CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 111 of 2012

Wednesday this the 21st day of September, 2016

CORAM

Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member
Hon'ble Mrs. P. Gopinath, Administrative Member

Krishnakumar R, Clerk/Typist,
Office of the Accountant General (A&E)
Kerala, Thiruvananthapuram.

...Applicant

(By Senior Advocate Mr. M.K. Damodaran and
Advocates Mr. Gilbert George Correya)

Versus

1 Union of India, represented by the
Secretary to Government,
Ministry of Finance,
New Delhi-110 001.

2 The Principal Accountant General (A&E)
Thiruvananthapuram.

3 The Senior Deputy Accountant General (Admn)
Office of the Accountant General (A&E)
Kerala, Thiruvananthapuram

.....Respondents

(By Advocate Mr. Vineeth Komala Chandran for M/s Iyer & Iyer for R2&3)-
No appearance for Ist respondent)

The above application having been finally heard on 23.08.2016, the Tribunal on 21 .09.2016 delivered the following:

ORDER

Per: Justice N.K. Balakrishnan, Judicial Member

The applicant seeks to set aside Annexure A7 the order of disciplinary authority and Annexure A9 the order of the appellate authority and to hold that the charges levelled against the applicant are not proved. A declaration is also sought that the penalty imposed on the applicant is highly disproportionate and that the inquiry held against him was biased.

2. The gist of the case stated by the applicant is as under:

The applicant joined the service in the office of the Accountant General (A&E), Kerala on 5.2.1990. On completion of 12 years of service he was given the benefit of ACP and was promoted to the cadre of Accountant on 2.1.2006. Since a policy was formulated by the Accountant General (AG for short) to outsource the work, there was an agitation. Charge was laid against the applicant stating that he shouted slogans in the course of such agitation against the AG and his administration. It was also alleged that the applicant hindered the passage of AG. Penalty of reduction to the post of Clerk/Typist on a permanent basis debarring the increment for a period of 5 years with cumulative effect was passed in that case. According to the applicant, it was a case of victimization. Annexure A1 Memorandum was issued on 25.4.2008 alleging that on 24..3.2008 at about 12.45 pm the applicant spearheaded an unauthorized demonstration shouting slogans against the AG and assembled near the entrance of his

chamber. A reply was submitted denying the allegations vide Annexure A2. Another Memorandum dated 16.5.2008 wss also served on the applicant (Annexure A3). Finally another memorandum of charge - Annexure A4 dated 1.8.2008 was issued in respect of the incident which allegedly took place on 24.3.2008 and 30.4.2008. The allegations made therein are inconsistent with the allegations made as per Annexures A1 and A3. Not satisfied with the explanation submitted by the applicant, one P. Bhaskaran, Senior Deputy Accountant General (A/cs&VLC) was appointed as the inquiring authority and Shri Shanmugham T.K, Assistant Accounts Officer was appointed as the presenting officer to hold the inquiry. Al the officers were subordinate to the Accountant General. The request to appoint adhoc disciplinary authority was not accepted by the respondents. There is no evidence to prove the charges levelled against the applicant. The evidence given by PW1 and PW2 before the Inquiry Officer is totally unacceptable. No material was produced to substantiate the charges framed against the applicant. Ultimately the inquiry officer submitted Annexure A5 inquiry report. The applicant submitted a representation against the finding arrived at by the inquiry authority. Vide Annexure A6. Without considering the grounds raised in the representation, the disciplinary authority passed Annexure A7 against the applicant order imposing a penalty of withholding of increments of pay for a period of five years with cumulative effect w.e.f. 29.4.2013 after the expiry of the currency of the penalty of

barring increments of pay, imposed on him as part of the earlier penalty order dated 29.4.2008. Aggrieved by the same, Annexure A8 appeal was preferred to the appellate authority. The appellate authority did not consider the appeal on merit but simply rejected the appeal as per Annexure A9 order. Hence applicant is aggrieved by Annexure A7 order of penalty and Annexure A9 order of the appellate authority and contends that the orders were passed by the authorities mentioned above without applying their mind and without considering the evidence and circumstances brought out in this case. The representation made against the applicant alleging bias was rejected by the disciplinary authority which would show that the disciplinary authority also had bias towards the applicant. The AG did not submit any report stating that the applicant had used abusive words against him. He was not examined also. Since the AG had not submitted any report and as he did not tender evidence there was denial of justice to the applicant. The inquiry was one-sided and biased and there was denial of natural justice. The appellate authority did not consider the grounds raised by the applicant in Annexure A8 appeal and as such Annexure A9 order is unsustainable in law. Thus the applicant contends that the orders passed by the disciplinary authority and the appellate authority are liable to be set aside.

3. The respondents resisted the claim contending as follows.

The contention that there was no proper inquiry is absolutely

baseless. The charge against the applicant is that around 12.30 pm on 24.3.2008 he spearheaded the unlawful march and made slogans shouting within the office premises during office hours. The illegal congregation in front of the collapsible gate leading to the AGs Chamber is in violation of CCS (RSA) Rules, 1993. They shouted slogans, insubordinate in nature, tone and content. The applicant hindered the passage of the public and staff and restricted freedom of movement and disrupted office functioning. Thereafter, on the same day at about 1.00 pm, when the AG passed the gathering one or more of the agitating employees abused the AG by shouting 'bastard' and when questioned the applicant admitted in the presence of agitating employees and the security staff accompanying the AG to have shouted the abusive word. The demonstration was held against the legitimate order of penalty imposed on the applicant. At about 12.45 pm on 30.4.2008 the applicant along with a group of around 40 persons marched through the corridors of the building which housed the office of the Principal AG (Audit) and AG (A&E), shouting slogans against the AG (A&E) and his administration. Thus the charge against the applicant is that he is guilty of misconduct. The inquiry authority dealt with the matter in extenso and came to the right conclusion after proper application of mind. The disciplinary authority accepted the finding and imposed the penalty as stated in Annexure A7. The contention that the appellate authority has not applied his mind is incorrect. It was after considering all

the contentions properly and legally Annexure A9 order was issued. The inquiry was held strictly in accordance with Rule 14 of CCS (CCA) Rules. Due opportunity was given to the applicant to present his case. The applicant was also granted a personal hearing in the matter by the disciplinary authority. The plea that the disciplinary authority was biased is untenable. The evidence on record unmistakably proved that the disciplinary authority had fully complied with the procedure for imposition of the major penalty. The disciplinary proceedings were held as the applicant participated in the illegal agitation within the office premises during duty time, despite specific instructions issued in the matter by the competent authority. Even on earlier occasions disciplinary proceedings had been initiated against the applicant and after conducting inquiry, penalty was imposed on him. Though that was challenged before the Tribunal, the penalty imposed on him was confirmed by the Tribunal. The Writ Petition filed against that OA was dismissed by the High Court. It was thereafter the applicant committed the misconduct by having illegal demonstration on 24.3.2008 and 30.4.2008. The demonstrations and slogan shouting were spearheaded by the applicant. It was not peaceful but the illegal agitation which really disrupted the office functioning, disturbing peace of the office, preventing free movement of officials and visitors and also disturbed the functioning of the Secretariates of AG (A&E) and Sr.DAG (Administration). There is clinching evidence to

substantiate the allegation levelled against the applicant. The plea that the charges were amended by the inquiry officer is absolutely false. On finding that the name of one of the witnesses was not mentioned in Annexure A4 the list of witnesses, the disciplinary authority made a formal amendment incorporating the name of that witness also. No modification or correction was made either in the articles of charges or imputation of misconduct. Only a corrigendum was issued correcting the name of the witness. These minor amendments were incorporated before the commencement of the regular hearing/inquiry. It did not in any way either alter the charges nor did it cause any prejudice to the applicant. Similarly the averment that the evidence given. by PW1 and PW2 should not have been accepted and acted upon by the inquiry officer and the disciplinary authority is also unacceptable. The presence of the applicant in the illegal demonstrations held on 24.3.2008 and 30.4.2008 as alleged in the charge memo stood established beyond doubt. The inquiry was held consistent with the rules and in accordance with the principles of natural justice. Hence the respondents prayed for dismissal of this OA.

4. The points for consideration are (i) whether Annexure A7 order passed by the disciplinary authority, confirmed by appellate authority by Annexure A9, suffers from the vice of illegality, irregularity or impropriety in the procedure adopted or on the ground of bias as alleged by the applicant. (ii) whether there was denial of natural justice in the conduct of

the inquiry or in the imposition of penalty (iii) whether the penalty imposed on the applicant is shockingly disproportionate so as to warrant interference with the same?

5. We have heard the learned counsel appearing for the parties and have also gone through the pleadings and records.

6. Annexure A1 is the memorandum of charge dated 25.4.2008 in respect of the offence of misconduct alleged to have been committed by the applicant on 23.4.2008 the relevant portion of which is as follows:

> *"On 24.3.2008 at around 12.45 pm Shri R.Krihnakumar Accountant spearheading an unauthorized demonstration of a group of employees shouting slogans derogatory and insubordinate in nature, assembled near the entrance of the chamber of the Accountant General/Sr.Deputy Accountant General (Admn), obstructing the passage. Shri R.Krishnakumar abused the Accountant General who was leaving his chamber at that time. By spearheading the said demonstration and by shouting abuses against the Accountant General,Shri R.Krishnakumar has violated the provision contained in the CCS (Conduct)Rules, 1964."*

7. Annexure A2 is the reply given by the applicant dated 15.5.1008 given in answer to Annexure A1 memo. Annexure A3 is the second memorandum dated 16.5.2008 which was issued pertaining to the incident allegedly took placed on 30.4.2008 at about 12.45 pm. ~~12.45 pm~~. The relevant portion of the same is as follows:

> *"On 30.4.2008 at around 12.45 PM Shri R.Krishna Kumar, C/T participating in an unauthorized demonstration of a group of employees marched within the office premises shouting slogans, which was in pursuance of concerted action by a group of employees acting in combination,*

against the penalty imposed on Shri R.Krishnakumar, after the disciplinary proceedings initiated against him. By participating in the said demonstration Shri R.Krishna Kumar C/T has violated the provisions contained in the CCS (Conduct) Rules, 1964."

8. Thereafter a composite charge was framed. Annexure A4 is the memorandum of charge dated 1.8.2008 issued to the applicant. Along with Annexure A4 the statement of articles of charges and imputations levelled against the applicant are seen appended. Article 1 therein is pertaining to the incident which had allegedly taken place on 24.3.2008 at about 12.30 PM. Article II therein relates to the incident which allegedly took place at about 12.45 PM on 30.4.2008. There are details regarding the imputations/allegations which led to the framing of the two charges as Article I and II. It was with respect to the charge framed under Annexure A4 the inquiry was conducted against the applicant.

9. It is pointed out by the applicant that when charge was framed under Annexure A4 there was variation with respect to the time of incident and allegations which are seen reflected in Annexure A3. First of all it is to be noted that Annexure A1 was issued pertaining to the incident took place on 24.3.2008. It was thereafter the 2nd incident dated 30,4..2008 took place, and therefore, the second memorandum was issued as evidenced by Annexure.A3. Since the inquiry had to be conducted a composite charge was framed evidenced by Annexure A4 with respect to both incidents. There is no legal inhibition in issuing such a charge before proceeding with

the inquiry. The entire imputations and allegations levelled against the applicant are seen appended to Annexure A4. The applicant was expected to answer the charges levelled as articles I an II mentioned in Annexure A4. It was pertaining to the two charges in Annexure A4 the inquiry was proposed to be conducted. There is a detailed narration of the entire incident which took place on those two days. There is also the narration of the plea raised by the applicant as revealed from the reply given by him to te memos issued to him earlier. The main allegation in Annexure A4 with reepct to Article I. is that the alleged incident took place at around 12.30 pm on 24.3.2008 whereas in Annexure A1 it was stated that the incident took place around 12.45 pm on 30.4.2008. It is not the exact time that is mentioned, it is only the approximate time, within the office hours at which according to the respondents, the alleged demonstration was done and spearheaded by the applicant. Therefore, the contention that there is total variation with respect to the time of incident is totally unmerited. For a better understanding of the same, Articles I and II occuring in Annexure A4 charge also are quoted below:

> *"**Article I:** That the said Shri Krishnakumar. R President of the Accounts Association Category II, while functioning as Accountant in the office of the Accountant General (A&E), Main Office Thiruvannthapuram had on 24.3.20089 around 12.30 pm spearheaded an illegal demonstration and slogan shouting within office premises including the corridors of the office buildings during office hours soon after a legitimate Order of penalty under CCS (CCA) Rules, 1965 was served to a member of the staff by the competent authority. The illegal congregation held in front of the collapsible gate leading to Accountant General's Chamber in violation of CCS (RSA) Rules, 1983 shouted slogans that were*

*insubordinate in nature, tone and content. In the process of leading such an illegal agitation,Shri Krishnakumar.R hindered the passage of the public and staff restricted freedom of movement and disrupted office functioning. Thereafter at around 1.00 pm on that day when the Accountant General passed the gathering one or more of the agitating employees abused thante Account General by shouting "**bastard**", and when questioned, the said Shri Krishnakumar.R admitted in the presence of agitating employees and the security staff accompanying the AG to have shouted the abuse.*

By this active participation in the agitation programme and by abusing he Accountant General, who is the Head of the Department, as aforesaid, Shri Krishnakumar. R. violated Rules 3(1) (iii), 7(i) and 7(ii) of the CCS (Conduct) Rules, 1964, and is guilty of misconduct within the meaning of Government of India decision 23 under Rule 3 ibid.

***Article II**:- On completion of the disciplinary proceedings initiated under Rule 14 of CCS (CCA)(Rules, 1965, against Shri R.Krishnakumar then Accountant of this office, the disciplinary authority vide Order No.Sr.DAG(A)/C.Cell/DA/KKR/2006/2008 dated 29.4.2008 imposed penalty on him. In protest against this legitimate order, around 12.45 pm on 30.4.2008, Shri R.Krishnakumar, President of Accountants Association Category along with a group of around 40 persons marched though the corridor of the building housing the offices of the Principal Accountant General (Audit) and the Accountant General (A&E) shouting slogans against the Accountant General (A&E) and his administration. The said act of protesting against a lawful order of the competent authority imposed on an individual Government servant is violative of Clause 6(b) of CCS (RSA) Rules, 1993 which states that the service association shall not espouse or support the cause of individual government servants relating to service mater. Further the action of Sri Krishnakumar in himself spearheading an unauthorized agitation against the legitimate order of penalty imposed on him by the competent authority is violative of GOI decision 23(1) below Rule 3 of CCS (Conduct)_Rules, 1964 which states that willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior would amount to misconduct.*

By this active participation in the agitation programme, Shri Krishnakumar R violated Rules 3(1)(iii), 7(i) and 7(ii) of the CCS (Conduct) Rules, 1964, and is guilty of misconduct within the meaning of Government of India decision 23 under Rule 3 ibid."

The first charge is that at about 12 30 pm on 24.3.2008 applicant along with others spearheaded an illegal demonstration and slogan shouting

within office premises including the corridors of the office buildings during office hours soon after a legitimate Order of penalty under CCS (CCA) Rules, 1965 was served to a member of the staff by the competent authority. If competent authority passes an order of penalty it is not something to be prevented by shouting slogans. The proper course is to move the appellate authority and if still aggrieved, to move the appropriate legal forum/tribunal etc., the learned counsel for the respondents submits. The question is whether such an illegal demonstration was staged and whether there was slogan shouting within the office premises and during office hours and whether the applicant spearheaded such demonstration or whether he was one of the participants in that illegal demonstration.

10. There is also an allegation that the illegal demonstration was held at/near the collapsible gate leading to the AG's Chamber in violation of CCS(RSA) Rules. The act of the applicant amounted to insubordination in nature, tone and content. What more, there is a specific allegation that at about 1 pm; that is; continuation of slogan shouting one or more of the agitating employees abused the Account General by shouting "**bastard**", and when questioned, the said Shri Krishnakumar.R (the applicant) admitted in the presence of agitating employees and the security staff accompanying the AG to have shouted and abused. If so, is it not a case for proceeding against the applicant under the CCS (CCA) Rules, is the pertinent question posed by the respondents. There is no

variation or alteration of the charges as alleged by the applicant.

11. As stated earlier, Annexure A4 was the foundation, based on which the inquiry was proceeded. Since Annexure A4 contains the charges framed against the applicant, it was to be answered by the applicant. He submitted his written statement of defence to that charge. There was no substantial variation in respect of any of the matters. Hence the contention to the contrary advanced by the applicant must fall to the ground.

12. Though it was vaguely contended by the applicant that the demonstration was peaceful and lawful, it cannot be countenanced for a moment. No illegal demonstration or slogan shouting can be allowed within the office premises; during duty time; that too when it was in respect of an order passed by the disciplinary authority after conducting inquiry under the CCS (CCA) Rules, the learned counsel for respondents vehemently argued. The further allegation is that at 12.45 pm on 30.4.208 also the applicant led a march with a group of about 40 persons through the corridors of the building in which the office of PAG (Audit) and AG (A&E) are situated. Such slogan shouting or demonstration within the premises of the office building during office hours cannot be held to be lawful or legal. There can be no doubt that such illegal acts would attract the provisions contained in the CCS(CCA) Rules so as to proceed against the delinquent. The relevant rule was rightly quoted by the respondents in the memorandum of charges.

13. Annexure A5 is the report of the inquiry authority. Pages 44 to 70 marked as Annexure A5 shows the report of the inquiry authority. There is a very detailed discussion of the charges framed against the applicant, the defence taken by the applicant, the evidence tendered by the witnesses cited on behalf of the prosecution/presenting officer and the evidence tendered by the defence witnesses, examined as DW1 to DW3. There is a detailed narration of the proceedings which were taken on each of the posting dates and also as to what transpired on each of those days. There is no dispute at all on those aspects. There is no dispute regarding the fact that due opportunity was given to the applicant to cross examine the witnesses examined on the side of the presenting officer/prosecution. It is also not disputed that service of a defence assistant was also made available to the applicant. In fact there was no infraction of any of the provisions of CCS (CCA) Rules in the conduct of the inquiry.

14. Though it was vaguely contended that there was denial of natural justice, the applicant could not specifically point out what in fact was the so called infraction of the rules of procedure or the principles of natural justice. Incorporating words or expressions that there was denial of opportunity, denial of natural justice, violation of rules etc., will not come to the rescue of the applicant.

15. After narrating the entire incident based on the evidence furnished by the witnesses and the records Ext.P1 to P.15 and the defence

taken by the respondents and evidence led on behalf of the applicant, the actual point which arose for consideration was framed by the inquiry authority. The question for consideration was whether on 24.3.2008 at about 12.30 pm the applicant led a demonstration and slogan shouting within the office premises including the corridors of the office soon after an order of penalty was served to a member of the staff by the competent authority and whether that demonstration formed themselves into a congregation at about 12.50 pm at the collapsible gate leading to AGs chamber and whether they shouted slogans that were insubordination in nature, tone and content. In that process the applicant hindered passage of public and staff and movement of public and staff and disrupted the office functioning, is another point considered by the inquiry authority. Whether the agitating staff abused the AG by shouting "bastard" when AG passed the gathering is another important point which was raised by the inquiry authority to find whether the charges levelled against the delinquent stood proved or not.

16. According to the respondents when the shouting "**bastard**" was heard the applicant showed the temerity to boast and admit in the presence of the employees and security staff accompanying AG that it was he who shouted that word "**bastard**". As the applicant admitted in the presence of so many persons, which was heard by the witnesses examined before the inquiry authority, it cannot be contended that there is no acceptable legal

evidence to hold that the applicant used that abusive word 'bastard ' so vociferously as to be heard by others. It is not necessary to dwell deep into the aspect as to whether all the demonstrators or persons who illegally shouted were proceeded against. The question is whether the applicant spearheaded that illegal demonstration and whether he shouted the slogan at the time and place. It is sufficient he was found to be one of the members who shouted slogans and was indulged in illegal demonstration during office hours and within the premises of the AG's office building and whether he had caused interruption or disruption to the smooth functioning of the office. These are matters which according to the respondents, proved in the inquiry which are seen detailed in Annexure A5 report.

17. The attempt made by the applicant to pick out one or two answers from the statements of the prosecution witnesses to contend that the evidence is not acceptable is not something to be countenanced by this Tribunal since this Tribunal is not sitting as an appellate court to decide whether the evidence was properly appreciated or accepted by the authorities concerned. The question for consideration is whether in arriving at the decision, the decision making authority had followed the procedure correctly and not whether the decision as such rendered by the authority is correct or not. It is only the procedure which led to the decision that is available to be questioned and not the decision as such. With respect to the first charge itself six relevant points were considered by the

inquiry officer. With respect to the second charge also, the inquiry officer had framed four sub points and all those points were considered in different paragraphs.

18. The main contention that was advanced by applicant is that the two reports stated to have been submitted by PW2 and PW3 on the dates of incident should not have been acted upon by the inquiry officer. It is a case where the authors of two reports have been examined before the inquiry officer. Ext. P12 marked in the inquiry was the statement so given by PW1 with regard to the incident that took place on 24.3.2008 at about 12.30 pm. PW1 himself was the author of the report and he himself proved that Ext.P12 was the report so given by him. He gave evidence pertaining to the incident that took place on that day. Hence, the contention that Ext.P12 should have been totally eschewed from consideration is found to be bereft of any merit. It is vehemently argued by the learned for applicant that the contents of Ext.P12 should have been put to PW1 and all those specific statements should have been brought out as evidence through the oral testimony of PW1. But the evidence would show that PW1 went through Ext.P12, the statement submitted by him and understanding the contents he admitted that the same was given by him. Therefore, there was no necessity of repeating each and every sentence thereafter since the statement was given by PW1 before the inquiry officer regarding the incident which took place on 24.3.2008. The statements given by the

witnesses were in tune with the contents of the report. There was no material contradiction. The correctness of those statements could not be effectively controverted. If there was anything contradictory in nature that was a point to be elicited in cross examination of PW1 and PW2. Ext.P12 was only intended to corroborate the statement given by PW1 in the inquiry. Applicant had sufficient opportunity to cross-examine putting questions to PW1 questioning the correctness of the testimony given by him. Therefore, there was no illegality in the procedure adopted. Similar is the case with respect to Ext.P.15 a similar report given by PW2.

19. The inquiry authority mainly relied upon the oral testimonies of PW1, PW2 and PW3 examined on the side of the prosecution and Ext.P12 and Ext.P15 reports. The learned counsel for the respondents submits that since Ext.P12 and Ext.P15 were proved through the authors of those statements and as they admitted that those reports were correct and when evidence was given pertaining to the statements given in Ext.P12 and Ext.P.15, due importance has to be given to Ext.P12 and Ext.P15 as well since they were contemporaneous in nature. Those two previous statements of witnesses were marked through the competent witnesses. The contention vehemently advanced on behalf of the applicant that the contents of Ext.P12 and Ext..P15 were not brought out through those witnesses cannot be accepted in view of the fact that evidence was given by PW1 and PW2, pertaining to the incident which occurred on the two dates

as mentioned above which are seen reflected in Ext.P12 and Ext.P15. Their evidence is not contradictory to the report so as to contend that the evidence given by those two witnesses is unworthy of credence.

20. The learned counsel for the applicant has also made strenuous effort to contend that there are contradictions in the evidence given by the witnesses examined on the side of the prosecution at the time of incident, the nature of incident etc. There would be slight inconsistencies when evidence is given by witnesses after a long span of time. Those inconsistencies will only vouch for the correctness of the same and not otherwise. That is the principle followed even in criminal trials.

21. The other ground urged by the applicant is that the AG against whom the applicant made abusive word "bastard" did not file any complaint nor examined in the inquiry and as such there was denial of justice. According to the applicant had that AG been examined he could have been cross examined to prove that the allegation levelled against him is untrue. There was no necessity of AG himself submitting any report. When his subordinates who had actually witnessed the incident had reported by Ext.P12 and Ext.P15, there was no necessity for the AG himself to submit any report to show that he was called and abused by shouting at him "bastard". By using such abusive word the applicant has proved himself to be uncultured and uncivilized, the respondents contend. What was reflected through such words is the culture inherent in such a

person, if not his unabashed brazenness, the respondents submit. No responsible government employee will shout slogans against his superior officers using such filthy language, that too, from the office premises, during office hours. Still the applicant wanted to portray himself as a person of absolute integrity and good service records. To prove that it was the applicant who shouted using such words, the answers given by witnesses are referred to. Though it was stated by them that they did not actually see the person uttering those words, they deposed that the applicant himself admitted that he used the abusive words. The witnesses did see the applicant admitting in the presence of the agitators that it was he who shouted and used the abusive word "bastard". That admission/confession was made in the presence of the agitators. It was actually witnessed by the two witnesses examined in the inquiry. The credibility of those witnesses could not be shattered though there was an incisive cross examination by the defence assistant. Admission is the best evidence unless it is proved to be otherwise. There was no reason to hold that the admission so made by the applicant, proved through those witnesses should not have been accepted by the inquiry officer/disciplinary authority.

22. The witness Madhusoodanan Nair, who was examined as PW-1 in the inquiry has stated that Exhibit P2 marked therein is the report given by him on 24.03.2008. Annexure R-3 (c) is the evidence /

statement of the witness Madhusoodanan Nair referred to above. It was recorded by the Inquiry Officer in the presence of the Presenting Officer, the Defence Assistant and the charged official (the applicant). When a suggestion was put to that witness that he could see the demonstration on that day only when it congregated in front of or near the grill gate of AG's Chamber, he denied the same and stated that he noticed the demonstration when it moved through the road in front of him. That was around 12:30 p.m on that day. It was further stated that after passing the pathway in front of the applicant the demonstration went straight to the grill gate near AG's Chamber. It was further stated that even before the demonstrators reached near the grill gate, he was summoned by the AG Secretariat to protect the grill gate from the demonstrators, and accordingly he and Bhuvanachandran Nair were standing near the grill gate. It was also stated that after about 10 minutes of his reaching the grill gate, the demonstrators congregated there. Though he stated that nobody entered the grill gate he could see the demonstrators having congregated near the grill gate of AG's Secretariat. When he was confronted with a statement (in Exhibit P-12) that the demonstration was against the punishment given to Santhosh Kumar by the administration he has explained that what is

meant by "administration" is the disciplinary authority and all other matters connected therewith. He has also explained that the protest was against the punishment given to Mr. Santhosh Kumar. He has asserted that the demonstration at the grill gate remained up to 1 PM and thereafter he went down to the portico. It was also stated that after the demonstration was over, DAG summoned him and Bhuvanachandran Nair and they were instructed to give a report. Thus Ext.P12 report was prepared by PW1 and the other report (Ext.P15) was prepared by Bhuvanachandran Nair. In Ext.P12 the name of one of the demonstrators was mentioned as Kamalahasan instead of Kamalasanan. That was corrected while giving evidence. Despite the incisive and searching cross examination the credibility of that witness remained unshaken and unshattered. It was specifically stated that it was because he saw Mr.Krishnakumar (applicant) in the demonstration he stated that he happened to see Krishnakumar when demonstration was proceeding to the grill gate and passed the place where the witness was standing. He has also asserted that he could see the demonstrators shouting slogan in "full throat" and so it was possible for him to hear the slogan shouting. It was also stated that it was possible for a person standing at the main gate; namely the

demonstrators coming out of the "pension building". We have no hesitation to hold that even though he was cross examined in extenso by the defence assistant, his credibility could not be shattered. Some of the answers given by PW1 is in Ext.P12 itself. Nothing was stated in cross examination that Ext.P12 does not contain the true state of affairs. Therefore, the challenge against Ext.P12 made by the applicant cannot be sustained. Evidences was given with respect to the facts mntioned in Ext.P12 itself and it was marked through the author of the same.

23. Annexure R3(d) is the statement/evidence given by PW2 Venugopalan Nair. He has given evidence with respect to the incident which took place on 30.3.2008. By around 12.30 pm he was accompanying AG to the AGs room situated in the Ist floor of the main building. He stated that by 12.30 pm or so he and others could hear the sound of shouting of slogan by agitators. By looking through the window of AG's secretariat it could be seen that the agitators were entering the "Accounts building" in the southern side and after some time they came out through another side. Details were given how he could see the incident. Ext.P15 is the report prepared by him. The report would show that the report was shown to this witness and after

reading the same he confirmed that it was his report and written and submitted by him. He has further stated that what were stated in the report are true. Therefore the contention that Ext.P15 has not been proved in the manner required by law is found to be devoid of any merit. That apart, PW2 has given evidence with reference to the incident that took place on 24.3.2008 also. That is seen narrated in Ext.P15 report. It was stated that the said report dated 24.3.2008 was given by him. It was thereafter he read and confirmed the said report and stated that the statements contained therein are true.

24. PW2 has also given evidence with respect to the shouting of slogans by the demonstrators and the role of the applicant herein and that of one Vijayakumar and others. It was also stated that in the slogans shouting; the demand made was for withdrawing reversion of Krishnakumar the applicant herein. The nature of the slogans shouted and all other aspects are well explained by the witnesses in the evidence, especially when he was cross examined by the defence assistant with respect to those aspects. A graphic account of what happened on 24.3.2008 was given by him. As stated earlier Ext.P.15 report was read over, explained and he admitted the contents as true. In view of the fact that PW2 who is an eye witness to the occurrence

has clearly deposed as to what transpired on 30.4.2008 also the contention that his evidence cannot be accepted is only to be turned down. His statement gets corroboration from the contemporaneous record; namely Ext.P15, which was prepared and signed by him and given to the DIG on the same day.

25. With respect to the main allegation against the applicant that on 30.4.2008 at about 1.00 pm while he was accompanying AG the applicant abused the AG calling him 'bastard' question was put to him as to whether he (PW2) himself heard Shri Krishnakumar (the applicant) calling so. It was stated by PW2 that he did not hear Krishnakumar calling as such but Krishnakumar admitted that it was he who abused the AG. The relevant questions and answers in that context are as follows:

Did you hear Krishnakumar calling the word "bastard"? (This is a question put by the defence assistant)?

Answer given : I have not heard Krishnakumar calling. He admitted "nhananu vilichathu". (To mean that it was Krishnakumar who called-bastard.)

The next question was:

Did AG tell you that K.Kishnakumar called him "bastard"? (This question is put by the defence assistant).

Answer given: AG did not say. When AG climbed back the stairs and asked at that time it was Krishnakumar who said that "Nhananu

vilichathu".

When questioned it was admitted by PW2 that Ext.P15 statement was written by him in his handwriting and what is reported therein is true. When that is the answer given by PW2 in cross-examination the contention that Ext.P15 was not proved and that contents of the same had not been brought in evidence by eliciting answers from the witnesses must fall to the ground. Again when question was put regarding the same, it was answered by PW2: "In my report I have clearly stated that when AG asked the question 'who called so" and that time Krishnakumar replied that "nhananennu" ie., it was Krishnakumar himself. That was my statement". A reading of the statement given by that witness will leave no doubt regarding the acceptability and truthfulness of the version made by him. Hence the contention that no acceptable evidence was adduced is a travesty of truth.

26. The evidence given by these witnesses has been dealt with here only because the learned counsel for the applicant very much argued that it is a case where there is no evidence to find the applicant guilty. But on the contrary it is a case where there is evidence to prove the complicity of the applicant with regard to the two incidents in

respect of which charges were framed against him. In other words, it is not a case where there is 'no evidence' so as to contend that the finding entered by the inquiry authority and the order passed by the disciplinary authority are to be set at naught. As said earlier the gravamen of the 2nd charge is that the applicant used abusive word "bastard" against the AG. The fact that the AG himself did not submit any report regarding the same is irrelevant and inconsequential since the report regarding that incident had been given by PW2 and another witness and evidence was given with respect to the same in the inquiry. Therefore, the contention that non-examination of the AG has caused prejudice is too facile to be countenanced.

27. The learned counsel for the applicant has relied upon the decision in ***Hardwari Lal Vs. State of UP and others – (1999) 8 SCC 582*** in support of his submission that non-examination of the material witness has caused prejudice to the defence and so the finding entered by the inquiry officer and order passed by the disciplinary authority are to be upset. It is not a case where there was no observance of principles of natural justice. What is required is whether sufficient reliable evidence was let in pertaining to the two charges; namely the two incidents forming the basis of the two charges Art.I and II. The

witnesses have clearly deposed regrading the actual participation, role and complicity of the applicant in the two incidents. The witnesses in unmistakable terms asserted the role of the applicant in support of the two charges framed against him. In the decision cited supra sole ground urged was as to the non-observance of the principles of natural justice in not examining the complainant Shri Virender Singh and the witness Jagdish Ram. Hence in the factual matrix of that case it was held that the non examination of those two persons has prejudiced the case of the charged employee. It was held that the examination of those two witnesses would have revealed as to whether the compliant made by Virender Singh (complainant therein) was correct or not since the complainant was the best person to speak to its veracity. Highlighting the circumstances in that case it was held that the Tribunal and High Court erred in not attaching importance to the contentions raised by the appellant therein. The factual scenario is entirely different in the case on hand.

28. Plurality of evidence is not the requirement of law. Here the AG was not the complainant. It was based on the two reports Ext.P12 and P15 given by the two witnesses the proceedings were initiated. Those two reports were marked through the authors of those reports

and they were examined in the inquiry. Those two witnesses were cross examined at length by the defence assistant. Therefore, there was no denial of opportunity at all. Imputations levelled against the applicant as can be seen from the statement of allegations/imputations accompanying the charge (A4) could be proved through witnesses and also by examining another witness.

29. The contention that those witnesses deposed only because they were subordinates of the AG and so their evidence cannot be accepted is also too fallacious to be countenanced. Nobody can expect who is higher in rank than the AG in that office so as to contend that he is not subordinate to the AG. When AG is the officer who is at the helm of affairs of the institution all others would be subordinate to him. That does not mean that those employees or officers cannot give evidence pertaining to an incident. Credibility and acceptability of those witnesses were tested on the touch stone of cross examination. There is a detailed narration of evidence tendered by those witnesses in Annexure A5 the inquiry report. It is a case where those witnesses were cross examined in extenso by the defence assistant. Therefore, there was no denial of opportunity nor was there any infraction of the principles of natural justice.

30. The decision of Supreme Court in ***Central Bank of India Ltd Vs. Prakash Chand Jain -- AIR 1969 SC 983*** has also been relied upon by the applicant to contend that even if the provisions contained in the Evidence Act are not applicable as such still the principle that a fact sought to be proved must be supported by statements/evidence cannot be ignored. Here the incident took place in the presence of PW1 and PW2. That is reflected in the two reports submitted by them, besides their statement in the inquiry. On a careful analysis of Annexure A5 report and after applying the mind the disciplinary authority concurred with the view taken by the inquiry officer. There was no irregularity, illegality or procedural impropriety or irrationality in the inquiry conducted so as to contend that the same is vitiated. There is nothing to show that the finding entered by the inquiry officer is perverse.

31. The question as to the adequacy of evidence or the satisfactory nature or character of the same raised by the applicant is devoid of merit as there is adequate and necessary evidence to satisfy the decision making authority to come to a right and proper conclusion as to the correctness of the allegation made in Annexure A4. Hence the decision cited supra also cannot come to the rescue of

the applicant.

32. Here it is not a case where previous statements of witnesses are taken as substantive evidence without affirmation of the truthfulness or correctness of the statement contained in Ext.P12 and P15 which are actually the reports given first in point of time with regard to the incident. In fact those reports are to some extent contemporaneous in nature. Evidence was given by the authors of those reports, testifying the correctness and truthfulness of the same and also as to what actually was the substance of the allegation made against the applicant. Therefore, it is not a case where there was no evidence to prove the charges nor is it a case where Ext.P12 and Ext. P15 were simply marked without the authors being examined or without letting in evidence in respect of the factors mentioned therein. It is not a case built upon on hearsay evidence. In fact EXt.P12 and Ext.P15 were substantially proved by the authors of those reports who were examined as PW1 and PW2.

33. The contention raised by the applicant that he had 16 years of unblemished service till the initiation of the disciplinary proceedings has also been taken exception to by the respondents. The learned counsel for the respondents has brought to our notice that the applicant

was earlier proceeded against for committing similar misconduct, pursuant whereto disciplinary inquiry was conducted and a penalty of barring of increment for a period of five years with cumulative effect was passed. That order was confirmed by the appellate authority. The OA filed before this Tribunal OA 240/2010 was dismissed as per order dated 18.8.2011. Para 9 to 12 of that order are relevant which are quoted here:

> *"9. The agitation/demonstration under consideration here has relevance only to 'public order' in 7(i) of the CCS (Conduct) Rules. In Superintendent Central Prison, Fatehgarh vs. Dr. Ram Manohar Lohia, AIR 1960 SC 633, the Hon'ble Supreme Court held "Public order (Art. 14 (2) and (3)) is synonymous with public peace, safety and tranquility. It is the absence of disorder among breaches of local significance in contradistinction to national upheavals such as revolution, civil strife, war affecting the security of the State". Gathering in front of the Office of the Accountant General, blocking his entry and shouting of slogans during office hours is not the normal work of the applicant and his co-agitators. When employees leave their seat of work, assemble in a crowd, bock entry and shout slogans, the tranquility of the office is broken. There is disorder. Even if the commutation and disorder are not prolonged, public order is disturbed. Therefore, we hold that the participation of the applicant during office hours in the agitation under scrutiny here is violative of 7(i) of the CCS (Conduct) Rules.*
>
> *10. The agitation on 20.12.2006 in which the applicant had participated, was a demonstration against certain policy of the department. The*

employees have the freedom of speech to express their stand or feelings about a particular act of the Head of Department. The Apex Court held in AIR 1962 SC 1166, Rameshwar Prasad and Others vs. State of Bihar and Another, that a peaceful and orderly demonstration would fall within the freedom of speech. But that right needs to be exercised in an appropriate manner. To demonstrate during office hours when they are expected to discharge their duties is to desert duty and get paid for it from the public exchequer. After doing the day's work, if the employee demonstrate after office hours, in a peaceful manner, it may not be seen as violative of 7 (ii) of CCS (Conduct) Rules. In the instant case, the applicant demonstrated instead of working during office hours and forced the Accountant General to take a particular door to enter his office after blocking his normal entry door. In doing so, he clearly violated 7(ii) of CCS (Conduct) Rules.

11. Rule 3(1)(iii) reads as follows:

> *"**3. General-***
>
> *(1) Every Government servant at all times-*
>
> *(i) xxxxxxx (ii) xxxxxxx*
>
> *(iii) do nothing which is unbecoming of a Government servant."*

12. The applicant being a Government employee is at all time expected to do nothing which is unbecoming of a Government servant. Indulging in acts like crowding the office of the Accountant General, raising slogans at the highest pitch or less, blocking the way at a time when he should be performing his assigned duties at his seat of work can hardly be described as becoming if a Government servant. At the time of agitation during office hours, he was not in the section doing his work but was leading the agitation as the President of the recognized Union. Hooliganism in the office during office hours is to be doubly condemned. Unions

> *should seek more dignified and acceptable methods of collective bargaining. The conduct of the applicant on 20.12.2006 during office hours was quite unbecoming of a Government servant. The stand of the applicant in respect of the happening on 20.12.2006 is contrary to law and propriety. We do not find in the order of the disciplinary authority dated 29.04.2008 and the order of the appellate authority dated 02.04.2009 any infirmity which calls for interference by this Tribunal."*

The underlined portion in para 12 quoted above would show that in the nature of the misconduct committed by the applicant, the employer was justified in imposing major penalty upon him. But only because that penalty imposed was not in consonance with Rule 11 the matter was remitted to the disciplinary authority so as to impose proper punishment. It is not a case where the applicant can contend that there was no previous incident in which the applicant was indicted for similar misconducts. The aforesaid factors are highlighted here by the respondents only to counter the averment made by the applicant that he had a blemishless service and was a person of high integrity. It is proved to be otherwise.

34. Be that as it may, the question here is whether the inquiry conducted against the applicant and the decision arrived at is vitiated by any of the grounds urged by the applicant.

35. Relying on the decision in ***Union of India Vs.***

G.Ganayudham 1997 (7) SCC 463 it is argued by the learned counsel for the respondents that on going through the entire evidence and finding entered by the inquiry officer it can be seen that no irrelevant matters had crept into the mind of the disciplinary authority so as to find fault with him. There is also nothing to show that the decision suffers from absurdity or perversity as contended by the applicant. When there was no violation of principles of natural justice, the Tribunal cannot act as an appellate authority to upset the findings of fact entered by the authorities below.

36. Inconsistencies in the evidence given by the witnesses will not go to the root of the matter. It falls in the realm of the appreciation of the statement given by the witnesses. Even in criminal trials such inconsistencies are not treated as vital to throw over board the prosecution case. If the evidence is true in the main that can be accepted even to find the accused guilty in a criminal trial. The degree of proof required in departmental inquiries is only preponderance of probabilities and not proof beyond reasonable doubt. Therefore, even if there are slight inconsistencies they are not so vital to hold that there is no evidence.

37. Argument was also advanced on behalf of the applicant

contending that there was bias. Merely because an allegation is made, the court or the Tribunal cannot jump to a conclusion that the entire proceedings is vitiated. Reappraisal of evidence in judicial proceedings is seldom resorted to. Such exercise only is an exception when prima facie there is absolutely no evidence.

38. It is stated that the requests for adhoc disciplinary authority and adhoc appellate authority were rejected by the disciplinary authority as per memorandum dated 10.6.2009. That was not challenged by the applicant then and there. After commencement of the inquiry, representation dated 5.3.2009 was stated to have been sent to the Dy.C&AG stating about 'bias' of the inquiry authority. That representation was also rejected on 10.06.2009. The applicant contends that the grievance raised by the applicant relating to the bias was not properly considered or heeded to. A reading of Annexure A5 report given by the inquiry officer would make it clear that he had made a meticulous examination of the allegations and counter allegations and the acceptability of the evidence tendered by the witnesses and only thereafter applying his mind and after analyzing the entire evidence a finding was entered by him. The very fact that there is a very detailed discussion of the entire contentions raised by

the parties and finding on each and every point would stultify the contention that there was injudicious approach of the charges framed against the applicant or the evidence tendered by the prosecution. There was proper evaluation of the evidence on record. Proper opportunity was also given to the applicant. Therefore, the contention that there was bias is totally bereft of any merit. The same was the view taken by the Hon'ble Supreme Court in the decision rendered in ***State Bank of India Vs. Samarendra Kishore Endow – (1994) 2 SCC 537.***

39. The decision of the Hon'ble Supreme Court in ***MV Bijlani vs. Union of India and others -- 2006(5) SCC 88,*** is also referred to, wherein it was held:

> "25.It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidences to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."

40. In ***Tota Ram Vs. Union of India and others –(2007) 14 SCC 801*** it was held by the Hon'ble Supreme Court " *it was not the*

function of the CAT or High Court to sit in appeal over the findings recorded in the departmental inquiry and that, as long as there was some evidence which was accepted as bonafide by the disciplinary authority as warranting the charge against the appellant, it was not liable to be interfered with the judicial review."

41. We must bear in mind that the judicial review is not akin to adjudication on merit by re-appreciating the evidence as an appellate authority. The Court/Tribunal is denuded of the power to re-appreciate the evidence and to come to its own conclusion on the proof of a particular charge. The scope of judicial review is limited to the process of making the decision and not against the decision itself and in such a situation the Court cannot arrive at its own independent finding (see the decisions of the Hon'ble Supreme Court in ***High Court of Judicature at Bombay through its Registrar*** v. ***Udaysingh S/o. Ganpatrao Naik Nimbalkar & Ors. – AIR 1997 SC 2286, Govt. of A.P. & Ors.*** v. ***Mohd. Nasrullah Khan – AIR 2006 SC 1214*** & ***Union of India & Ors.*** v. ***Manab Kumar Guha - 2011 (11) SCC 535***).

42. It is also trite law that technicalitiess and irregularities even if there is any which do not occasion failure of justice are not allowed to defeat the ends of justice (See the deciison of Hon'ble Supreme

Court in ***S.K. Singh*** v. ***Central Bank of India & Ors.*** - ***1996 (6) SCC 415***, ***Aligarh Muslim University & Ors.*** v. ***Mansoor Ali Khan*** - ***2000 (7) SCC 529*** and ***State of U.P.*** v. ***Harendra Arora & Anr.*** - ***AIR 2001 SC 2319***).

43. In this case penalty was imposed withholding of increments of pay for a period of five years with cumulative effect on the applicant with effect from 29.4.2013 after the expiry of the currency of the penalty of barring increments of pay, imposed on him as part of the earlier penalty order dated 294.2008. Whether it is to be with effect from 29.4.2013 or as to when the expiry of the penalty imposed in the earlier case would depend upon the modified penalty that may have to be imposed or imposed pursuant to the judgment rendered by the Hon'ble Supreme Court in the Civil Appeal No. 10089 of 2013.

44. It was held by the Hon'ble Supreme Court in ***LIC of India and others Vs. S.Vasanthi – 2014 KHC 4519 : (2014) 9 SCC 315*** as under:

> "11. The scope and power of judicial review of the courts while dealing with the validity of quantum of punishment imposed by the disciplinary authority is now well settled. In the case of Deputy Commissioner, KVS & Ors. v. J. Hussain, (2013) 10 SCC 106, the law on this subject, is recapitulated in the following manner:
>
> > "6. When the charge proved, as happened in the instance case, it is the disciplinary authority with whom lies the discretion to decide as to what kind of punishment is to be

> imposed. Of course, this discretion has to be examined objectively keeping in mind the nature and gravity of charge. The Disciplinary Authority is to decide a particular penalty specified in the relevant Rules. Host of factors go into the decision making while exercising such a discretion which include, apart from the nature and gravity of misconduct, past conduct, nature of duties assigned to the delinquent, responsibility of duties assigned to the delinquent, previous penalty, if any, and the discipline required to be maintained in department or establishment where he works, as well as extenuating circumstances, if any exist. The order of the Appellate Authority while having a re-look of the case would, obviously, examine as to whether the punishment imposed by the Disciplinary Authority is reasonable or not. If the Appellate Authority is of the opinion that the case warrants lesser penalty, it can reduce the penalty so imposed by the Disciplinary Authority. Such a power which vests with the Appellate Authority departmentally is ordinarily not available to the Court or a Tribunal. The Court while undertaking judicial review of the matter is not supposed to substitute its own opinion on reappraisal of facts.(See: Union Territory of Dadra & Nagar Haveli vs. Gulabhia M.Lad (2010) 5 SCC 775) In exercise of power of judicial review, however, the Court can interfere with the punishment imposed when it is found to be totally irrational or is outrageous in defiance of logic. This limited scope of judicial review is permissible and interference is available only when punishment is shockingly disproportionate, suggesting lack of good faith. Otherwise, merely because in the opinion of the Court lesser punishment would have been more appropriate, cannot be a ground to interfere with the discretion of the departmental authorities.

In view of the fact that the misconduct charged and proved against the applicant was very grave it cannot be found that the penalty of debarring of increments for five years with cumulative effect is

outrageously disproportionate to the nature of charge. Only if it was strikingly disproportionate, the proportionality theory will come into play. The test of wednesbury principle of reasonableness is to be applied to find out whether the decision rendered by the disciplinary authority confirmed by the appellate authority was illegal or whether it suffers from procedural impropriety or is one, which a sensible decision maker could on the material before him or within the framework of law could arrive at. The decision rendered by the Hon'ble Supreme Court in ***GM (Operations) SBI and another Vs. R.Periyaswamy -- 2014 KHC 4786 : (2015) 3 SCC 101*** also has been relied upon by the learned counsel for the respondents in support of his submission that the court or the Tribunal should not interfere with the findings of fact recorded in departmental inquiries except where such findings are based no evidence or where they are clearly perverse. It was held by the apex court thus:

> *" 8. In State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya[2], this Court observed as follows:-*
>
> > *"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for*

interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India : (1995) 6 SCC 749, Union of India v. G. Ganayutham : (1997) 7 SCC 463, Bank of India v. Degala Suryanarayana : (1999) 5 SCC 76 and High Court of Judicature at Bombay v. ShashiKant S Patil (2000) 1 SCC 416)."

It is not necessary to multiply authorities on this point. Suffice it to say that the law is well settled in this regard."

45. We could see sufficient evidence to prove the charges framed against the applicant. There was no violation of natural justice or infraction of any rule. The penalty imposed on the applicant is not shockingly disproportionate. Hence we do not find any reason to interfere with the same. Thus the Original Application fails. It is accordingly dismissed. No order as to costs.

(Mrs. P.Gopinath)
Administrative Member

(N.K.Balakrishnan)
Judicial Member

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