both sides, without going into the merits of the case, remitted the matter back to the appellate authority on 24.07.2020 to reconsider the decision of removal from service, as per rules and law. The appellate authority once again confirmed the order of removal on 27.10.2020. The applicant had to be removed from service for proven lack of integrity. The contentions made in the present OA have also been raised in the earlier OA 351/2020. Hon'ble Principal Bench has observed that without availing the alternative remedy, the Tribunal should not be approached. The main contention of the applicant is that enhanced penalty was imposed without issuing notice has been addressed by the appellate authority while disposing the appeal on 27.10.2020 in accordance with the direction of the Tribunal. The appeal of the applicant was disposed as per the rules and regulations of the respondent organization.

6. Heard both sides and perused the pleadings on record.

7(I) The dispute is about enhancement of the penalty by the appellate authority to that of removal from service. The applicant claims that the appellate authority has gone beyond his jurisdiction of enhancing the penalty without issuing notice. Facts of the case reveal that the applicant was involved in an alleged act of corruption in the form of promising jobs in the respondent organization. Therefore, the respondents issued charge memo dt. 27.11.2012 under Rule 9 of RSDA Rules with the following articles of charge:

Article-I:

That the said Shri T. Nehru, JE/DSL Store Depot/GY while working as JE/Printing Press under Sr. Manager/P&S/SC during the years 2010 and 2011 had committed serious misconduct/ misbehavior in that he demanded and accepted illegal gratification from Sri V.T. Reve Thukaram, Retired Railway employee, on the promise that he would secure a job in Railways under GM's powers in favour of Ms. Komala Rani, daughter of the said Sri V.T. Reve Thukmaram, as detailed in the statement of imputations.

Thus, Shri T. Nehru, JE/DSL Store Depot/GY (former JE/Printing Press/SC) accepted huge amount as illegal gratification by luring unemployed youth on the promise of securing job in Railways through GM's powers and thereby failed to maintain absolute integrity and acted in a manner unbecoming of a Railway servant in violation of Rule 3(1) (i) & 3(1)(iii) of Railway Services (Conduct) Rules, 1966.

Article-II:

That the said Shri T. Nehru, JE/DSL Store Depot/GY while working as JE/Printing Press/SC during the years 2009-11 had committed serious misconduct/ misbehavior in that he had accepted illegal gratification from Sri Ravi, S/o. Sri Phoolsingh, Sri Balaji & Sri Rama on promise of securing jobs in Railways under GM's powers, as detailed in the statement of imputations.

Thus, Shri T. Nehru, JE/DSL Store Depot/GY (former JE/Printing Press/SC) has collected huge amounts as illegal gratification by luring unemployed youth on the promise of securing job in Railways through GM's powers and thereby failed to maintain absolute integrity and acted in a manner unbecoming of a Railway servant in violation of Rule 3(1) (i) & 3(1)(iii) of Railway Services (Conduct) Rules, 1966.

Article-III:

That the said Shri T. Nehru, JE/DSL Store Depot/GY while working as JE/Printing Press/SC during the years 2010-11 had committed serious misconduct/ misbehavior in that he had purchased a house bearing No. 3-663 situated at Shamirpet Mandal, Ranga Reddy district without previous knowledge of the administration, as detailed in the statement of imputations.

Thus, Shri T. Nehru, JE/DSL Store Depot/GY (former JE/Printing Press/SC) has failed to obtain permission for acquisition of immovable property in the name of his spouse from the administration in contravention of Rule 18(2) of Railway Services (Conduct) Rules, 1966 and thereby failed to maintain absolute integrity and acted in a manner unbecoming of a Railway servant in violation of Rule 3(1) (i) & 3(1)(iii) of Railway Services (Conduct) Rules, 1966.

Article-IV:

That the said Shri T. Nehru, JE/DSL Store Depot/GY while working as JE/Printing Press/SC during the years 2010-11 had committed serious misconduct/ misbehavior in that he had failed to intimate to the administration in regard to the transactions of purchase of two wheeler motor cycle of Discover 150 BSIII make in his name by

taking loan from Bajaj Finance Limited as detailed in the statement of imputations.

Thus, Shri T. Nehru, JE/DSL Store Depot/GY (former JE/Printing Press/SC) has failed to intimate the transactions, pertaining to acquisition of movable property and also loan, obtained from M/s.Bajaj Finance, to the administration in contravention of Rule 18(3) of Railway Services (Conduct) Rules, 1966 and thereby failed to maintain absolute integrity and acted in a manner unbecoming of a Railway servant in violation of Rule 3(1) (i) & 3(1)(iii) of Railway Services (Conduct) Rules, 1966.

Article-V:

That the said Shri T. Nehru, JE/DSL Store Depot/GY while working as JE/Printing Press/SC during the years 2011-12 had committed serious misconduct/ misbehavior in that he had failed to obtain permission from the administration with regard to joining a private chit fund M/s. Margadarshi valued Rs.5 lakhs for 50 months, on a subscription of Rs.10,000/- per month, as detailed in the statement of imputations.

Thus, Shri T. Nehru, JE/DSL Store Depot/GY (former JE/Printing Press/SC) has failed to obtain permission from the administration with regard to his joining chit fund in contravention of Ministry's Decision No. 8 to be read with Rule 18(3) Railway Services (Conduct) Rules, 1966 therein and thereby failed to maintain absolute integrity and acted in a manner unbecoming of a Railway servant in violation of Rule 3(1) (i) & 3(1)(iii) of Railway Services (Conduct) Rules, 1966."

The inquiry was completed and the IO held some of the articles as PROVED and some PARTIALLY PROVED, vide report dt. 25.05.2015. Based on the IO report, the disciplinary authority has imposed the penalty of reduction to a lower grade of Rs.2800/- in time scale of pay of level-5 i.e. 5200-20200 in the 6th CPC for a period of 18 months with immediate effect and the reduction will have a cumulative effect on his pay, based on the findings of the inquiry officer. The applicant preferred an appeal to the appellate authority on 09.03.2019, who has enhanced the penalty to that of removal from service on 10.07.2020. The operative portion of the order of the appellate authority dt. 10.07.2020 reads thus:

"7.0 The order of Disciplinary Authority for imposition of penalty against the Partially proven Article of charges 1 & 2 and proven Article of charges 3, 4 & 5 as "Reduction to a lower grade of Rs.2800/- in time scale of pay of Level -5 i.e. 5200-20200 in the 6th CPC for a period of 18 months with immediate effect and the reduction will have a cumulative effect on his pay. His basic pay corresponding will be reduced to Rs.40,000/-. The

present basic pay of employee is Rs.49000/- in Level – 6 (in the GP of Rs.4200 of the 6th CPC" is not in commensuration with the gravity of Article Charges 1 & 2 related to acceptance of huge illegal gratification from fellow organization employees, on promise of securing jobs in the organization for their kins.

8.0 In accordance with the Provisions of Rule 6 of Railway Servant (Disciplinary & Appeal) Rules 1968 and Railway Board Circular 66 on penalties and disciplinary authority "In cases of persons found guilty of having accepted or having obtained from any person any gratification, other than legal remuneration, as a motive or reward for doing or bearing to do any official act, one of the penalties specified in clause (viii) or (ix) of Rules (Viz., Removal or Dismissal) shall ordinarily be imposed" and thus, accordingly, taking into cognizance the partially proven article of charges 1 & 2, related to acceptance of illegal gratification, I am modifying the penalty from "Reduction to a lower grade of Rs.2800/- in time scale of pay of Level -5 i.e. 5200-20200 in the 6th CPC for a period of 18 months with immediate effect and the reduction will have a cumulative effect on his pay. His basic pay corresponding will be reduced to Rs.40,000/-. The present basic pay of employee is Rs.49000/- in Level – 6 (in the GP of Rs.4200 of the 6th CPC" to "Removal from service with immediate effect".

You are hereby informed that under Rule 17 & 19 of RS(D&A) Rules, 1968, a Revision petition against these order lies to CMM/T provided that:

(a) The revision petition is preferred within forty five days (45) from the date of receipt of this order;
(b) The revision petition is preferred in your own name and it does not contain any improper or disrespectful language."

The applicant earlier challenged the enhanced penalty of removal by filing OA No. 351/2020 along with MA 242/2020. The relevant portion of the order of the Tribunal is extracted here under:

"5. The contention of the applicant is that the Appellate Authority has enhanced the penalty, without issuing notice proposing enhancement. Besides, the penalty has been imposed based on the directions of the Vigilance Department, which is against rules and law. Further, the applicant has already suffered the penalty and, therefore, the Appellate Authority, imposing the penalty of removal from service is nothing more than double jeopardy. In view of the above, the applicant prayed that the matter may be remitted back to the Appellate Authority for issuing necessary orders as per rules and law.

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6. After hearing both the sides, we find it fair and genuine to remit the matter to the Appellate Authority for issuing an appropriate order, keeping in view the grounds raised in the M.A. & O.A., by issuing a speaking and reasoned order, within a period of 12 weeks from the date of receipt of the order. The respondents are directed accordingly.

7. With the above direction, both the MA & O.A are disposed of. No order as to costs."

As per the said order of the Tribunal, it is clear that the respondents were directed to issue an appropriate order as regards the imposition of the penalty on the applicant. Pursuant to the order of this Tribunal, the appellate authority has reconsidered the matter and disposed of the appeal on 27.10.2020. The appellate authority order is a speaking and reasoned order wherein the main contentions of the applicant about non issue of notice in enhancing the penalty and delay of disposal of appeal have been responded to. The relevant observations of the appellate authority are as under:

"4. Ground mentioned in OA/20/351/2020 & MA/20/242/2020 are:

a) The respondents ought to have seen that even though the appellate authority has powers to enhance under the penalty under Rule No.22(2)(i) of the Railway Servants (Discipline and Appeal) Rules, 1968, yet under Rule No.22(V) it is mandatory on his part to issue a show cause notice to the applicant and seek his explanation within a period of 15 days and the opportunity of making a representation against the enhanced penalty. The Rule No.22(2) (V) reads as follows:

22(2)(v) no order imposing an enhanced penalty shall be made in any other case unless the applicant has been given a reasonable opportunity, as far as may be in accordance with the provisions of Rule 11, of making a representation against such enhanced penalty.

Remarks on the Ground (a):

The Rule 11 of "THE RAILWAY SERVANTS (DISCIPLINE & APPEAL) RULES, 1968" to which reference is made in the ground relates to ***procedure for imposing minor penalties*** *whereas the present DAR case relates to* ***Major penalty*** *and as such 22(2)(v) is not applicable.*

*The fact of the matter is that the enhanced penalty was imposed by appellate authority, after completion of inquiry, in accordance with the "THE RAILWAY SERVANTS (DISCIPLINE & APPEAL) RULES, 1968" Rule 22(C) subsection (iii) which states that "****if the enhanced penalty which the appellate authority proposes to impose, is one of the penalties specified in clauses (v) to (ix) of Rule 6 and an inquiry under Rule 9 has already been held in the case, the appellate authority shall, make such orders as it may deem fit."***

b) *The respondent ought to have seen that appeal submitted by the applicant on 09.03.2019 was received by the office of R-2 on 11.03.2019 as admitted by the R-3 in the impugned order dated 10.07.2020 in first para itself. That the R-3 chose to ignore the matter for over one year and five months and just when the applicant is about to restore back to his original grade and pay, the R-3 woke up from his nap and all of a sudden issued the impugned order dated 10.07.2020 enhancing the penalty to that of removal from service for holding the applicant guilty on article-1 of the charge which is totally illegal.*

Remarks on the Ground (b):

The time taken for arriving at a decision cannot be taken as the ground for revocation of any penalty imposed under DAR rules and this case is associated with acceptance of ***huge illegal gratification from fellow organization employees, on promise of securing jobs in the organization for their kins.*** *The removal order was issued against partially-proved sustainable,* ***Article I and Article II*** *of charge sheet, as can be noticed from Para 7 and Para 8 of the order dated 10.07.2020, which are related to* ***acceptance of huge illegal gratification from fellow organization employees, on promise of securing jobs in the organization for their kins*** *and not for* ***Article I*** *alone as mentioned in the OA & MA Ground.*

The appellate authority arrived at the conclusion, as under:

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> *As being the article of charges are "sustainable and proved", the CE has violated provisions of Rule 18(3) of the Railway Service (Conduct) Rules, 1966 and thereby failed to maintain absolute integrity and acted in a manner unbecoming of a Railway servant in violation of Rule 3(1)(i) & 3(1)(iii) and accordingly, the order vide No. DAR/SF-5/T.N/20-21 dated 10.07.2020 for "Removal from service with immediate effect" stands good.*
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> *You are hereby informed that under Rule 17 & 19 of RS (D&A) Rules, 1968, a Revision petition against these order lies to CMM/T provided that:*
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> *(a) The revision petition is preferred within forty five days (45) from the date of receipt of this order;*
> *(b) The revision petition is preferred in your own name and it does not contain any improper or disrespectful language."*

II. The main contention of the applicant is that the appellate authority has not issued show cause before enhancing the penalty to that of removal from service. In this regard, reference to Rule 22(2)(c) of the RSDA Rules, will make the issue clear, which reads thus:

"(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate shall consider-
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(c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders:-
(i) confirming, enhancing, reducing or setting aside the penalty; or
(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case
Provided that-
(i) xxx

(ii) if the enhanced penalty which the appellate authority proposes to impose, is one of the penalties specified in clauses (v) to (ix) of Rule 6 and an inquiry under Rule 9 has already been held in the case, the appellate authority shall, subject to the provisions of Rule 14, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 9 and therefore, on a consideration of the proceedings of such inquiry make such orders as it may deem fit.

(iii) if the enhanced penalty which the appellate authority proposes to impose, is one of the penalties specified in clauses (v) to (ix) of Rule 6 and an inquiry under Rule 9 has already been held in the case, the appellate authority shall, make such orders as it may deem fit."

As per the above provision, the appellate authority is competent to enhance the penalty once Rule 9 inquiry has been undertaken by the respondents. Therefore, it cannot be stated that the respondents have acted against the rules. The appellate authority has acted within the framework of the rules as cited above. The applicant has cited the judgment of the Hon'ble Supreme Court in ***Makeshwar Nath Srivastava v. State of Bihar & ors*** and the same is not applicable to the applicant since the rules of the respondent organization provided for appellate authority to enhance penalty as has been indicated above. The judgment of the Hon'ble Supreme Court is extracted hereinabove:

> *"In the absence of any other provision of law or any rule conferring on the State Government the power to pass an order of dismissal in exercise of its revisional power or power of general superintendence, the general principle must prevail, namely, that an appellate authority in an appeal by an aggrieved party may either dismiss his appeal or allow it either wholly or partly and uphold or set aside or modify the order challenged in such appeal. It cannot surely impose on such an appellant a higher penalty and condemn him to a position worse than the one he would be in if he had not hazarded to file an appeal."*

As can be seen from the above judgment, when the rules provide for enhancement of the penalty, then the respondents are at liberty to take action as per the rules. Therefore, the orders of the Tribunal in OAs 688/2019, 181/2011, 941/2015, relied upon by the applicant would not be

of any assistance, in the context of the Hon'ble Apex Court judgment relied upon by the applicant.

In fact, the Hon'ble Supreme Court in catena of judgments has observed that the rules of the organization have to be strictly followed and any violation of the rules should be curbed and snubbed.

> *The Hon'ble Supreme Court observation in **T.Kannan and ors vs S.K. Nayyar (1991) 1 SCC 544** held that "Action in respect of matters covered by rules should be regulated by rules". Again in **Seighal's case (1992) (1) supp 1 SCC 304** the Hon'ble Supreme Court has stated that "Wanton or deliberate deviation in implementation of rules should be curbed and snubbed." In another judgment reported in (2007) 7 SCJ 353 the Hon'ble Apex court held "the court cannot dehors rules"*

III. Therefore, the action of the appellate authority is as per the rules and is in accordance with the directions of this Tribunal in OA 351/2020 as well. Respondents cannot afford to by-pass the rules as per the legal principles laid down by the Hon'ble Supreme Court cited supra. Hence, the contention of the applicant that the appellate authority has not issued show cause before enhancing the penalty would not hold good. However, there is a provision in the rules to prefer revision petition to the competent authority. The respondents have also submitted the judgments of Hon'ble Benches of this Tribunal namely Principal Bench in OA No.87/2010 dated 28.03.2011 and Jabalpur Bench in OA No.200/00311/2014, dated 13.06.2016 in support of their contention that exhausting the alternative remedy of revision petition is mandatory. In the judgment of the Hon'ble Principal Bench it has been observed that the alternative remedy of revision petition has also to be exhausted before approaching the Tribunal. Relevant portion of the Hon'ble Principal Bench order is extracted hereunder:

> *"10. Perusal of Sub-rule (2) of Rule 24 makes it clear that remedy of filing revision against the punishment of compulsory retirement has been provided in the statutory rules itself so as per Section 20 of the AT Act, 1985, unless*

applicant had exhausted the remedy of filing revision, this OA would not be maintainable as it would be premature.

11. Counsel for the applicant strenuously argued it is not mandatory to file revision as held by this Tribunal in OA No. 2020/2005 decided on 14.07.2006 in the case of Shri Vipin Kumar. However, perusal of the judgment shows that even in this case the Tribunal had referred to the judgment of Shri Ram Avatar Gupta, wherein it was held as under:-

> *"8. There can be little controversy with the said provisions in law but the applicant cannot take advantage of the same. There is a basic difference between the powers of the High Court conferred under Article 226 of the Constitution and those of this Tribunal under the Administrative Tribunals Act, 1985. Under Article 226 of the Constitution, the High Court has certain constitutional powers to issue certain writs. There are certain self-imposed restrictions. In appropriate cases, the High Court can pass the necessary orders where alternative remedy is available, but so far as the Administrative Tribunals are concerned, they have to draw power from the provisions of the Administrative Tribunals Act, 1985. The said provision, as already referred to above, puts an embargo by virtue of Section 20 of the Administrative Tribunals Act, 1985 that a Tribunal shall not ordinarily interfere unless the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. The present case cannot be termed to be one where an exception could be made. There is no urgency or such an act which would prompt this Tribunal to make a departure from the general provision. Once a right to file the revision is available, we find no ground to entertain the applicant. However, it is made clear that in case the applicant prefers a revision petition and since he has been agitating this matter in the Tribunal, the question of limitation shall not be raised before the revisional authority."*

IV. The other contention of the applicant that the respondents have not appointed a PO and therefore, the inquiry is vitiated. The Inquiry report was submitted on 02.06.2015 and the applicant raising this contention at this belated stage would not be proper. However, the Railway Board vide its letter dated 20.10.1971, 09.05.2001, 23.08.1975/ 20/22.1.1979 has made it clear that appointment of Presenting Officer is not mandatory in all the cases and is generally done in complex cases especially those arising out of CBI/ Vigilance investigations. Even Rule 9(9)(c) of RS (D&A) Rules only states that the Disciplinary authority may appoint the P.O, as under:

*"Where the disciplinary authority itself inquires into an article of charge or appoints a Board of Inquiry or any other inquiry authority for holding an inquiry into such charge, **it may**, by an order in writing, appoint a Railway or any other Government servant to be known as 'Presenting Officer' to present on its behalf the case in support of the articles of charge."*

Hon'ble Supreme Court in regard to appointment of PO has held in ***Union of India vs Ram Lakhan Sharma*** on 2 July, 2018 in Civil Appeal No. 2608 OF 2012, as under:

> *28. Justice M. Rama Jois of the Karnataka High Court had occasion to consider the above aspect in Bharath Electronics Ltd. vs. K. Kasi, ILR 1987 Karnataka 366. In the above case the order of domestic inquiry was challenged before the Labour and Industrial Tribunal. The grounds taken were, that inquiry is vitiated since Presenting Officer was not appointed and further Inquiry Officer played the role of prosecutor. This Court held that there is no legal compulsion that Presenting Officer should be appointed but if the Inquiry Officer plays the role of Presenting Officer, the inquiry would be invalid. Following was held in paragraphs 8 and 9:*
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> > *"8. One other ground on which the domestic inquiry was held invalid was that Presenting Officer was not appointed. This view of the Tribunal is also patently untenable. There is no legal compulsion that Presenting Officer should be appointed. Therefore, the mere fact that the Presenting Officer was not appointed is no ground to set aside the inquiry See : Gopalakrishna Reddy v. State of Karnataka (ILR 1980 Kar 575).*

Therefore, it is not mandatory to appoint P.O under the RS (D&A) Rules or as per the legal principle set by the Hon'ble Apex Court stated supra. The applicant has not stated the grounds as to how his case was prejudiced by the absence of the P.O. Moreover, the IO has held Article I and Article II as partly proved and some others as fully proved. It is settled law that the Tribunal cannot re-appreciate the evidence submitted during the inquiry. We do observe that the applicant has not stated anything about the alleged offence committed by him.

V. We have also gone through the other contentions made by the applicant and found them not relevant enough to comment upon. However, after going through the facts as stated above, we are of the view that the ends of justice would be met by directing the applicant to prefer a revision petition to the competent authority within 15 days after receipt of this order

and the respondents dispose of the same within three months from the date of receipt of revision, as per relevant rules and law. Accordingly the applicant and the respondents are directed.

With the above direction, the OA is disposed of, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVEMEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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