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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00106 of 2016

Date of Order : 25th day of April, 2017

CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Udayakar Sahoo aged about 46 years S/o Shri Upendra Sahoo, at Bisol PO Kulana PS Bhandaripokhari, District Bhadrak, at present working as Assistant Superintendent of Posts, Bhubaneswar RMS.

...Applicant

By the Advocate- Mr. T. Rath

-V E R S U S-

- 1- Union of India represented through its Secretary-cum-Director General (Posts), Dak Bhawan, New Delhi - 01.
- 2- The Chief PMG, Odisha Circle, At/PO Bhubaneswar GPO - 01, Dist.Khurda.
- 3- The Member (Personnel), Postal Service Board, Department of Posts, Dak Bhawan, New Delhi - 01.
- 4- The Superintendent of Posts, Bhadrak Division, At/PO Bhadrak, Dist.Bhadrak.

...Respondents

By the Advocate-G.R.Verma

ORDER

R.C.MISRA, MEMBER(A):

The applicant in this O.A. is working as Assistant Superintendent of Post Offices at RMS, Bhubaneswar and has approached this Tribunal praying for the following reliefs :

"(a) to quash the Memorandum of Charges No.Inv./7-119/07 (Disc) dated 28.09/01.10.2015 containing charges under Annexure A/7, order of punishment No. Inv/7-119/07(Disc) dated 17.11.2015 under Annexure A/15, and order on appeal No. C-16013/02/2016-VP dated 03.02.2016 under Annexure A/19 respectively.
(b) And pass appropriate orders as may be deemed fit and proper in the facts and circumstances of the case."

2. The factual matrix of this case in short is that the applicant was served a Memorandum of Charges dated 28.9.2015/1.10.2015 under Rule 16 of the CCS (CCA) Rules, 1965 [hereinafter referred to as "the Rules"]. A statement of imputations of the misconduct was served on applicant and he was given an opportunity to make such representation, as he may wish to make. The statement of imputations reveals that the applicant while working as SPM/PA of Bant SO in account with Bhadrak H.O. during the period from June 2001 to April 2004 was dealing with the operations and supervision of various Savings Bank accounts of Andhia B.O. in account of Bant S.O. As a part of his official responsibility he was required to call for duplicate pass books as on 15.7.2001 and 15.7.2002 respectively in which interest for the years 2000-2001 and 2001 to 2003 were not posted and the same were not sent to the Head Office through his office as per provisions of Rule 75 of the Post Offices Savings Bank Manual, Vol.-I (hereinafter referred to as "the Manual"). He was also responsible to check the said list in

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duplicate to ensure that the Branch Post Master, Andhia B.O. had not omitted any savings bank account number and to submit a certificate through that office to the Head Office as per the provisions of Rule 75 (iv) of the Manual. Because of negligence in duties by the applicant one Shri Vidhyadhar Rout, the GDS BPM of Andhia BO managed to commit fraud in various savings accounts to the tune of Rs. 1,60,113.80 out of which Rs. 3,914.80 is still outstanding. It was alleged in the Articles of Charges that applicant has avoided his responsibility by throwing responsibility on other officials and therefore, it was alleged by the departmental authorities that by not following the provisions of the rules, the applicant contributed substantially to the loss sustained by the department. After getting the Memorandum of Charges, the applicant made a prayer to the Chief Post Master General, Odisha, for permission to inspect the relevant records and the documents for the preparation of his defence. The disciplinary authority i.e. the Chief Post Master General (CPMG) by an order dated 16.10.2015 permitted the applicant to peruse the available documents from Sl. No. 1 to 10 at Bhadrak Division Office. It was also mentioned in the same letter that after perusal of the records, he has to submit his representation before 7.11.2015. Further by a representation dated 28.10.2015 the applicant prayed for perusal of some more records and also submitted that there should be a preliminary inquiry after obtaining all the facts before initiation of the proceedings. The applicant again made a representation on 27.10.2015 in which he submitted that although the charges have been initiated for violation of Rule 75 of the Manual, the exact edition of the publication of the said Manual has not been provided to him. His prayer was that the exact provision of Rule 75 of the Manual under which the proceedings have been initiated, was required to be specified by the authorities. Making many such representations, the applicant did not file any representation to the authorities. Thereafter, the disciplinary authority by an order passed on 17.11.2005 came to a finding that applicant was entirely responsible for the loss caused to the department and exemplary punishment should be imposed on him for his sheer negligence in duties while he was working as SPM/PA at Bank S.O.. On this ground, the disciplinary authority passed an order that outstanding loss of Rs. 3,914.80 should be recovered from the applicant in one instalment with immediate effect and the pay of applicant Shri Sahoo be reduced by one stage from Rs. 18,090 + Grade Pay Rs. 4600 to Rs. 17,430 + Grade Pay Rs. 4600/- for a period of three years without cumulative effect. Being aggrieved by this order of the disciplinary authority, applicant filed an Appeal to the Member (Personnel), Postal Service Board,

Department of Posts, who is the appellate authority, by his appeal petition dated 20.11.2015. He made a further petition to the appellate authority by submitting some additional arguments by his application dated 29.12.2015. Thereafter, it is noticed that applicant had approached the Tribunal by filing OA No. 844 of 2015 and the Tribunal while disposing of this O.A. directed the appellate authority to dispose of the appeal petition as per the provisions of law within a period of three months from the date of receipt of the order. In compliance of the orders of this Tribunal, the appellate authority i.e. the Member (Personnel), Postal Service Board, passed his orders dated 3.2.2016. The appellate authority came to a finding that the appeal is devoid of merit and the punishment imposed was fair and just. After getting this order of rejection by the appellate authority, the applicant has approached the Tribunal by challenging the order of appellate authority, the order of the disciplinary authority as also the memorandum of charges issued against him.

3. The respondents have filed a counter affidavit in which they have repeated the factual aspects of this matter. The submission of the respondents is that the applicant had a duty to call for the duplicate list of pass books as on 15.7.2001 and 15.7.2002 respectively in which interests for the years 2000-2001 and 2001-2002 were not posted in respect of the Andhia B.O. which the concerned BPM has not sent to the Head Office through the office of PA/SPM of Bant S.O. This constituted a violation of Rule 75 of the Manual. This negligence to perform his duty strictly as per rules prompted the GDS BPM of Andhia B.O. to commit fraud in various saving bank accounts to the tune of Rs. 160,113.80. Therefore, the applicant was identified as a subsidiary offender in this fraud case vide the Circle Level Investigation conducted by the DPS Headquarters on 22.9.2008. The applicant was thus proceeded against under Rule 16 of the Rules. Before the issue of charge memo, the applicant was given an opportunity to explain for his lapses by CPMG Memo dated 30.7.2015. The applicant had prayed for perusal of 11 documents but most of these documents were not relevant to the charges and, therefore, he was permitted to peruse only two documents considered to be relevant and asked to submit his defence within 15 days. However, he did not submit his defence representation at all. Then under Rule 16, charge memo was issued against the applicant vide memo dated 1.10.2015. Thereafter, he also prayed for perusal of 12 documents and the permission was granted to him in this regard but, instead of perusing the documents, the applicant again asked to know the interpretation of

Rule 75 of the Manual from the CPMG, Odisha Circle. He also made correspondence with the APMG (Vig.) of the circle office violating the procedure of the disciplinary proceedings because it was the CPMG who was the disciplinary authority in his case. The CPMG being the disciplinary authority, decided to finalise this case as he found the applicant to be intentionally avoiding giving his representation in order to prolong the proceedings. Thereafter, the disciplinary authority issued order dated 17.11.2015 in which, he directed that the outstanding amount should be recovered from applicant and, a further penalty of reduction of his pay by one stage for a period of three years without cumulative effect, shall be imposed on him. The applicant filed the appeal petition and thereafter, approached this Tribunal in a O.A. which was disposed of on 26.11.2015 at the stage of admission directing the appellate authority to dispose of the pending appeal petition. The appellate authority in compliance of the order of the Tribunal, disposed of the appeal vide order dated 3.2.2016 in which decision of the disciplinary authority was upheld. The respondents have submitted in the counter affidavit that the orders have been passed by the authorities in keeping with the statutory provisions and, after considering all the relevant records and the defence representation of the applicant and the punishment awarded was proportionate to contributory negligence as well as the misconduct on the part of the applicant. Regarding the supply of documents, respondents have submitted that the right to peruse all the documents is not unlimited and respondents have given all opportunity to the applicant to peruse all the documents which are relevant to this case. Regarding contest of applicant about the provision of Rule 75 of the Manual, it is submitted in the counter affidavit that the same rule has been rightly quoted from the Manual Vol.-I of 1988 Edition as the 2007 Edition was not released at that point of time. The applicant had also enclosed a copy of the 1988 Edition of the said Manual in his defence representation. Further, in the instant disciplinary proceedings, non submission of explanation, is the main cause to issue the chargesheet against the applicant. It is alleged that the applicant had tried to educate his disciplinary authority to follow Rule 69 of the Postal Manual Vol. III. He also played mischief by avoiding perusal of documents which was permitted for his perusal. He also did not submit his explanation to the charge sheet issued to him and, therefore, disciplinary proceedings cannot be kept pending indefinitely when no reply was submitted by the applicant. It is, therefore, the submission of the respondents that all opportunity has been provided to the applicant to defend his case. In this regard, applicant's submission that Rule 75 of the Manual is

different in different editions of the manual, is not at all admitted. It was applicant's duty to bring the difference if any in his appeal but he has failed to do so in the appeal petition. Therefore, the applicant has failed to establish the difference in the provision of Rule 75 in various editions before the disciplinary authority or the appellate authority. It is also the respondents' submission that all the papers and documents were taken into consideration before the charge memo was finalized. The Circle Level Investigation (CLI) which is in the nature of a preliminary inquiry was conducted by DPS Headquarters. The respondents in the counter affidavit have denied all the allegations of the applicant with regard to the non supply of relevant documents and alleged difference in the provisions of Rule 75 of the Manual in various editions. Thus, they have prayed that the O.A. may be dismissed as having no merit.

4. The applicant has filed a rejoinder in which his main plank of argument is that the Rule 75 of the Manual (Edition 1988) does not put any responsibility on him to obtain duplicate pass books from the Andhia B.O. He has reproduced copy of this rule regarding verification of balance of accounts standing at branch offices and the pass books of which are not received for interest posting in the head post offices.

5. It is his submission that in accordance with the aforementioned sub rule 75 (iv), the then BPM, Andhia B.O. prepared a list of accounts in duplicate and submitted the same to Bhadrak Head Office through the Sub Office at Bant immediately after the interpretation of the rule during the year 1988. The then Sub Post Master Bant S.O. furnished the required certificate that the BPM Andhia B.O. had not omitted any account in the duplicate list. According to the said rule, the submission of duplicate list of accounts, certificate by SPM Bant S.O. and preparation of register of accounts at Bhadrak Head Office, were one time job. Since this exercise was completed since 1988, the applicant was not required to receive the duplicate list of accounts from Andhia B.O. nor required to furnish any certificate during the years 2001-2004. No register was available at Bant S.O. enabling the applicant to identify the accounts of Andhia B.O. in which interest had not been posted by Bhadrak H.O. Thus, he has not in any way prompted the BPM Andhia B.O. to commit fraud. The charges have been framed by a mis-conception of provision of Rule 75. Further in the course of the preliminary inquiry, the applicant was not examined and a copy of the CLI report was not supplied to him. In the rejoinder, the further submission is made that under Rule 75 of Post Offices

Savings Bank Manual Vol. I of 2007 Edition, the following responsibilities were brought out for the Bant S.O.:

- 1) All the Savings Bank pass books standing at B.Os including Andhia BO should be received at Bant SO at least once in a year for interest posting.
- 2) In case any account is not received by 30th June, the BPM of B.O. including Andhia B.O. should collect the pass books from the depositors and send them to Bant Sub Office with a list in duplicate for interest posting by 15th July at the latest.
- 3) The Bant Sub Office will maintain a register of accounts standing upon at each B.O. under their account including Andhia B.O. and scrutinize the Register on 29th July each year to identify the accounts of any Branch Office including Andhia B.O. not received for interest posting in any year and prepare a list of such accounts within 15th July each year and send the same to the concerned Inspector.
- 4) The Branch Offices under Bant SO including Andhia BO should prepare a list of accounts standing at its office in duplicate immediately and submit to Bant S.O. and the Bant S.O. should also prepare a register accordingly. The preparation of the Branch Office-wise Register at Bant S.O. is one time job and once prepared it should be kept updated by Bant Sub Office.

6. Thus the applicant has argued that the respondents called for his explanation for the alleged lapses in his capacity of the PA/SPM of the Bant Sub Office for the period of 2001-2004 for violation of the provisions of Rule 75 of the Post Offices Savings Bank Manual Vol.I of 2007 Edition without indicating the edition of the Manual. His submission is that at the time of the occurrence of the incident, the 1988 Edition of the Savings Bank Manual Vol.I was in force and respondents could not have started proceedings against him for violation of the said rule in the 2007 edition of the manual which was not in force in the year 2001-2004. It is also submitted that the necessary records and documents were not supplied to him to enable him to file his reply to the charges. Another point raised by the applicant in the rejoinder is that the respondents have mentioned that the applicant was required under provision 'Professional etiquette' to call for the duplicate list of pass books from Andhia B.O. as on 15.7.2001 and 15.7.2002. It is alleged by the applicant that the term "Professional Etiquettes" has not been explained in the statutory rules, therefore, is not sustainable under the law. It is submitted that the applicant repeatedly approached the authorities to supply the necessary documents and records; however, the disciplinary authority ignored all his prayers and went on to pass his order of punishment. The Hon'ble Apex Court has laid down that before a minor penalty is imposed, the employee has to be given

an opportunity of making a representation in respect of the charges and in order to facilitate the employee should also be allowed to access the records, if he make such a request. The other grounds brought-out by the applicant are that the charges were vague and the proceedings has suffered from procedural impropriety and, therefore, the orders of the disciplinary and appellate authority, are bad in law. His further allegation is that the incident relates to the year 2001-2004 and, after lapse of 14 years, disciplinary proceedings have been initiated, therefore, this unusual delay proves arbitrariness and malice of the respondents. With the above submissions in the rejoinder, the applicant has prayed that Charge-sheet being vitiated and vague, may be quashed and consequently, the orders of the disciplinary authority and the appellate authority should be set aside.

7. Having perused the records of this case, I have heard the learned counsel of both sides in exten so. I have also perused the written notes of arguments.

8. The charge framed against the applicant is one of contributory negligence. The Tribunal wanted to be informed about how the Department has dealt with the main offender, and what punishment was imposed on him. The ACGSC has submitted instruction that Bidyadhar Rout, ex-GDS BPM, Andhia B.O., who is the main offender has been removed from service by an order dated 27.7.2012. Apart from this departmental action, on charges of fraud, the CBI filed chargesheet against Bidyadhar Rout in the Court of Special Judge, CBI, Bhubaneswar under Prevention of Corruption Act, 1988. The Court case has been finalized, and judgment pronounced on 17.12.2012 convicting the said main offender, and sentencing him to undergo RI for one year and a fine of Rs. 10,000/- for non-payment of which the convict will undergo RI for two years.

9. It is to be noted that after the conviction of main offender in 2012, the applicant as a subsidiary offender was served with a Memorandum in the year 2015 under Rule 16 of the Rules for imposition of minor penalty. It is not explained why the Department initiated such belated steps for taking action for contributory negligence. The incident happened between 2001-2004 when the applicant was SPM, Bant S.O. Therefore, practically after more than 11 years of the incident, minor penalty proceeding was started. There is no limitation about starting disciplinary action in case of serving Government employees. Even then, it has to be said that proceedings were started very late, particularly when the main

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offender was convicted in the year 2012. This does not appear to be a desirable scenario.

10. The procedure for imposing minor penalty as laid down in Rule 16 does not envisage a mandatory inquiry. But, the concerned employee has to be provided with reasonable opportunity of making such representation as he may wish to make against the proposal. But an inquiry will be held by the disciplinary authority in every case where the disciplinary authority is of the opinion that an inquiry is required. In the present case, no inquiry was held. What is however, strange in the present case is that the applicant did not submit his defence representation within the specified period. He went on making representations about perusal of various documents, but did not prepare his defence representation on the basis of documents that he got access to. He could have made a specific prayer that disciplinary authority may make a regular inquiry, even though it was a minor penalty proceeding. The applicant's failure to even make a defence representation in time does not speak well of him in this case.

11. Applicant has submitted that he had no responsibility under the Rule 75 of Post Office Saving Bank Manual, Vol.I in the 1988 edition, which governed the matter during the period of happening between 2001 and 2004. Only in the 2007 Edition of the Manual, the responsibility of SPM was defined. This is an issue that should have been best resolved by the department. But, the department has refused to take such contentions into account. Both disciplinary authority and appellate authority have not entertained such a plea. In fact, the respondents have argued that applicant, being aware of the provisions of the Manual, both 1988 and 2007 editions repeatedly insisted upon the respondents to clarify under which provision of the Manual he had been charge-sheeted. This is alleged by respondents to be only a delaying tactic employed by the applicant. I am of the view that the Tribunal is not required to go into the details of the matter. I am rather of the view that while there may be differences between the two editions with regard to specific responsibility, the supervisory duty of the SPM in the matter of verification of SB Accounts cannot be wholly denied. The respondents' submission that responsibility goes with power is an accepted proposition.

12. I have examined the issue regarding 'vagueness' of the charges as alleged by applicant. The article of charges mentions that as a part of "Professional etiquettes", applicant was liable to call for the duplicate passbooks from Andhia B.O. The term of "Professional etiquettes" is not a legally sustainable expression.

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The charge should have been for violation of rules or executive instructions. A major allegation in the charges is that by his negligence of duty, applicant has "prompted" the GDS BPM to commit fraud. The use of the word 'prompted' is not properly explained or justified in the chargesheet.

13. The, dictionary meaning of 'prompt' as a verb is 'to incite', 'to instigate' or 'to move to action'. What is the direct nexus between alleged negligence of applicant and the fraud should have been explained in detail. Was the subsidiary offender in collusion with the main offender? Did the fraud happen because the applicant did not perform his duty? Was the applicant's negligence the direct or indirect reason why the GDS BPM committed the fraud? When the word 'prompted' was used, all the above questions become pertinent. The applicant could be charged with certain negligence in doing his duty. That will be a simple violation of departmental instructions. When this is linked as a provocation to an act of fraud by the main offender, the issue becomes complex. By way of evidence, the department has to make out a preliminary case that certain acts of a subsidiary offender encouraged the main offender. Otherwise, it will be considered that charges were not based upon evidence. Another connected issue is whether the department has identified subsidiary offenders at other levels also. For example, whether the employees in charge of the matter in the Head Office, have been found to be negligent in performing their duties, and whether they were also covered under proceedings, become very relevant questions. If the department decides to initiate action against subsidiary offenders for contributory negligence, they have to see the holistic picture, and through a fact-finding inquiry have to fix responsibility on all who might have failed to exercise supervisory control. There is no information available in the present case about above points.

14. In the article of charges, it is also stated that the applicant failed to "prove his innocence". In a disciplinary case, the concerned department has to see that charges are established against the alleged offender by a process of inquiry. It is not understood how the applicant has to "prove his innocence". It is further alleged in the article of charges that applicant "contributed substantially to the loss sustained by the department". This is quite a vague expression. What is the exact meaning and dimension of the word 'substantially'? The specific manner in which the applicant is alleged to have contributed to the fraud should have been described in the article of charges. The specific charge is no doubt that applicant

violated the procedure of Rule 75 of the Manual. But, vagueness of the charge is with regard to allegation that applicant "substantially contributed to the loss sustained by the department". Specific evidence with regard to facilitating the commission of fraud by GDS BPM is lacking in the chargesheet. I, therefore, find parts of the charge-sheet to be vague.

15. The disciplinary authority in his order dated 17.11.2015 has imposed the punishment of recovery of outstanding loss of Rs. 3,914.80, and reduction of pay by one stage for a period of three years without cumulative effect. First of all, it is not understood why recovery of an amount of Rs. 3,914.80 is to be ordered, when applicant is not facing any charge of misappropriation or defalcation. It is also not the charge that the applicant was in complicity with the main offender. Secondly, another punishment of reduction in pay, along with order of recovery, has subjected the applicant to "double jeopardy". I do not find any justification for the same. Arbitrariness is anathema to natural justice. The doctrine of proportionality is important in matters of disciplinary proceedings. The order of punishment has to be decided in conformity with such accepted principles.

16. A similar matter involving the charge of contributory negligence in O.A. No. 634 of 2009 (**Sukomal Bag vs. UOI & Ors.**) was decided by the Tribunal by an order dated 11.11.2010 by which the applicant's case was allowed and orders of punishment were quashed and set aside. The paragraph No. 4 being relevant is reproduced below :-

*"4. Considered the rival submissions of the parties with reference to the respective pleadings of the parties and reference to the materials placed on record. It is not the case of the Respondents that the applicant had misappropriated the Government money nor was it the case of the Respondents that for the direct culpable negligence pecuniary loss was caused to the Government. It is the positive case of the Respondents that due to failure in supervisory duty of the Applicant another employee misappropriated the Government money and subsequently he died by committing suicide. Although I do not find any merit in any of the submissions made by the Learned Counsel for the Applicant so as to render the orders of the Disciplinary Authority or the order of the Appellate Authority as not sustainable, I find no basis on apportionment of the amount of Rs. 60,000/- ordered to be recovered from the Applicant. On being asked the learned Counsel appearing for the Respondents as to on what basis this apportionment proportion was arrived at by the DA, he was not able to furnish any satisfactory answer to the same. Fact of the matter is that the employee who committed such embezzlement of the Government money is no more as he committed suicide soon after the offence was noticed. However, I find substantial force on the contention of the Applicant that law of precedence has to be followed by the Tribunal and the Madras Bench and Ahmedabad Bench having declared the punishment imposed on the employee for the negligence in supervisory duty when another employee committed the fraud as illegal, by application of the law laid down by Their Lordship of the Hon'ble Apex Court in the case of *SI Rooplal and others vrs. Lt. Governor through Chief Secretary Delhi and others*, (2000) 1 SCC 644 the present impugned orders are liable to be set aside. I have gone through the decisions relied on by Learned Counsel for the Applicant. I find that those cases are also of the P&T Department in which punishment was imposed for their negligence the fraud was committed by other employees. They have brought the matter to the judicial scrutiny before the Ahmedabad and Madras Benches of the Tribunal in which the*

Tribunal held that as there is no charge that any pecuniary loss was caused to the Government by the Applicants. As such for the pecuniary loss caused by fraud of another employee, the Applicants should not have been punished. Accordingly, in both the cases the Tribunal quashed the order of punishment imposed on them. I find that the factual aspects and issues involved in the cases before the Madras and Ahmedabad Benches as also in the present case are more or less the same and similar. Hence by applying the law laid down in the case of C.N. Harihara Nandan (supra) & J.M. Makwana (supra), the order of punishment of recovery of the amount imposed by the Disciplinary Authority on the Applicant in order under Annexure-A/5 and confirmed by the Appellate Authority in order under Annexure-A/7 are not sustainable in the eyes of law. Hence both the impugned orders in the present case are hereby quashed / set aside. The Respondents are hereby directed to refund the recovered amount to the Applicant within a period of thirty days from the date of receipt of copy of this order. But in the peculiar facts and circumstances of the matter I refrain from passing any order for payment of interest as prayed for by the Applicant."

17. The orders of the Tribunal in the **Sukomal Bag** case (supra) were upheld by the Hon'ble High Court of Orissa by an order dated 22.8.2011 in Writ Petition (C) No. 4343/2011. The Tribunal also disposed of O.A. No. 649/2011 on similar lines, by an order dated 11.10.2013, and quashed the order of punishment of withholding of increments.

18. In the matter of Sub **Inspector Rooplal and Anr. Vs. Lt. Governor & Ors.** decided on Dec. 14., 1999, the Hon'ble Apex Court for the purpose of maintaining consistency in interpretation of law has observed that "a subordinate court is bound by the enunciation of law made by the superior courts, and a co-ordinate Bench cannot pronounce judgment contrary to declaration of law made by another Bench. ... It can only refer it to a larger bench if it disagrees with the earlier pronouncement."

19. However, I do not disagree with the earlier enunciation of law in the matter. After having examined the facts of this case, and the evidence on record, I am of the view that the applicant is entitled to similar relief as granted by the Tribunal in the **Sukomal Bag's** case (supra).

20. In the result, the Charge Memo dated 28.9/1.10.2015 (Annex-7), the order of disciplinary authority dated 17.11.2015 (Annex.A/15) and order of appellate authority dated 3.2.2016 (Annex.A/19), are quashed. The O.A. is thus allowed, with no cost to the parties.


(R.C. Misra)
Member (A)