

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA**

**OA No. 050/00894 of 2014**

**Date of order reserved: 27.03.2018**

**Order pronounced on 06.04.2018**

**CORAM**

Hon'ble Shri A.K. Upadhyay, Member [ A ]  
Hon'ble Shri Jayesh V. Bhairavia, Member [ J ]

1. Suresh Mahto, son of late Khushi Lal Singh, resident of House of Shri Radhye Shyam Ojha Mohalla- Sri Krishna Nagar, Khabra Muzaffarpur, P.O.-Khabra, P.s.- Sadar District- Muzaffarpur.

.....Applicant

**By Advocate : Shri G. Saha**

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, Vaishali.
2. The Chief Personnel Officer, East Central Railway, Hajipur, Vaishali.
3. The Divisional Railway Manager, Sonapur Division, East Central Railway, Sonapur.
4. Senior Divisional Personnel Officer, Sonapur Division, East Central Railway, Sonapur.
5. Senior Divisional Commercial Manager, Sonapur Division, East Central Railway, Sonapur.
6. Assistant Commercial Manager-I, Sonapur Division, East Central Railway, Sonapur.
7. General Manager, Vigilance, East Central Railway, hajipur, Vaishali.
8. Enquiry Officer cum Vigilance Inspector, Vigilance Department, East Central Railway, Hajipur, Vaishali.

.....Respondents

**By Advocate: Shri S.K. Griyaghey**

**ORDER**

**Jayesh V. Bhairavia, M [ J ]:-** The applicant in this O.A prays for the following reliefs:-

- "[8.1] For quashing memorandum/Charge Sheet bearing No.5/Vig/S.S.(C)-09/07/Sone 30.10.2007 (A-1).
- [8.2] For quashing the Enquiry Report dated 26.02.2009 (A-2).
- [8.3] For quashing impugned order bearing No..5/Vig/S.S.(C)-09/07/Sone dated 22.06.2012 (A-3).
- [8.4] For quashing of the Revisional Order dated 21.09.2012 (A-4)
- [8.5] For direction upon the respondents for payment of arrears of salary to the applicant alongwith all other consequential benefits.
- [8.6] For any other appropriate relief or reliefs which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

2. The brief facts of the case are as under:-

- ( i ) The applicant has contended that while he was discharging the duty of Parcel clerk on 03.10.2006 in the shift duty of 04 :00 PM to 12:00 PM at night shift one Shri Arun Shrivastava who had to relieve applicant at 12 PM did not attained for his shift duty and therefore the applicant had to continue with the duty in the shift duty of 01:00 AM to 08:00 AM on 04.10.2006.

Train no. 1061 Dn (Pawan Express) from Mumbai to Muzaffapur which was scheduled to arrive at Muzaffarpur station at 12:30 hrs arrived late at 24:05 hrs on 04.10.2006. There were 02 (two) SLR in the said train i.e front SLR and Rear SLR and in both the SLRs there were two coupes. Front Coupe of the Front SLR had railway booking goods and Rear Coupe of the Front SLR was leased to pvt parties for transporting goods. While the applicant was engaged in unloading the railway booking goods, the number of which was only 67 packets from the railway booking Coupe and taking inventory of railway unloading goods at that time the Chief Vigilance Inspector, Traffic, Hazipur handed over a memo dated 03.10.2006 (Annexure A/5 refers) to the applicant with respect to leased coupe of the Front SLR on 04.10.2006 which contains the following directions :

*"please take necessary action with respect to weighing of leased parcel packets in Rear Compartment of Front SLR of Train No. 1061 Dn and after realising the over weight charge informed the undersigned."*

The said memo dated 03.10.2006 (Annexure A/5 refers) was served on the applicant at 24:05 hrs after the arrival of the train at Muzaffarpur.

It is submitted that at that relevant time the applicant was busy in unloading the railway booking goods and was busy with that work hence could not immediately leave the uncompleted job of railway booking compartment for safety reasons for complying the directions of the Vigilance Team. It is further contended that after finishing his work of railway booking compartment immediately rushed to the leased compartment for taking inventory of the goods unloaded by the private party and for compliance of the direction of the Vigilance Team where the Private Party was engaged in unloading his goods in the presence of the Head Constable RPF and the Vigilance Team and as such there was not inordinate delay to reach at leased compartment.

It is further submitted that the private party had unloaded in total 436 cartons from the list coupe in the presence of the applicant, Head Constable, RPF and the Vigilance Team. It is stated that as per duty the applicant had counted the packages of private party and as the total package being 436 in number the applicant suspected over loading by the private party i.e over and above the permissible limit of 04 tons as such he at once reported the matter to the delivery counter of transit/parcel section of the commercial department in the presence of the said Head Constable RPF and the Vigilance Team and directed the private party to bring the unloaded goods in the delivery counter of the transit/parcel section of the commercial department for weighment. Accordingly the private party brought the unloaded goods for weighment, the weighing was done in the presence of HC-RPF and the Vigilance Team and it was found that the private party was carrying 188 kgs of goods which is in excess of permissible limits of 04 tons and therefore the concerned parcel clerk of the delivery counter i.e Mr. Shashi Bhushan Prasad Singh imposed a

penalty of Rs.4577/- to the private party, the private party had accepted the penalty and paid the amount of penalty through money receipt no. 671378 dated 04.10.2006, thereafter his goods were released by the parcel Clerk of delivery counter Mr. Shashi Bhushan Singh that too after being approved by the Vigilance Team.

It is further contended that there was no any whisper or any complain of any illegal activity carried out by the private party had been made by the Head Constable, RPF or by the Vigilance Team since unloading of the goods from the leased coupe by the private party till release of the goods of the private party by the delivery clerk on being approved by the approved Vigilance Team.

Subsequently, the Vigilance Team directed the applicant to attend the Vigilance Office at Hazipur. The applicant had attended the office of Vigilance Department on 04.10.2006 and answered the question of Vigilance Team in writing. (Annexure A/6 refers).

- (ii) It is submitted that , vide order dated 12.10.2006, issued by the respondent no.5 i.e Senior Divisional Commercial Manager, Sonapur which is based on the instruction and direction of the Vigilance Department and thereby suspended the applicant with immediate effect. (Annexure A/7 refers).

Thereafter, considering all the aspect of the matter the respondent no.5 revoked the suspension order with immediate effect from 06.12.2006.

- (iii) It is further submitted that thereafter on 30.10.2007, the respondent no. 6 had issued memorandum of charge/charge sheet which was signed on 01.11.2007 and served upon to the applicant. The said charge sheet was issued after a lapse of more than one year from the date of alleged cause of action

The allegation/charges levelled against the applicant that *"though a memo was issued to Shri Mahato for weighing the leased packets of the front SLR but he reached the aforesaid compartment Thirty (30) minutes late due to which the lease holder succeeded in taking out the packets without weighment from the platform which shows his hands in gloves with the lease holders."* (Annexure A/1 refers).

- (iv) As against the said charge sheet dated 30.10.2007, the applicant had submitted his written statement in his defence on 30.11.2007 wherein the applicant has narrated the total details of the incident of dated 03.10.2006 and 04.10.2006 with documentary evidence and denied the allegation levelled against the applicant. (Annexure A/9 refers). However, without considering the same and without assigning any reason the respondent no.6 vide order dated 05.02.2008 had appointed one Mr. B.K. Roy the Chief Vigilance Inspector, Vigilance Department, Hazipur as Enquiry Officer in the case.
- (v) It is further contended that though the charges levelled against the applicant CO with regard to vigilance check was conducted on 03.10.2006/04.10.2006 by a team of three vigilance inspector of the vigilance department and and as per their direction the CO was not reached in time at the lease compartment therefore alleged to be violate to the service rules and committed misconduct. The DA had appointed Chief Vigilance Inspector as IO/Inquiry officer the Enquiry Officer ought not to have initiated the Enquiry however, on 26.02.2008, the proceedings were initiated by the said I.O. The applicant had denied the charge levelled against him and also raised objection against the appointment of I.O. A copy of examination in Chief of prosecution witness have been relied by the applicant. (Annexure A/11 refers).

- (vi) The applicant had submitted his defence statement on 29.03.2008 to the Enquiry officer under sub rule 19 of Rule 9 of the Railway servants (D&A) Rules. (Annexure A/12 refers). The applicant had also submitted his general clarification against the charge levelled against him under the provision of sub rule 21 of Rule 19 of Railway Servant (D&A) Rules. (Annexure A/13 refers). Subsequently, the applicant had submitted his defence brief to the I.O. on 25.03.2008 mentioning therein every relevant facts and earnestly request to consider the same and exonerate him from the charges. However, without considering the defence and clarification submitted by the applicant, the Chief Vigilance Inspector of Vigilance Department who was I.O. had submitted the impugned Enquiry report dated 26.002.2009 by which the charge levelled against the applicant was declared substantiated and recommended for punishment. (Annexure A/2 refers).
- (vii) The applicant had received the copy of said Enquiry report dated 09.04.2009 (Annexure A/14 refers). As against it the applicant had submitted his representation dated 06.05.2009 which was received by the Disciplinary Authority on 11.05.2009. (Annexure A/15 refers).
- (viii) The Disciplinary Authority i.e respondent no.6 herein after due consideration of all aspects of the matter and findings of IO, vide speaking order dated 13.03.2012 disagreed with the enquiry report and its finding and accordingly the DA had exonerated the applicant from the charges levelled against him vide charge sheet dated 30.10.2007/01.11.2007. Annexure A/16 refers).
- (ix) Thereafter, the respondent no.3 the Revisionary Authority on behest of Vigilance Department issued an order/notice dated 22.06.2012 (Annexure A/3 refers) whereby applicant was informed that the Revisionary Authority is not satisfied with the

order dated 13.03.2012 passed by the Disciplinary Authority and considering the gravity of charges levelled against the applicant the Revisionary Authority intent to review the case and for the purpose of imposing severe punishment in exercising power under Rule 25 of Railway Servant and (D&A) Rules, 1968 and therefore the applicant has been directed to submit his representation/reply within 15 days. (Annexure A/3 refers).

- (x) The applicant had immediately submitted his representation/reply dated 12.07.2012 to the said Revisionary Authority i.e respondent no.3. (Annexure A/17 refers).
- (xi) It is further contended that without considering the material on record of the Disciplinary Proceedings and the submissions of the applicant in his reply in its true spirit, the Revisionary Authority had passed the impugned order dated 21.09.2012. (Annexure A/4 refers), by which the punishment of reduction by one stage in time scale for one year with immediate effect but without any cumulative effect has been imposed upon the applicant.
- (xii) The learned counsel for the applicant vehemently submitted that the in fact the entire Disciplinary Proceedings has been initiated illegally, arbitrarily that too on behest of Vigilance Department and contrary to the settled principle of law as well as the provision of the Railway Rules. Therefore, the charge sheet dated 30.10.2007/01.11.2007 (Annexure A/1) the enquiry report dated 26.09.2009 (Annexure A/2) order dated 22.06.2012 (Annexure A/3) and the order passed by the Revisionary Authority dated 21.09.2012 (Annexure A/4) are totally in violation of settled principle of law as well as against the provision of Railway Rules, therefore, required to be quashed and set aside.
- (xiii) It is further submitted that vide order dated 13.03.2012 passed by the Disciplinary Authority the applicant was exonerated from

all the Charges. The Disciplinary Authority had considered all the aspect of the case based on material on record, considered the enquiry report came to the conclusion that the charges believed to be proved by the I.O is not substantiated on any cogent reason and the same was believed to be proved only on mere hypothetical and assumption ground. Therefore, the recommendation of I.O for imposing the punishment was not accepted by the DA and applicant was exonerated from the charges. However, the Revisionary Authority in their order not stated any cogent reason for its conclusion while imposing the penalty punishment. On the contrary, the Revisionary Authority had accepted that there was no connivance of the applicant with the private party and held that only delay on the part of applicant in associating the vigilance team for help in checking the penalty has been imposed.

- (xiv) The learned counsel for the applicant submitted that though, the Revisionary Authority found that the applicant was busy with his legitimate work and if the vigilance team wanted to do the check of the leased coupe they should have stop the private firm to unlock it, rather than this they simply kept waiting for CO to come and associate. If three of the vigilance team could not stop the private party how can the CO can do so. The said Revisionary Authority also concluded that no one has clearly stated the number of packets that were taken away without weighment by the private party and as such no connivance of the applicant with the private party is positively established. In spite of this categorical finding, the Revisionary Authority without stating any cogent reason and contrary to its own finding, the punishment had been imposed, the said decision is unjust, arbitrary and contrary to the material on record therefore the same is required to be quashed and set aside.



(xv) The learned counsel for the applicant further submitted that due to Disciplinary Proceedings initiated against the applicant the applicant has to suffer financial loss as also adversely affected the career advancement prospect as much as a number of person junior to the applicant have already been granted regular promotions even to the post of Chief Commercial Clerk. The applicant was granted only Pay Band of Rs.5200-20200/- with DP of Rs.2800/- with effect from 01.09.2008 vide order dated 09.04.2013 under first MACP whereas the juniors have been granted regular promotion and now they received Pay Band Rs.9300-34800/- Accordingly, the applicant has suffered a lot due to illegal action of the respondents. Therefore, also the applicant prays for consequential benefits.

(xvi) The learned counsel for the applicant submitted that applicant has been victimised by the respondent department. The punishment imposed is without any basis of evidence and caused immense damage to the applicant, hence this O.A.

3. The respondents have filed their written statement and denied all the contention of the applicant. The learned counsel for the respondents submitted that as per the provision of Rule 25 the Revisionary Authority has statutory power to examine the decision of Disciplinary Authority and in the present case it was found by the said authority that the decision of Disciplinary Authority dated 13.03.2012 was not sustainable and therefore, the power has been exercised in accordance with statutory provision therefore, no grievance can be entertained with regard to power exercised by the Revisionary Authority, So far the contention of the applicant with respect to his responsibility as parcel clerk pleaded in para 4.10. to 4.12 of the O.A are not in dispute hence it is admitted . It is further submitted that the applicant was provided all the opportunity to defence his case and thereafter considering his reply and material on record the revisionary authority found it fit to impose minor punishment due to disobedience of the applicant for not following the instruction/order issued by the department of vigilance in true spirit and associated with the checking team after delay of 30 minutes instead of immediate associating

with them. Therefore, the decision of revisionary authority is just and proper and the applicant is not entitled for any relief as prayed for.

4. Heard the parties, perused the documents and considered their submissions :-

5. In the present case, we find that while the applicant was working as Commercial Clerk/parcel clerk at Muzaffarpur Station, he was served with memorandum of charge dated 30.10.2007 for violation of provisions of sub rule 3.1 ( i ), ( ii ) and ( iii ) of Railway Service (Conduct) Rules, 1966. The disciplinary proceedings were initiated against the applicant. The I.O. had submitted his inquiry report wherein he held that the charges were proved, the delinquent employee i.e the applicant herein submitted his detailed reply to D.A , The C.O had denied all the allegation levelled against him and findings of the I.O on the basis of material/ evidence which came on record during the disciplinary proceedings. Considering the same and entire case record, the Disciplinary Authority did not agree with the findings of the I.O , and as such, he passed a speaking and reasoned order, exonerating the C.O from all charges, vide order dated 13.3.2012. Thereafter, the revisionary authority, issued notice under rule 25 of Railway D.A Rules, 1968 to the C.O calling up him to submit his reply within 15 days as the revisionary authority was not satisfied with the order passed by the D.A. In response to it, the C.O has submitted his detailed reply and subsequently, the revisionary authority passed impugned order dated 21.9.2012 whereby the said authority had imposed a revised punishment of "reduction by one stage in time scale for one year, with immediate effect, but without any cumulative effect". Aggrieved by this order and as well as the charge sheet, inquiry report, the applicant has preferred this OA for quashing and setting aside the same.

6. The charges levelled against the applicant is as under:-

*"though a memo was issued to Shri Mahato for weighing the leased packets of the front SLR of train no. 1061 Dn (Pawan Express) but he reached the aforesaid compartment Thirty (30) minutes late due to which the lease holder succeeded in taking out the packets without*

*weighment from the platform which shows his conduct of connivance with the lease holders.” (Annexure A/1 refers).*

7. It is further noticed that the CO was served with the statement of imputation in which it was alleged that :-

*" the vigilance department had received information from their releable sources that by some private party was bringing excess weight goods than the permissible limit of weight in front SLR of lease compartment of Train No. 1061 Dn and therefore, one Inquiry Team was constituted for enquiry. Before arrival of the said train no. 1061 Dn at Muzaffarpur Station, the said vigilance team had issued direction by way of a written memo to Shri Suresh Mahto, commercial clerk that for weighment of goods/parcel of rear compartment of front SLR of the said train. It was stated in the said memo that if excess weight of the goods/parcel found in that case appropriate penalty be recovered as per the rules. Shri Mahato reached at front SLR after 30 minutes of arrival of the said train no. 1061 Dn. Mr Mahato , in his defence statement dated 03.11.2006 (RUD-6) admitted that the memo was given by the team of vigilance and they had directed to secure and check the total no. of packets of front SLR (lease compartment). He reached 30 minutes late at the said place, this is violation of freight marking circular no. 12/2006 as per the provision of said circular the sample enquiry to be done in time so the lease holder may not take out over/excess weight than the permissible weight. Though memo was given to Shi Mahto, in spite of that, he had not secured the lease packet and did not remain present at proper time and this conduct of the Suresh Mahto establishes his involvement and connivance with the lease holder.*

*Due to absence of Shri Mahto at front SLR, the lease holder succeeded in taking away the excess goods through some other way and therefore, the targeted recovery of excess weight could not be achieved. Shri Mahto had recovered the penalty only for excess weight of 188 kg. Thereby, targeted recovery by way of penalty of Rs. 5000/-*

*could not be achieved. Due to inaction on the part of Shri Mahto, total goods were weighed and therefore, counting of total number of packets could not be done and no penalty was recovered. The said conduct of Shri Suresh Mahto is a serious misconduct and therefore, he has violated the provisions of sub rule 3.1 ( i ), ( ii ) and ( iii ) of Railway Service (Conduct) Rules, 1966."*

8. The respondent no. 5 i.e. Senior Divisional commercial Manager, Sonapur, vide his order dated 12.10.2006, suspended the applicant. Thereafter, considering all the aspect, the said suspension order was revoked with immediate effect from 6.12.2006. Thereafter, the applicant was served with the charge sheet dated 30.10.2007/ 1.11.2007 after lapse of more than one year. The DA had appointed one Shri B.K. Roy, the Chief Vigilance Inspector, Vigilance Department, Hajipur as I.O. The delinquent applicant submitted his reply and explanation against the charge levelled and denied all the charges and also objected to the appointment of chief vigilance Inspector as I.O in the said inquiry which was initiated on the basis of memo / instruction issued by the Vigilance department and all the witnesses belong to the same vigilance department. However, D.A did not adhere to the said legal objection of the applicant. It appears that at the initial stage itself, the D.A has committed a mistake by appointment I.O from the vigilance department despite the objection raised by the C.O. However, it is seen that the C.O had participated in the disciplinary proceeding proceedings and thus, the applicant cannot be faulted on that score.

9. The D.A, vide its order dated 13.3.2012, exonerated the applicant from the charge levelled against him. It is further found that the D.A had recorded reasons for his disagreement with the findings of the I.O and observed that the vigilance department had given the memo to the C.O on 3.10.2006 after the arrival of the train on the platform and at that time, he was discharging his official duty at Railway booking coupe and was taking inventory of unloaded railway booking goods. He could not leave the said duty point without completing the work already assigned to him. However, after completing the said work, he immediately reached at the front SLR of lease compartment as per the direction of the vigilance team. It is also seen that the D.A has considered all the materials and evidence and

came to the conclusion that the findings of the I.O is perverse and therefore, by speaking order dated 13.3.2012, the D.A has exonerated the C.O from all charges. It is further noted that the revisionary authority, being not satisfied, took up the matter, in exercise of his power conferred under Rule 25 of Railway D&A Rules, 1968. The said revisionary authority, after considering the reply of the applicant and also taking into consideration of the entire case record, specifically observed in his order that there is no evidence with regard to connivance of the C.O with lease holder and also doubted that though the vigilance team was present along with staff of RPF, how the lease holder can take away any unloaded parcel/packet in front of them. It is appropriate to reproduce the observations of the revisionary authority in his order dated 21.9.2012 which are as under:-

*" I have gone through the charges, RUD's, inquiry report, C.O's defence and speaking order of D.A and all other supporting statement and other papers of the case carefully. I have carefully considered the arguments, logic and conclusion of E.O and D.A and reached to the following conclusion;*

*On 03.10.2006 there was a surprise check of the leased compartment of FSLR of train 1061 at MFP station (where it was terminating) by Vigilance Team of three inspector.*

*In this FSLR, there were two luggage coupes viz leased (operated by private firm) and sealed operated by railway. On the said day, sealed coupe was front and the leased coupe was the rear coupe.*

*A memo was served to Shri Suresh Mahto to associate with the Vigilance Team in checking of leased coupe packets weights immediately after arrival of the train, as per one of the VI's. However, the CO reached to the said leased coupe late by 30 minutes, during which the private party (lease holder) took away some of the packets, without weighment. On arrival of the CO the remaining packets were weighed, were found to be excess in weight for which charges as per rules were recovered.*

*The charges levelled against the CO he connived with the lease holder and turned up late to associate with the vigilance check of the leased coupe, so as to allow the leased holder to take away some of the packet without weighment. After carefully going through the details certain points were established, the CO was on duty on the said date, time and train had duly received the memo from VI. He reached the leased coupe 30 minutes late is almost established.*

*However, during this he was engaged in his legitimate work of handling the other coupe i.e sealed one. If the vigilance team wanted to do the check of the lease coupe they should have stop the private firm to unlock it (they were three themselves ) Even RPF have been sought by then, Rather than this, they simply kept waiting for (and probably reminding ) the CO to come and associate. It is also not understood how the CO could have stopped the private party, if three of the vigilance team could not do so.*

*Moreover, under the given circumstances the memo of C.O for help (or to any other commercial or RPF staff) could have been and should have been served well in advance without, in any way, affecting the qualify and essence of the check, to avoid the possibility of the CO being engaged, after starting, in handling the sealed coupe."*

*While common prudence dictate that CO should have given priority to this special, not regular work as requested by the vigilance, I see no connivance of the CO with the lease holder, while not doing so and coming to associate with the vigilance team after finishing his regular and assigned work.*

*Further, in this case, no has clearly stated the number of packets were taken away without weighment, by the private party:*

*All the above make the case against the CO very weak to establish, who deserves benefit of doubt to some extent, as no connivance is positively established.*

*I hold him responsible for delaying in associating with the vigilance team check, but not for any type of connivance.*

*For the above, I impose a revised punishment of "reduction by one stage in time scale for one year, with immediate effect but without any cumulative effect." I hold the view that this will meet the ends of justice."*

10. It is noticed from the above observation of the revisionary authority that the C.O was engaged in his legitimate work of handling other coupe i.e sealed one. In that circumstances, there was no occasion for the revisionary authority to find any fault with C.O. Not only that, it also came on record that no witness has clearly stated as to how many number of packets were taken away without weighment by the private parties. It is proved that there was no connivance of the C.O with the lease holder / private parties. It is also proved that the instructions/directions issued to the C.O by the vigilance team was served upon the C.O only after arrival of the train at the station and at that relevant time, admittedly, the applicant was busy with his official duties which were assigned to him earlier. There is no material on record to prove that the applicant has deliberately violated the instruction conveyed to him vide memo of vigilance department dated 3.10.2006. The memo simply stipulates that "*the applicant should ensure his weighment of lease parcel / packet of rear compartment of front SLR of train no. 1061 Dn and also to realise the penalty for excess weight as per rules.*" In view of this undisputed fact and also in absence of any evidence against the C.O however, without recording any reason contrary to it, the revisionary authority has passed the impugned order imposing the punishment upon the applicant. We find that the said impugned decision of the Revisionary Authority is against the principle of preponderance of probability. It is apt to note that the Hon'ble Supreme Court in the case of *Moni Shankar vs. UOI* reported in (2008) 3 SCC 484, while dealing with similar matter, has held as under :-

“ Para 17 :-The departmental proceeding is a quasi judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The Court exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely preponderance of probability. If on such evidences, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere. We must place on record that the doctrine of unreasonableness is giving way to the doctrine of proportionality. ([See - State of U.P. v. Sheo Shanker Lal Srivastava](#) : (2006) 3 SCC 276 and [Coimbatore District Central Cooperative Bank vs. Coimbatore District Central Cooperative Bank Employees Association and another](#) : (2007) 4 SCC 669 2007.”

11. In view of the aforesaid discussion and law laid down by the Hon'ble Supreme court, we find that the revisionary authority has passed the impugned order which is not supported with any material or evidence. The revisionary authority, in his impugned order, has clearly held that the connivance of the C.O is not established and the C.O deserves the benefit of doubt. The revisionary authority *held the applicant is responsible only for not associating himself with the vigilance team check but not for any kind of connivance.* Thus, we find that the alleged misconduct cannot be said to be proved. The D.A has correctly exonerated the applicant from all charges. However, revisionary authority, in a most mechanical manner just for the sake of punishment, passed the impugned order dated 21.9.2012 which is not sustainable in the eye of law being perverse. The same is required to quashed and set aside.

12. In the result, in view of the above facts and circumstances of the case, and the law laid down by the Hon'ble Apex Court on the issue discussed above, we allow this OA in terms of what is stated hereinabove and quash the set aside the order of the revisionary authority dated 21.9.2012. Consequently, the applicant is entitled for all consequential benefits. No order as to costs.

/mks/