Central Administrative Tribunal
Principal Bench, New Delhi

O.A. No.3685/2014

Order reserved on 9th February 2017

Order pronounced on 20th July 2017

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Dr. Gausal Azam Khan
Aged about 42 years
s/o Mr. Abdul Aziz Khan
r/o A-128, Pandara Road
New Delhi – 110 003
(Working as Scientist D)

..Applicant

(Mr. R Satish, Advocate)

Versus

1. Union of India through Secretary
   Ministry of Defence
   South Block, New Delhi

2. Director General
   Department of Defence, R&D and SA to RM
   Defence Research Development Organization
   DRDO Bhawan, Rajaji Marg
   New Delhi – 110 001

3. Director of Personnel
   DRDO Bhawan
   Rajaji Marg, New Delhi – 110 011

4. Joint Director-Personnel/DRDS-II
   DRDO Bhawan
   Rajaji Marg, New Delhi – 110 001

5. Dr. Shashi Bala Singh
   Director
   Defence Institute of Physiology & Allied Sciences
   Lucknow Road, Timarpur, New Delhi

6. Mr. Rajio Singh
   Associate Director & Inquiry Officer

DRDO Bhawan
Rajaji Marg, New Delhi – 110 011

..Respondents

(Mr. Rajesh Katyal, Advocate)

O R D E R

Justice Permod Kohli:

The applicant has called in question the disciplinary proceedings initiated against him, including the penalty order dated 08.12.2015. Brief matrix, leading to the filing of the present Application, is noticed hereinafter.

2. The applicant was selected as Scientist 'D' vide letter dated 04.09.2008 in the Defence Research & Development Organization (DRDO). He joined in the Department of Defence Institute of Physiology & Allied Science, Lucknow Road, Timarpur. The applicant claims to have been conferred various awards in bringing name and fame not only to him but to the country as a whole. In the year 2010, the applicant was In-charge of Hematology Group of Research in different subjects relating to science. He was asked to submit a combined project concept on the same subject of research by three Scientists, namely, Dr. Zahid Ashraf, Dr. R.Sugadev and the applicant. It is stated that all the three Scientists moved an application along with conference brochure to respondent No.5 but there was no response up to 14.02.2011, i.e., the last date. It is also stated that the applicant presumed that the office of

respondents have no objection and he thus uploaded his abstracts online to submit in the conference. The said abstracts were selected with honour of giving "Developing World Scientist Award" to the applicant. He intimated the above development to respondent No.5 through email and requested her to grant permission to receive award. However, no such permission was granted by the said respondent. He thereafter applied for 'no objection certificate' for visiting abroad. The applicant, in the meantime, claims to have requested his cousin brother Mr. A Khan, who lives in Japan, to collect the award from the conference on his behalf. The applicant was served with a memorandum of charge dated 31.04.2014 with the following articles of charge:-

> "Article-1
>
> That the said Dr GA Khan while functioning as Sc 'D' during the year 2011 submitted abstract for the international Society on Thrombosis and Homeostasis on 04 Feb 2011 for approval without mentioning the last date of it's submission (i.e. 14 Feb 2011). Director, DIPAS forwarded the abstract to the Review Committee. The Review committee appointed by Director made some amendment / suggestions and requested for its resubmission. The officer never replied to the Review Committee and submitted the research paper online on 14 Feb 2011 without prior permission/approval of the competent authority. Thus the officer entered into correspondence with foreign university/institution without obtaining prior permission as required vide policy letter No. DOP/07/Policy/79957/ M/01 dated 01 Oct 2004. It amounts to unbecoming of a professional Scientist to question the collective wisdom of the review Committee. He, therefore, committed an act unbecoming of Government Servant. He, thus, violated the provision of Rule 3 (I) (iii) of the CCS (Conduct) Rules, 1964.

Article-2

That the said Dr GA Khan while functioning as Sc 'D' applied for NOC for proceeding abroad on personal grounds to meet his brother in Japan. However, the said Dr GA Khan attended an international conference as confirmed by conference desk and also received US $ 1500 as travel award. The travel award (Developing world Scientists Travel Award) shows him as representative of Sinha Institute of Medical Sciences & Technology. Dr GA Khan neither obtained prior permission to attend the conference nor informed office about receipt of award during his visit to Japan. The act of officer is highly objectionable as it proves cheating and also manifests doubts about the integrity of the scientist towards his organization. He, therefore, committed an act unbecoming of a Government servant. He, thus, violated the provisions of Rule 3 (I) (iii) of the CCS (Conduct) Rules 1964."

The applicant was asked to submit his written statement of defence within ten days from the date of receipt of the memorandum. He accordingly submitted the written statement of defence on 01.05.2014 (Annexure A-5). The respondents appointed the inquiry officer and the presenting officer for holding the regular inquiry. It is stated that neither the charge memo was approved by the competent disciplinary authority nor was the written statement of defence filed by the applicant considered by the disciplinary authority (Hon'ble Defence Minister) before appointing the inquiry officer or the presenting officer, and thus there is violation of Rule 14 (2) & (3) of CCS (CCA) Rules, 1965 as also the principles of natural justice, as decided by the Hon'ble Supreme Court in the case of **Union of India & others** v. **B.V. Gopinath,** (2014) 1 SCC

351. The applicant also alleged violation of instructions dated 24.02.1999 read with Rule 14 (2) of CCS (Conduct) Rules, 1964. It is stated that charge No.2 contained allegation of cheating and integrity, thus it was mandatory for the respondents to have consulted Central Vigilance Commission (CVC) in terms of Section 17 of the CVC Act, 2003. Initially the applicant had challenged only the charge memo, however, during the course of pendency of this O.A., the inquiry was completed and the penalty order dated 08.12.2015 issued. Thus, he filed M.A. No.4385/2015 seeking amendment of the O.A. This Tribunal, vide order dated 05.05.2016, allowed the said M.A. The applicant accordingly filed the amended O.A. and introduced the prayer to challenge the penalty order as well.

3. The applicant has also alleged that Dr. A.K. Singh, DRDO is the brother of Director, DIPAS Dr. Sashibala Singh and, therefore, Dr. A.K. Singh may be removed from reporting channel of the applicant. He filed a representation dated 01.06.2015 in this regard. The applicant has also alleged denial of certain documents to him, for which he filed letter dated 10.06.2015 stating that the inquiry officer made use of the official letter pad of Dr. A.K. Singh to communicate, and thus the conduct of the inquiring authority is bias. The applicant submitted bias petition dated 23.06.2015 to the

disciplinary authority alleging bias against the inquiry officer and Dr. A.K. Singh. It is further stated that during the course of inquiry, the applicant received letter dated 19.06.2015 from the respondents giving a list of two prosecution witnesses to be examined in the inquiry proceedings. Accordingly, recording of evidence was fixed on 25.06.2015, which was the last date of hearing. On said date, the inquiry officer firstly recorded the evidence of five defence witnesses in the forenoon and inquiry was re-started at 2.30 PM and two prosecution witnesses were examined in chief till 5.00 PM. The applicant objected to the examination of these two prosecution witnesses as no list of witnesses was annexed with the charge memo, which is said to be mandatory under Rule 14 (3) of CCS (CCA) Rules. The applicant's objections were overruled and prosecution witnesses were examined and evidence closed without giving any opportunity to the applicant to cross examine the witnesses. The applicant thus also alleged violation of principles of natural justice. He was asked to submit defence brief vide letter dated 27.07.2015. In response to the request of alleging bias, he was informed vide letter dated 17.08.2015 that the Department would continue with the inquiry proceedings since the plea of bias was not raised at the earliest opportunity and examination of witnesses was over. Prior to that, the applicant had submitted representation dated 14.09.2015 to the disciplinary authority. The inquiry

officer submitted his report dated 08.10.2015, which was served upon the applicant for his representation. He accordingly filed his representation dated 04.11.2015 to the disciplinary authority, which, in turn, passed the impugned penalty order dated 08.12.2015 imposing the penalty of reduction to a lower time scale pay by three stages for a period of one year which shall not affect applicant's future increments and promotion. The present Application has been filed by the applicant to set aside the inquiry proceedings and the penalty order passed by the disciplinary authority on the following grounds:

a) Neither the charge memo was approved by the competent disciplinary authority nor was the written statement of defence filed by the applicant considered by the disciplinary authority (Hon'ble Defence Minister) before appointing the inquiry officer or the presenting officer, and thus there is violation of Rule 14 (5) (a) of CCS (CCA) Rules, 1965 as decided by the Hon'ble Supreme Court in the case of **Union of India & others** v. **B.V. Gopinath** (supra).

b) In view of the allegation of cheating and integrity, CVC was required to be consulted under Rule 17 of the CVC Act, 2003, as also the instructions of Government dated 24.02.1999.

c) The inquiry is vitiated on account of bias of inquiry officer.

d) There has been a violation of principles of natural justice inasmuch as two prosecution witnesses were examined after the defence evidence was over without providing any opportunity to cross examine the prosecution witnesses.

e) The relevant documents were not supplied to the applicant.

f) The statement of the applicant under Rule 14 (18) of CCS (CCA) Rules has not been recorded during the course of inquiry, vitiating the entire inquiry.

4. In the counter affidavit filed by the respondents to the amended O.A., it is pleaded that after due approval of the disciplinary authority, i.e., the President of India, disciplinary proceedings were initiated vide charge memorandum dated 21.04.2014 and on denial of the charges, inquiry and presenting officers were appointed by the President of India. It is also stated that after consideration of documentary evidence, report of the inquiring authority, submission made by the applicant against the findings of the inquiry officer and facts & circumstances of the case, the competent disciplinary authority has imposed the penalty vide order dated 08.12.2015. It is stated that all Rules have been strictly

followed. The penalty has been imposed after taking into consideration the evidence and the relevant material as also the opinion of the inquiry officer. The disciplinary authority has taken a lenient view and imposed the penalty of reduction to a lower time scale of pay by three stages for a period of one year with effect from the date of issue of order, which shall not affect his future increments and promotions.

5. The respondents in their counter affidavit have also pleaded that the applicant was appointed as Scientist D by RAC (DRDO) w.e.f. 23.02.2009. He submitted complaints against his seniors to the different authorities. A Preliminary Fact Finding Committee was constituted, which was headed by Dr. Sudershan Kumar, outstanding Scientist and Director CFEES. The Committee, in its report, brought out that in the year 2011, International Society of Thrombosis & Homeostasis (ISTH-2011) called for abstracts as part of its XXIII Congress being held in Japan from 23-28 July 2011, but the applicant submitted his abstracts co-authored by 5 Scientists for approval. The name of Dr. Khan (applicant) was at serial No.5, but he changed the serial order and brought his name to the top. However, the last date for acceptance for abstracts was not mentioned, therefore, the Director initiated the case for evaluation of the paper as per usual practice by a Committee of Scientists. The applicant, however, submitted the abstracts

to the society in Japan without required concurrence of Director DIPAS on 14.02.2011. He also claimed that he was specially invited for the conference. The Fact Finding Committee has noticed that he was not invited for the conference, as claimed by him. The Committee found *prima facie* violations of CCS (Conduct) Rules 1964 by the applicant. However, after taking into consideration the Preliminary Fact Finding Committee Report, the competent authority initiated disciplinary action against the applicant by approving the draft charge to be issued to him.

6. Regarding the consultation with CVC, it is stated by the respondents that since there was no integrity issue, the CVC was not required to be consulted. The respondents have also mentioned that the inquiry report concluded that the charges stand proved against the applicant and in accordance with the provisions of Rule 15 (2) of CCS (CCA) Rules, 1965, a copy of the report of the inquiring authority was served upon the applicant for submission of his written representation. He submitted his written representation on 04.11.2015 against the findings of the inquiring authority. On careful analysis of the documentary evidence, inquiry report and submissions of the charged official, the impugned penalty order was passed by the respondents. Allegations of bias against the inquiry officer have been denied.

7. With regard to the conduct of the applicant, it is stated that the review of publications intended to be published in the international journals/ conferences by the author(s) is all the more necessary, as DRDO lab is a sensitive installation of the Government of India and no paper can be submitted without being vetted by the senior Scientists of the lab concerned. The applicant did not mention the date of conference and thus the Note dated 04.02.2011 gave an impression that since International Society of Thrombosis & Homeostasis (ISTH) was to be held in July 2011, there was enough time available to review/scrutinize the submitted abstracts by the duly constituted Screening Committee. The Director, DIPAS forwarded the said abstracts to a Committee of Scientists, i.e., Screening Committee on 10.03.2011 for review. The Screening Committee submitted its observations on 10.03.2011 with instruction to the applicant for compliance with the modification required in the said abstracts before submitting them to the Conference Secretariat of ISTH-2011. It is stated that on 10.03.2011 the observations of the Committee were intimated to the applicant verbally as well as in writing. However, on 14.02.2011, the applicant had already sent unedited abstracts to a foreign organization without the required permission of the competent authority, which is violative of Rule 8 of CCS (Conduct) Rules, 1964.

8. The respondents have further stated that the applicant applied for 'no objection certificate' to visit Japan from 25-28 July 2011 to visit his brother, who is working in Japan as per his application dated 05.07.2011. However, from his service record it was found that he is the only son of his parents. When this fact of misrepresentation was questioned to the applicant, his defence was that he did not distinguish between his real brother and cousin brother. It is also alleged that applicant's visit to Japan from 25-28 July 2011 coincided with the ISTH conference held from 23-28 July 2011. It is accordingly stated that the facts and circumstances revealed that applicant's visit to Japan was specifically for the purpose of attending the ISTH-2011 and there was no other reason. The applicant, therefore, attended an International Conference organized by a foreign organization without prior sanction of the competent authority in contravention of Rules 13 & 14 of CCS (Conduct) Rules, 1964 and DRDO HQ letter No.DOP/07/Policy/ 79957/M/01 dated 01.10.2004. The applicant is also alleged to have violated the Rules by detailing his brother to participate in the conference on behalf of DRDO Scientists. It is accordingly stated that the applicant was the ultimate beneficiary of the award, thus he has violated the Conduct Rules. He has also received a cash award of $1500 from foreign entity for his poster presentation.

9. We have heard the learned counsel for the parties and perused the material placed on record.

10. With a view to examine ground (a) we have carefully gone through the record of the disciplinary authority placed before us by Mr. Rajesh Katyal, learned counsel for the respondents.

11. The record reveals that on the basis of the report of the Fact Finding Committee dated 23.09.2013, a note was prepared to initiate disciplinary proceedings against the applicant. After recording the facts and other allegations against the applicant, the Joint Director, Pers. (DRDS-II) in his note dated 08.01.2014 recorded as under:-

> " 4. Approval of Hon'ble RM is solicited to initiate disciplinary proceedings against Dr. GA Khan, Sc 'D', under CCS (CCA) Rules, 1965. Draft Memorandum listing out the charges against the officer along with statement of imputations of misconduct are placed opposite for approval of Hon'ble Raksha Mantri."

This note was further examined by Lt. Gen Anop Malhotra, CCR & D (R & M) and his note dated 23.01.2014 reads as under:-

> "4. However, it is also advised that since disciplinary proceedings are likely to be initiated as recommended vide para 4 of note 4 ante, the matter may be referred to MoD/D (Vig) to seek their advice in the matter. However, this can only be done once the concerned officer is given a chance to express his views/comments on the allegations brought out against him by the complainants. The case can then be processed with MoD after seeking approval of SA to RM."

The file was again processed in the office and another note dated 05.03.2014 was prepared. The same reads as under:-

> "7. Accordingly, approval of Hon'ble RM is solicited to initiate disciplinary proceedings against Dr. GA Khan, Sc 'D', under CCS (CCA) Rules, 1965. Draft Memorandum listing out the charges against the officer alongwith statement of misconduct are placed opposite for approval of Hon'ble Raksha Mantri."

The file was thereafter put up before Hon'ble Raksha Mantri who has recorded his comments as under:-

> " is there any other complaint pending against Dr. GA Khan, Sc 'D' , DIPAS?
>
> (A .K. Antony)
> Raksha Mantri
> 24th March, 2014

The query raised by the Hon'ble Minister was answered stating therein that no other complaint is pending against Dr.GA Khan, Sc 'D' DIPAS. The file was again processed vide note dated 31.03.2014 by the Joint Director (Pers/DRDS-II) . Para 3 of the said note reads as under:-

> "3. Approval of Hon'ble Raksha Mantri is solicited to initiate disciplinary action against Dr. GA Khan as per the draft Memorandum and the charges listed out as Article 1 and Article 2 placed opposite. Any action with regard to his claims about experience will be considered only, if any, discrepancy in this regard are found after verification."

The Hon'ble Raksha Mantri has approved the aforesaid note on 15.04.2014. Based upon the said approval, charge sheet dated 21.04.2014 was served upon the applicant for his

written statement. The charged officer submitted his reply/written statement on 01.05.2014 (Annexure A-5). On receipt of the reply/written statement of defence, another note was prepared for seeking approval for appointment of Inquiry Officer and Presenting Officer. The note dated 27.05.2014 reads as under:-

> " 2. The proposal under consideration relates to appointment of an Inquiry Officer and Presenting Officer in the disciplinary case of Dr. GA Khan, SC ' D', DIPAS, Delhi.
>
> 3. Charge sheet was issued to Dr. Khan on 21 Apr 2014 as per the approval of Honb'le Raksha Mantri vide Note 9 ante.
>
> 4. Dr. Khan submitted his reply to the charges leveled against him vide his reply dated 01 May 2014. In his reply, the charged officer has denied the charges leveled against him. Therefore, as per existing procedure an inquiry is required to be conducted in the mater. Accordingly, an Inquiry Officer (IO) and Presenting Officer (PO) are required to be nominated for the purpose.
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> 5. Hon'ble Raksha Mantri being the disciplinary authority may kindly appoint an Inquiry Officer (IO) and Presenting Officer (PO) for conducting the inquiry.
>
> 6. A panel of officers is placed opposite.
>
> (IJS Bains)
> JOinot Director (Pers/DRDS-II)
> 27 may 2014"

The DG, DRDO, R & D proposed following two names for Inquiry Officer and Presenting Officer:-

> " Shri RajioSingh, Sc 'F', P & C, IO
>
> Shri R. K.Meena, Dy. Dir (Admin), DIPAS, PO".

The aforesaid names were approved by the Hon'ble Raksha Mantri (Disciplinary Authority) on 29.05.2014.

12. From the above notings, we find that the written statement of defence submitted by the applicant and the charge memo though referred in the note dated 27.05.2014, but the substance of the written statement of defence was neither brought to the notice of the Disciplinary Authority, nor any reference is made to the same. The note simply sought permission for appointment of the Inquiry Officer and Presenting Officer on recording that the charged officer has denied the allegations leveled against him.

13. The ground on which the charges are denied and the plea of the charged officer was never brought to the notice of the Disciplinary Authority. From the note it is also clear that even the written statement of defence which spreads over more than 100 pages was not considered by the officer preparing the note, nor by the Disciplinary Authority. In any case, there is nothing on record to even remotely suggest that the written statement of defence was considered by the Disciplinary Authority before appointing the Inquiry Officer and Presenting Officer. The appointment of Inquiry Officer and Presenting Officer has been made in a mechanical manner without due application of mind to the defence of the charged officer to the charge memo.

14. The first part of the ground (a) relate to non approval of the memorandum of charge by the Disciplinary Authority. From para 7 of the notings dated 05.03.2014, we find that a composite action was initiated by the respondents. Approval of the Disciplinary Authority (Hon'ble Raksha Mantri) was solicited not only to initiate the disciplinary proceedings but also for approval of the draft memorandum and statement of imputation of charges which was accorded by the Disciplinary Authority on 15.04.2014.

15. The applicant relies upon the judgment in the matter of **B. V. Gopinath (supra)**. In the aforesaid judgment, the Hon'ble Supreme Court accepted following steps for which approval of the disciplinary authority is necessary (Refer parra 28 of B. V. Gopinath):-

> "i) Initiation of Disciplinary proceedings for major penalties;
>
> ii) drawing up of charges of misconduct;
>
> iii) appointment of Inquiry Officer & Presenting Officer and to supervise fair conducting of inquiry by the Inquiry Officer;
>
> iv) imposition of penalty, if any."

We have considered the judgment of the Apex Court which listed four stages where the approval of the Disciplinary Authority is required and out of four, two stages are; (i)

initiation of disciplinary proceedings and (ii) approval of the charge sheet where the Disciplinary Authority is not the Inquiring Authority. Though Hon'ble Supreme Court has held that approval of the Disciplinary Authority is necessary at all the four stages, however, it does not prohibit a composite approval where the approval of the Disciplinary Authority is granted for initiation of the disciplinary proceedings and the approval of the charge sheet simultaneously.

16. It is a matter of fact that Sections 14 (2) and 14 (3) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 require the Disciplinary Authority to formulate its opinion to initiate the disciplinary proceedings on the allegations of misconduct and misbehavior against a government servant. Where such opinion is formulated and the Disciplinary Authority himself is not the Inquiring Authority, a memo of charge containing the imputations of misconduct or misbehavior is required to be approved by the Disciplinary Authority. The material on the basis of which the Disciplinary Authority is required to formulate its opinion to initiate the disciplinary action is same as required for framing definite and distinct articles of charge containing imputations of misconduct or misbehavior of the Government servant. The Disciplinary Authority has to apply its mind on the basis of the same material/allegations and a composite approval for

initiating disciplinary proceedings and simultaneously approving the articles of charge containing the imputations of misconduct or misbehavior cannot be said to be contrary to law. To that extent, we reject the contention of the applicant. However, as regards, the second part of the contention is concerned that written statement of defence of the charged officer has not been considered in accordance with law. The mandate of rule 14 (5) (a) of the CCS (CCA) Rules, 1965 in this regard is relevant. Sub rule 5 (a) of rule 14 reads as under:-

> "(a) On receipt of the written statement of defence, the Disciplinary Authority may itself inquire into such of the articles of charge as are not admitted, of, if it considers it necessary to do so, appoint under sub-rule (2), an Inquiring Authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the Disciplinary Authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15. (emphasis supplied)"

Scope of sub rule 5 (a) of rule 14 of CCS (CCA) Rules, 1965 was considered by this very Bench of the Tribunal in OA No.2907/2013 decided vide judgment dated 03.04.2017. The question for consideration before the Tribunal was as under:-

> "9. The second contention of the applicant is that his representation/written statement of defence in response to the charge memorandum was not placed before the disciplinary authority, and the inquiry officer and presenting officer had been appointed without the representation being considered by the disciplinary authority. From the official notings referred to hereinabove, we also find that the representation/written statement of defence of the applicant dated 27.01.2009 was not considered by the disciplinary authority at any

> stage, though the inquiry officer and the presenting officer were appointed. There is no opinion of the disciplinary authority on the representation. The noting simply refers to the representation and mentions that Dr. Sahdeva Singh had denied all the charges and an inquiry is to be held for establishing the charges, meaning thereby that the inquiring authority and the presenting officer had been appointed without due consideration of the representation of the applicant to the charge-sheet. "

The aforesaid issue was examined by this Tribunal and following observations were made:-

> "10. The very object of affording opportunity to the charged officer to submit written statement of defence/response to the charge memorandum is to provide him opportunity to furnish his explanation in respect to the charges levelled against him, and if the disciplinary authority is of the opinion that the explanation tendered by the charged officer deserves acceptance, he may drop the charges and any further inquiry. In order to arrive at this decision, it is incumbent upon the disciplinary authority to consider the explanation tendered by the charged officer and then, on consideration of his pleas, the authority may reject or accept the representation and proceed further in the matter. However, if the inquiring authority and presenting officer are appointed without consideration of the defence of the charged officer, it amounts to violation of the principles of natural justice and reflect a predetermined mind of the authority. From the office notings, we find that the explanation tendered by the charged officer in his representation to the charge memorandum has not been even referred to. Thus, the disciplinary authority has chosen to proceed to hold the inquiry by appointing inquiring authority and presenting officer with a closed mind without even looking to the response of the charged officer to the charge memorandum, what to say of according consideration by due application of mind. It could be that the disciplinary authority may not agree with the explanation of the 16 OA-2907/2013 charged officer, but having not seen the explanation and proceed further in the matter to hold the inquiry goes against the very spirit of rule 14 (5) (a) of the CCS (CCA) Rules, 1965. Sub-rule 5(a) of rule 14 reads as under:

> "(a) On receipt of the written statement of defence, the Disciplinary Authority may itself inquire into such of the articles of charge as are not admitted, of, if it considers it necessary to do so, appoint under sub-rule (2), an Inquiring Authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the Disciplinary Authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15. (emphasis supplied)"

From a perusal of sub-rule (5) (a) of rule 14, we notice that this provision comprises of two parts, the first being: on receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or if it considers it necessary to do so, appoint an inquiring authority for the purpose. The expression, "if it considers it necessary to do so", is a very significant phrase used in the aforesaid provision. It signifies a due application of mind by the disciplinary authority to the written statement of defence where the articles of charge are not admitted by the delinquent official. The obligation to consider it necessary to do so, i.e., to appoint an inquiring authority, solely rests with the disciplinary authority and nobody else. The opinion whether an 17 OA-2907/2013 inquiry needs to be constituted has to be formulated on examination and consideration of the written statement, and not without that. The second part of the aforesaid provision relates to the action to be taken by the disciplinary authority where articles of charge have been admitted by the Government servant in his written statement of defence. Even to ascertain whether the charges have been admitted by the Government servant in his written statement, one needs to examine the contents of the written statement. Thus, in both the situations, whether to order an inquiry or to punish a person on the admission of the charges, the disciplinary authority has to apply its mind to the written statement of defence and proceed with the matter either way. Non-observance of the above provision renders the entire exercise illusory and contravenes the abovementioned rule. This is also one of the elements of principles of natural justice. Where a person is to be proceeded in an inquiry, which is admittedly an adverse action, due consideration has to be given to the response of the charged officer where charge is not admitted, and in the second situation, where the charge is admitted,

> again there has to be consideration of the ad mission made by the charged officer in the written statement. This also would result into an adverse order. We are of the considered opinion that the provisions of rule 14(5)(a) are also mandatory in nature and one of the relevant component of the doctrine of audi alteram partem."

In view of the aforesaid judgment of this Tribunal, the appointment of Inquiry Officer and Presenting Officer without consideration of the written statement of defence is absolutely in contravention to sub rule 5 (a) of Rule 14 of CCS (CCA) Rules, 1965, and thus violative of principles of natural justice. In our judgment in Dr. Sahadeva Singh (supra), we have also noticed the law laid down by the Apex Court in the case of *Chairman-cum-Managing Director, Coal India Limited & another v Ananta Saha & others* [(2011) 5 SCC 142], wherein the Apex Court has held that if the initial action is not in consonance with law, all subsequent proceedings are vitiated. The relevant observations of the Apex Court are as under:-

> "30. The aforesaid order reveals that the OSD had prepared the note which has merely been signed by the CMD, ECL. The proposal has been signed by the CMD, ECL in a routine manner and there is nothing on record to show that he had put his signature after applying his mind. Therefore, it cannot be held in strict legal sense that the proceedings had been properly revived even from the stage subsequent to the issuance of the charge-sheet. The law requires that the disciplinary authority should pass some positive order taking into consideration the material on record.
>
> 31. This Court has repeatedly held that an order of dismissal from service passed against a delinquent employee after holding him guilty of misconduct may be an administrative order, nevertheless proceedings held against such a public servant under the statutory rules to determine whether he is guilty of the charges framed

against him are in the nature of quasi-judicial proceedings. The authority has to give some reason, which may be very brief, for initiation of the enquiry and conclusion thereof. It has to pass a speaking order and cannot be an ipse dixit either of the enquiry officer or the authority. (Vide Bachhittar Singh v. State of Punjab [AIR 1963 SC 395] , Union of India v. H.C. Goel [AIR 1964 SC 364] , Anil Kumar v. Presiding Officer [(1985) 3 SCC 378 : 1985 SCC (L&S) 815 : AIR 1985 SC 1121] and Union of India v. Prakash Kumar Tandon [(2009) 2 SCC 541 : (2009) 1 SCC (L&S) 394] .) Thus, the abovereferred order could not be sufficient to initiate any disciplinary proceedings. 19 OA-2907/2013

32. It is a settled legal proposition that if initial action is not in consonance with law, subsequent proceedings would not sanctify the same. In such a fact situation, the legal maxim sublato fundamento cadit opus is applicable, meaning thereby, in case a foundation is removed, the superstructure falls.

33. In Badrinath v. Govt. of T.N. [(2000) 8 SCC 395 : 2001 SCC (L&S) 13 : AIR 2000 SC 3243] this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle of consequential order which is applicable to judicial and quasi-judicial proceedings is equally applicable to administrative orders. (See also State of Kerala v. Puthenkavu N.S.S. Karayogam [(2001) 10 SCC 191] and Kalabharati Advertising v. Hemant Vimalnath Narichania [(2010) 9 SCC 437 : (2010) 3 SCC (Civ) 808: AIR 2010 SC 3745].”

17. In the present case, the appointment of the Inquiry Officer and Presenting Officer being in violation of principles of natural justice and statutory provisions, subsequent disciplinary proceedings stand vitiated.

18. Coming to the plea of the applicant in ground (b), it is argued that since the allegation of cheating and integrity have been leveled against the applicant, CVC was required to be consulted.

19. We have gone through the articles of charge. Even though, in the articles of charge the phraseology used is "cheating and also manifests doubts about the integrity of the scientist towards his organization", however, from the substance of the articles of charge, we do not find that there is any question mark or any specific allegation about the integrity of the officer. Such phrases may have been used in casual manner, however, there is no allegation that the officer has indulged in any kind of misconduct or misbehavior which may call in question his integrity as such. Therefore, this ground is not available to the applicant. The plea is rejected.

20. Ground (c)- As regard the allegations of bias are concerned, there seems to be official bias in the conduct of inquiry proceedings. Such approach also is violative of principles of natural justice. It is admitted case of the parties that the Inquiring Authority after the conclusion of the evidence of prosecution witnesses asked the charged officer to produce his defence evidence. The charged officer cited five witnesses who were to be examined as defence witnesses. The Inquiring Authority intimated the charged officer vide letter dated 19.06.2015 giving list of two prosecution witnesses to be examined in the inquiry proceedings. The evidence of these two prosecution witnesses was also fixed on 25.06.2015 when the defence evidence was to be recorded. On 25.06.2015, the

Inquiring Authority firstly recorded the evidence of five defence witnesses in the forenoon and thereafter recorded the statement of two prosecution witnesses in the afternoon on the same day, i.e., after the conclusion of the defence evidence. Not only this, no opportunity was granted to the applicant to cross examine these two prosecution witnesses.

21. We have perused the orders passed by the Inquiring Authority on 25.06.2015 which clearly indicate that five defence witnesses were recorded in the forenoon and thereafter two prosecution witnesses were examined in the afternoon. The Inquiry Officer in its final report has recorded as under:-

> "Both the witnesses testified before IA in the presence of CO. The CO, for reasons known to him, refused to cross examine and also refused to sign Daily Order Sheet. The prosecution witnesses were not called to fill up any gap in the evidence, but simply to verify the statement made by the CO and his witnesses regarding presence of the Conference Brocure attached to the Note dated 04 Feb 2011. The principles of natural justice were therefore, strictly observed during the hearing."

These observations/findings of the Inquiry Officer are contrary to the record of the proceedings of the inquiry, i.e., Daily Order Sheet dated 25.06.2015, which reads as under:-

> "Daily Order Sheet
>
> The Enquiry was held in Room No.109, DRDO HQ, DRDO Bhawan, New Delhi dated 25 June 2015 for record of statement of Defence witnesses & Prosecution witnesses.
>
> 1. Inquiry Officer - Dr. Rajio Singh, Sc 'F'

2.	Charged Officer	-	Dr. GA Khan, SC 'D'
3.	Presenting Officer	-	Shri S. K. Soni, Sc 'C'
4.	Defence Assistant	-	Shri Rajesh Kumar,TO 'B'

The statement of following Defence witnesses & Prosecution were recorded in the presence of undersigned officers and their statements are attached herewith. The names of Defence witnesses & Prosecution witnesses are as under:-

Defence witnesses

1. Dr. D. Majumdar, SC 'G', INMAS
2. Dr. A. Salhan, Sc 'G' (Retd) DIPAS
3. Dr. S. Sarada Surya Kumari, Sc 'E', DIPAS
4. Dr. Zahid Ashraf, Sc 'E', DIPAS
5. Indrani Biswas, SRF, DIPAS
6. Bandana Singh, SRF, DIPAS

Prosecution witnesses

1. Dr. Lily Ganju, Sc 'F', DIPAS
2. Dr. Praveen Vats, DH Tech Coord, DIPAS

The charged officer Dr. GA Khan, Sc 'D' raised an objection regarding the inclusion of prosecution witnesses, the list of which were not provided in the charged sheet. It is against the CCS Conduct Rules.

(Dr. GA Khan, Sc 'D') (Shri Rajesh Kumar, TO 'B') (Shri SK Soni, Sc 'C')

(Dr. Rajio Singh, Sc 'F')
Inquiry Officer"

In the aforesaid order, there is absolutely no mention that any opportunity to cross examine the prosecution witnesses was

provided to the applicant and he has refused to avail that opportunity. Firstly, even if, two prosecution witnesses were to be recorded for any valid reasons they should have been recorded first by providing an opportunity to the charged officer to cross examine them and thereafter allowed the defence to examine its witnesses. The procedure adopted is in contravention to the rules and is otherwise violative of principles of natural justice. The statement of prosecution witnesses cannot be read unless subjected to cross examination for which a reasonable opportunity has to be allowed to the delinquent official to cross examine, which is absent in the present case. It is also wrongly recorded in the Inquiry Report that the applicant refused to sign the minutes as the aforesaid order clearly show that the applicant has signed the order though in protest. The aforesaid order thus belies the statement recorded in the Inquiry Report. This seems to be deliberate attempt of the Inquiry Officer to justify his illegal action. The findings of the Inquiry Officer are thus not reliable and the allegation of bias of the applicant stand established.

22. From the perusal of the Inquiry Report, we find that the evidence of the prosecution witnesses have been relied upon by the Inquiring Authority. The inquiry is thus vitiated for violation of principles of natural justice.

23. Ground (e)- The other ground is non supply of relevant documents during inquiry. We find that the applicant has not specifically mentioned the nature of documents and relevancy of those documents. The charged officer has been supplied the documents mentioned in the memorandum of charge. The only ground raised by the charged officer reads as under:-

> " FF. Because the petitioner is deprived of list of documents U/Rule 14 (4) of the CCS (CCA) Rules, 1964 which is held to be mandatory as strict compliance of the CCS Rules to be observe d vide Registrar vs. FX Fernando 1994 (2) SCC 746 that the DA shall deliver or caused to be delivered to the Govt. servant, a copy of the list of witnesses alongwith other supporting documents. Cl.9 of the DoP&T circular also make it mandatory. This is the overall protection u/a 311 (2) of the Const. of affording reasonable opportunity of being heard."

The charge memorandum contain list of documents which were relied upon. It is not specifically pleaded as to which out of 10 listed documents were not furnished to the applicant and prejudice has been caused to him on account of non furnishing of such documents.

24. The last ground (f) is non compliance of the mandatory provisions of sub rule (18) of Rule 14 CCS (CCA) Rules, 1965. It is stated that the statement of applicant under sub rule (18) of Rule 14 has not been recorded. Sub rule (18) of Rule 14 require the Inquiring Authority to generally question the charged officer on the circumstances appearing against him in the evidence for the purpose of enabling him to explain any

circumstances appearing in the evidence against him where the government servant closes his case and he/she has not examined himself.

25. In the present case, the charged officer has not examined himself in its evidence and closed the case by recording statement of defence witnesses. Under such circumstances, it was obligatory upon the Inquiry Officer to provide an opportunity to the charged officer to lead his defence or put question to him under sub-rule (18) of rule 14 of the CCS (CCA) Rules, 1965. Thus there has been gross violation of principles of natural justice. Sub-rule (18) of rule 14 reads as under:

> "(18) The Inquiring Authority may, after the Government servant closes his case, and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government servant to explain any circumstances appearing in the evidence against him."

26. The issue is no more *res integra*. In ***Ministry of Finance and another*** *v* ***S. B. Ramesh*** [(1998) 3 SCC 227], while considering the scope of rule 14(18) of the CCS (CCA) Rules, 1965, the Hon'ble Supreme Court approved the order of the Tribunal holding that the contravention of sub-rule (18) of rule 14 is a serious error. Relevant extract of the order of the Tribunal noticed by the Apex Court reads as under:

> "After these proceedings on 18-6-1991 the Enquiry Officer has only received the brief from the PO and then finalised the report. This shows that the Enquiry Officer has not attempted to question the applicant on the evidence appearing against him in the proceedings dated 18-6-1991. Under sub-rule (18) of Rule 14 of the CCS (CCA) Rules, it is incumbent on the Enquiry Authority to question the officer facing the charge, broadly on the evidence appearing against him in a case where the officer does not offer himself for examination as a witness. This mandatory provision of the CCS (CCA) Rules has been lost sight of by the Enquiry Authority. The learned counsel for the respondents argued that as the inquiry itself was held ex parte as the applicant did not appear in response to notice, it was not possible for the Enquiry Authority to question the applicant. This argument has no force because, on 18-6-1991 when the inquiry was held for recording the evidence in support of the charge, even if the Enquiry Officer has set the applicant ex parte and recorded the evidence, he should have adjourned the hearing to another date to enable the applicant to participate in the enquiry hereafter/or even if the Enquiry Authority did not choose to give the applicant an opportunity to cross-examine the witness examined in support of the charge, he should have given an opportunity to the applicant to appear and then proceeded to question him under sub-rule (18) of Rule 14 of the CCS (CCA) Rules. The omission to do this is a serious error committed by the Enquiry Authority. ....."

The above findings of the Tribunal were approved by the Hon'ble Supreme Court in para 15 with the following observations:

> "15. On a careful perusal of the above findings of the Tribunal in the light of the materials placed before it, we do not think that there is any case for interference, particularly in the absence of full materials made available before us in spite of opportunity given to the

> appellants. On the facts of this case, we are of the view that the departmental enquiry conducted in this case is totally unsatisfactory and without observing the minimum required procedure for proving the charge. The Tribunal was, therefore, justified in rendering the findings as above and setting aside the order impugned before it."

27. The Hon'ble High Court of Delhi examined the question of non-adherence to the procedure prescribed under sub-rule (18) of rule 14 of the CCS (CCA) Rules, 1965 in ***Union of India through Secretary, Ministry of Information and Broadcasting and another*** *v* ***Tarlok Singh*** [WP (C) No.1760/2008, decided on 10.03.2011]. Relevant observations of the Hon'ble Court are reproduced hereunder:

> "19. The next contention on behalf of the petitioner is about the non-compliance of the Rule 14(18) of CCS(CCA) Rules. According to the petitioners, Rule 14(18) was substantially complied with. Perusal of the record, however, reveals that it is an admitted case that the respondent did not examine himself as a witness. In case the respondent had not examined himself as witness, it was incumbent upon the enquiry officer to put evidence adduced against the respondent during the enquiry to him in compliance of Rule 14(18) of CCS (CCA) Rules. The said rule had been enacted with a view that whatever evidence comes in the enquiry, explanation may be sought to rebut the circumstances, which would be in the consonance with the principle of reasonable opportunity and *audi alteram partem* as inbuilt in the principles of natural justice. On perusal of the questions put by the enquiry officer to the respondent, it is apparent that out of the three articles of charges, only two articles of charge were put to the respondent, while none of the evidence in support of those articles of charges

which were against the respondent were put to him.

20. Perusal of Rule 14(18) clearly reveals that it is obligatory upon the enquiry authority to question the delinquent officer on the circumstances appearing against him in the evidence, for the purpose of enabling him to explain any circumstance. As there is no reference to the evidence brought on record or circumstances appearing against the applicant, putting the charges against the respondent was not valid compliance of Rule 14(18) of the CCS (CCA) Rules 1965.

21. Provisions analogous to Rule 14(18) of CCS (CCA) Rule exist in Rule 9(21) of Railway Servant (Discipline & Appeal) Rules, 1958. In the matter of *Moni Shankar* v. *Union of India*, 2008 (1) AJW 479, an enquiry proceeding was conducted in which the following questions that were put to the Charged Officer: "please state if you plead guilty?"; "Do you wish to submit your oral or written arguments?"; "Are you satisfied with the enquiry proceeding" and "Can I conclude the enquiry?", were held to be not in compliance of Rule 9(21) of Railway Servant (Discipline & Appeal) Rules, 1958 as such type of questions did not reveal the evidence adduced in support of charges against the charged officer.

22. In *Ministry of Finance* v. *S.B. Ramesh*, (1998) 3 SCC 227 the Supreme Court had held the Rule 14 (18) of CCS (CCA) Rules, 1965 to be mandatory. The Apex Court had upheld the decision of the Tribunal holding that the order of the Disciplinary Authority was based on no evidence and that the findings were perverse, on the reasoning that even if the Enquiry Officer had set the applicant ex parte and recorded the evidence, he should have adjourned the hearing to another date to enable the applicant to participate in the enquiry thereafter. Or even if the Enquiry Authority did not choose to give the applicant an opportunity to cross-examine the witness examined in support of the charge, he should have given an opportunity to the applicant to appear and then proceeded to question him under Sub-rule (18) of

> Rule 14 of the CCS (CCA) Rules. The omission to do this was construed to be a serious error committed by the Enquiry Authority. This also cannot be disputed that if the charged officer has examined himself as a witness then it will not be obligatory to examine the charged officer under Rule 14(18) of CCS (CCA) Rules. However, in the absence of any defense statement by the charged official, it was mandatory on the part of the enquiry officer to examine him under Rule 14(18), and the non-compliance of which will vitiate the enquiry proceedings.
>
> 23. Consequently, the order of the Tribunal quashing the enquiry proceeding on account of non-compliance of Rule 14(18) of CCS (CCA) Rules 1965 by not putting the evidence adduced before the enquiry officer in support of the three articles of charge to the charged officer vitiates the enquiry proceeding, cannot be termed to be illegal or unsustainable so as to require any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India."

28. In ***State Bank of Patiala & others*** *v* ***S. K. Sharma*** [(1996) 3 SCC 364], the Hon'ble Supreme Court, while considering the application of principles of natural justice in respect to the domestic/departmental inquiries, laid down broader principles which need to be applied while examining the question of validity of disciplinary/departmental proceedings in the context of observance of principles of natural justice. Relevant observations of the Apex Court are reproduced hereunder:

> "32. .... The interests of justice equally demand that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to

defeat the ends of justice. Principles of natural justice are but the means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end. That would be a counter-productive exercise.

33. We may summarise the principles emerging from the above discussion. (These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/ departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (*a*) the provision violated is of a substantive nature or (*b*) whether it is procedural in character.

(2) A substantive provision has *normally* to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under — "no notice", "no opportunity" and "no hearing" categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to

have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can *also* be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) hereinbelow is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(*a*) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(*b*) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the

other hand, it is found that the delinquent officer/employee has not waived it *or* that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in *B. Karunakar* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] . The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice — or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action — the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be made between "no opportunity" and no *adequate* opportunity, i.e., between "no notice"/"no hearing" and "no fair hearing". (*a*) In the case of former, the order passed would undoubtedly be invalid (one may call it 'void' or a nullity if one chooses to). In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem). (*b*) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the standpoint of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. [It is made clear that this principle (No. 5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.]

> (6) While applying the rule of *audi alteram partem* (the primary principle of natural justice) the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.
>
> (7) There may be situations where the interests of State or public interest may call for a curtailing of the rule of *audi alteram partem*. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

Since the provisions of sub-rule (18) of rule 14 have been held to be mandatory in nature and thus principle (2) enunciated in para 33 of judgment of the Apex Court in ***State Bank of Patiala*** *v* ***S. K. Sharma*** (*supra*), as noticed hereinabove would be attracted, vitiating the inquiry.

29. It is admitted case of the parties that the applicant is a Scientist of repute. He has been conferred with "Developing World Scientist Award" at international level for his research of unique nature. Assuming that there were some lapses on the part of the applicant, the Disciplinary Authority should have taken a lenient view on account of the excellent scientific research of the applicant which brought laurels not only individually for him but to the country as a whole. However, the respondents have not given due credit to the applicant for

his research in the scientific field. This depicts sorry state of affairs. Instead of appreciating the research work of the applicant, he has been treated shabbily and awarded punishment in gross violation to law.

30. On account of our findings on the grounds (a), (c) & (e), this OA is allowed. The impugned penalty order dated 08.12.2015 is hereby quashed. The applicant shall be entitled to all consequential benefits.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/pj/