

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/391 of 2015

Date of Reserve:17.06.2019

Date of Order:09.09.2019

CORAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Sarat Kumar Dash, aged about 59 years, S/o. Late A.P.Dash, residing at Flat No.201, Sidharth Apartment, Road No.8, Unit-9, Bhubaneswar, Dist-Khurda, Odisha at present working as Commissioner of Income Tax (Appeals)-I, BBSR in the office of the Principal Chief Commissioner of Income Tax, AayakarBhawan, Rajaswa Vihar, Bhubaneswar

...Applicant

By the Advocate(s)-M/s.J.M.Pattnaik
C.Panigrahi

-VERSUS-

Union of India represented through:

1. The Secretary (Revenue), Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001
2. The Secretary, Department of Personnel & Training, North Block, New Delhi-110 001
3. The Chairman, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001
4. The Director General of Income Tax(Vigilance) Dayal Singh Public Library, 1st Floor, Deen Dayal UpadhyayMarg, New Delhi-110 002
5. The Under Secretary (Ad-VI)CBDT, Ministry of Finance Department of Revenue, Government of India, New Delhi-110 001
6. The Principal Chief Commissioner of Income Tax, Odisha, AayakarBhawan, RajaswaVihar, Bhubaneswar-751 007

...Respondents

By the Advocate(s)-Mr.J.K.Nayak

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this Original Application under Section 19 of the A.T.Act, 1985, the
had sought for the following reliefs:

- i) To quash the Memorandum of Charge/Charge Sheet dated 14.03.2014(Annexure-A/13).
- ii) To quash the advice of DOPT for imposition of minor penalty vide their letter dated 28.08.2012(Annexure-A/12).
- iii) To direct the Respondents to grant the Applicant promotions to the ranks of Commissioner of Income Tax and Principal Commissioner of Income Tax as per rules retrospectively along with all consequential financial benefits.
- iv) And further be pleased to quash the advice tendered by the UPSC which was served on the applicant through letter dtd. 04.07.2017 under Annexure-A/16.
- v) And further be pleased to quash the order of punishment dt. 14th February, 2017 in letter dtd. 21st February, 2017 under Annexure-A/18
- vi) To pass any other order/orders as deemed fit and proper.

2. This matter had been heard by a Division Bench constituting Hon'ble Shri A.K.Patnaik, Member(J) and Hon'ble Dr.M.Sarangi, Member(A) and orders were reserved. However, there being divergent opinion between the two Hon'ble Members, under Section-26 of A.T.Act, 1985, the matter was referred to the Hon'ble Chairman and as per the directives issued by the Hon'ble Chairman, the matter was heard in extenso on the points referred to be resolved by the 3rd Member Bench on 17.06.2019 and orders were resolved. For the sake of reference, the points referred to 3rd Member Bench are as follows:

- i) Whether in the present case there are procedural lapses which have vitiated the disciplinary proceedings to the extent of violating the legal rights of the applicant or the disciplinary proceedings as conducted under the CCS(CCA) Rules are adequate to impose a minor punishment on the applicant.
- ii) Whether the punishment imposed on the applicant through the impugned orders based on the degree of proof on preponderance of probability is legally sustainable or not .

- iii) Whether there is any need to conduct a fresh hearing of the matter.

3. In the above backdrop, upon perusal of records including the dissenting views of both the Hon'ble Members, I have heard the learned counsels for the respective parties. At the outset, I feel it prudent to quote hereunder the findings and conclusions arrived at by both the Hon'ble Members.

FINDINGS & CONCLUSION ARRIVED AT BY HON'BLE MEMBER(A):

"10. In the statement of imputation of misconduct by the applicant instances were cited where the applicant is alleged to have used his influence in his official capacity to collect donations for Utkalmani Palli Unnayan Samiti, Cuttack in which his father was the President along with his another son who had the power to open and operate the accounts of the Trust. The applicant worked as Joint/Additional Commissioner of Income Tax, Salem Range in Tamil Nadu from October, 2001 to July, 2002. The Trust was founded on 5.10.2001 in which the father of the applicant was the President of the Trust. A total of Rs.4,15,000 was collected in the name of Utkalmani Palli Unnayan Samiti Trust during the period when the applicant was Joint/Additional Commissioner of Income Tax, Salem Range. All the assesseees and donors were within the Salem Range. The CBI Court, Coimbatore had acquitted the applicant in the criminal case filed against him on the ground that there was no direct connection between the applicant and the Utkalmani Palli Unnayan Samiti Trust and there was no direct evidence of the applicant's using influence on the donors to make donation to the said Trust. The Criminal Court appears to have applied the strict proof of "beyond all reasonable doubt" while acquitting the applicant. The Respondents however are entitled to make their own assessment and apply the standard of proof as required in a departmental proceedings, i.e., preponderance of probability. The principle of preponderance of probability in the present case involves the fact that places like Tiruchengode and Pallipallyam are remote areas in Salem District of Tamil Nadu and the chances of donors coming into the knowledge of a Trust such as Utkalmani Palli Unnayan Samiti Trust situated in a far off place at Cuttack in Orissa are remote. Moreover, the fact that of many such Trusts which are dedicated to welfare activities in Orissa, the donors have chosen Utkalmani Palli Unnayan Samiti Trust where the applicant's father is the President and his brother is the nominee having the authority to open

and operate the Bank accounts contributes to the factor of preponderance of probability. We have no reasons to find fault with the respondents in applying the standard of proof of preponderance of probability in the present case. In a catena of judgments, the Hon'ble Supreme Court has held that the standard of proof in a criminal case and the departmental proceedings are different and despite acquittal by the criminal court, the department can still continue with the departmental proceedings and take it to a logical conclusion [**Nelson Motis (supra)**, **Ajit Kumar Nag (supra)**, **State of Andhra Pradesh vs. S.Sree Rama Rao (AIR 1963 SC 1723)**, **Cpt.M.Paul Anthony vs.Bharat Gold Mines Ltd. &Anr. (AIR 1999 SC 1416)**, **Delhi Cloth & General Mills Ltd. vs. Kushal Bhan [1960 (3) SCR 227]**, **Jang Bahadur Singh vs. Baij NathTiwari [1969 (1) SCR 134]**, and **State of Rajasthan vs. B.K.Meena & Ors.(1996) 6 SCC 417]**.

Since the overwhelming judicial opinion in the matter is that the standard of proof in a departmental proceeding is different from criminal case irrespective of the fact that in a criminal case the delinquent employee has been acquitted, reliance placed by the applicant on **G.M.Tank case** (supra) is not applicable. This puts to rest the argument of the applicant that despite acquittal by the CBI Court, the respondents have acted illegally or beyond their jurisdiction by proceeding against him departmentally.

10. The second aspect on which the applicant has harped is the lacunae in the departmental proceedings. It is submitted by the respondents that earlier charge sheet dated 28.6.2005 was issued against the applicant without the approval of the disciplinary authority, i.e., the Union of Finance Minister. This aspect has already been dealt with by the CAT, Principal Bench which has rightly quashed the charge sheet. However, as the Charge Memorandum dated 14.3.2014 clearly shows, the same was issued with due approval by the Union Finance Minister/Disciplinary Authority under Rule-16 of CCS(CCA) Rules, 1965 and therefore its legality and validity cannot be called in question. Despite the seriousness of the charge in the Memorandum dated 28.6.2005 under Rule-14 of CCS(CCA) Rules, 1965, the respondents have diluted the Charge Memorandum dated 14.3.2014 and issued the same under Rule-16 of CCS(CCA) Rules, 1965. Inasmuch as this is a lesser charge whereas the misconduct continued to be the same, the applicant's argument that the advice of CVC need not have been accepted by the respondents is unfounded. The case law cited by the applicant in **A.N. D'Silva vs. Union of India** (supra), **Nirmala J.Jhala** (supra), and **Nagraj S.Karjagi**(supra) are not applicable in the present case since the Respondents have obviously applied their mind

and have reduced the gravity of the Memorandum of Charge by substituting Rule-16 in place of Rule-14 of CCS(CCA) Rules, 1965".

CONCLUSION:

"12. Under Rule-16(1)(b) the disciplinary authority "**may**" if it thinks fit, in the circumstances of any particular case, decide that an enquiry should be held in the manner laid down in sub-rules(3) to (23) of Rule 14, all the formalities beginning with framing of articles of charge, statement of imputation, etc. will have to be gone through. Thus it is obvious that depending on the gravity of the charge and the circumstances of the misconduct, the competent authority may or may not conduct a detailed inquiry as Rule-16 authorises him to take action after considering the reply of the charged official to the Charge Memo. To this extent, Rule-16 is distinct from Rule-14 and in the present case inasmuch as the punishment imposed is withholding of an increment for a period of one year without cumulative effect and not adversely affecting the pension, the exception provided under Rule-16-1(A) will not be applicable. Records show that the applicant had submitted his reply to the Charge Memorandum and all necessary formalities as prescribed under the Rules have been followed in the present case in so far as the 2nd charge-sheet dated 14.3.2014 is concerned. So far as advice of the UPSC is concerned, Rule-16 clearly provides that the disciplinary authority will consult the Commission wherever such consultation is necessary. A copy of UPSC advice was already supplied to the applicant. In a recent judgment in **Union of India vs. R.P.Singh in Civil Appeal No.6717/2008 pronounced on May, 22, 2014**, the Hon'ble Supreme Court has held that the advice from the UPSC when utilized as a material against a delinquent officer, it should be supplied in advance. In the present case the applicant has been given copy of the UPSC advice and he has submitted his representation on that. They have been considered by the Respondents who have passed the order imposing punishment on the applicant. We find no irregularity on this aspect of the proceedings.

13. Taking into account all the facts of the case, the procedure adopted for imposition of minor penalty on the applicant and the points of law involved, we find no deficiency or illegality in the Memorandum of Charge dated 14.3.2014, advice of the DOP&T dated 28.8.2012, advice of the UPSC dated 31.05.2016 and the order of punishment dated 14.2.2017. Needless to say that the DOP&T being the designated Department for laying down policy on personnel management in the Government, the respondents had rightly sought the advice of the DOP&T when there was a

difference between the opinion of CVC and the CBDT and in this respect there was no illegality in such a reference.

14. In so far as prayer No.8(iii) regarding promotion of the applicant to the rank of Commissioner of Income Tax as per rules retrospectively, we do not want to interfere with the promotion of the applicant to the rank of Commissioner of Income Tax in view of our finding in Paras - 8 to 13 above. Therefore, the reliefs sought for in Para-8(i) to 8(vi) cannot be granted. The O.A. is accordingly dismissed as devoid of merit. No costs. All the MAs are closed”.

FINDINGS & CONCLUSION ARRIVED AT BY HON'BLE MEMBER(J):

“3.The Disciplinary Authority imposed the punishment by holding that CO in his submission dated 17.7.2016 has not put forth any evidence to rebut charge on account of misconduct mentioned in the charge memorandum dated 14.3.2014 whereas, the law is otherwise that it is not the CO to disprove the charge rather the prosecution is to prove the charge.

4.It reveals that the Disciplinary Authority disagreed with the report of the IO but whether such disagreement notice was ever served on the applicant before punishment was imposed is not forthcoming from the counter of the department.

5.It also reveals that statement of the donors stated to have been recorded by the CBI during preliminary enquiry in connection with the CBI case. The said report was not a part of the charge sheet. Therefore, imposition of punishment disbelieving the statements of the said donors before the IO is without giving the applicant any opportunity of being heard which makes the order of punishment as nullity in the eyes of law.

6.Further it reveals that the statement of the donors recorded by the CBI in connection with the criminal case behind the back of the applicant. The said statement was not signed by any donors. The said statement is recorded under section 161 of the Cr.PC. Section 162 Cr.PC provides that (1) No statement made by any person to a police officer in course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made. Further, the disciplinary authority did not examine the investing authority who had taken the statement before

the punishment was imposed on the applicant by taking into such statement by ignoring the statement recorded by the IO during enquiry; notwithstanding the report of the IO and the fact that taking into consideration such preliminary statement the applicant was exonerated in the criminal Case instituted against him”.

CONCLUSION

“7.In view of the above, I am of the considered view that imposition of punishment based on the preliminary report of the CBI is against all canons of justice, equity, fair play and principles of natural justice. Thus, a full-fledged hearing on the above points is absolutely necessary before taking a final decision in the matter. Therefore, this OA stands released to be placed before the Division Bench for hearing of the matter afresh”.

4. The sum and substance of the matter is that the applicant while working as Additional Commissioner of Income Tax (Hqs.)-I Audit under the Principal Chief Commissioner of Income Tax, Bhubaneswar had been issued a Memorandum of Charge dated 28.6.2005 (A/1) in contemplation of disciplinary proceedings against him under Rule-14 of CCS(CCA)Rules, 1965, in connection with the misconduct committed by him while working as Senior/Additional Commissioner, Income Tax, Salem in the State of Tamil Nadu, which reads as follows:

“Shri Sarat Kumar Dash while working as a public servant in the capacity of Joint/Additional Commissioner of Income Tax, Salem Range during the period from October, 2001 and July, 2002 habitually obtained for a Trust by the name of Utkalamani Palli Unnayan Samiti, Cuttack, in which his father Shri Ananth Prasad Dash was the President and also authorized to open and operate the bank account of the Trust, 23(twenty three) donations from the assesses and the Chartered Accountants who represent the assesses, with whom he had/was official dealings.

Shri Sarat Kumar Dash has thus failed to maintain absolute integrity and behaved in a manner unbecoming of a government servant and thereby contravened Rule 3(1)(i) & (iii) of the CCS(Conduct) Rules”.

5. Consequent upon the inquiry conducted, the IO submitted his report on 18.02.2010 holding the charge as party proved. In the meantime, the

applicant approached the Central Administrative Tribunal, Principal Bench in O.A.No.2475/2012. The CAT, Principal Bench vide order dated 20.07.2012 quashed the charge Memo dated 28.6.2005 on the ground that the same had not been approved by the Disciplinary Authority, i.e., Union Finance Minister. Thereafter, on the advice tendered by the DOP&T vide letter dated 28.8.2012 to the Department of Revenue to accept the advice of CVC for imposition of minimum penalty on the applicant and to consult the UPSC before imposing penalty, the CBDT, issued a fresh Memorandum of Charge dated 14.3.2014 under Rule-16 of CCS(CCA) Rules, 1965 with the approval of the Union Finance Minister, i.e., the Disciplinary Authority which reads as follows:

1. WHEREAS, an enquiry was being held against Shri Sarat Kumar Dash, the then Joint/Additional Commissioner of Income Tax, Salem under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 by issue of a memorandum dated 28th June, 2005;
2. WHEREAS, the said Memorandum dated 28th June, 2005 was quashed by Central Administrative Tribunal, Principal Bench (CAT-PB) vide their order dated 30th July, 2012 in O.A.No.2475/2012 on the ground that the same was not approved by the Finance Minister;
3. WHEREAS, while quashing the charge-sheet, CAT-PB granted liberty to the respondents to proceed against the applicant and frame charges if the concerned competent authority would approved the charge memo;
4. WHEREAS for quashing the charge sheet against Shri Sarat Kumar Das, CAT, PB relied upon its earlier judgments in cases of Shri B.V.Gopinath (OA No.800/2008) and Shri S.K. Srivastava (OA No.1434/2008), where also the charge sheets were quashed on the same ground. Appeal of the Department against the order of CAT, PB in the cases of Shri B.V.Gopinath and Shri S.K.Srivastava did not succeed in Delhi High Court and SLP (No.6348/2011) was filed in the Supreme Court;
5. WHEREAS, the Supreme Court has now delivered their judgment on 5th September, 2013, where the SLP (No.6348/2011) of Department has been dismissed, by holding that "the charge sheet/charge memo having not been approved by the disciplinary authority was non-est in

the eye of law; the aforesaid Memorandum dated 28th June, 2005 has been rendered non-est; and

6. WHEREAS, the Supreme Court in its judgment as aforesaid has also noted the liberty granted by the Central Administrative Tribunal for taking appropriate action to confine with the proceedings in accordance with law and have not disturbed the liberty so granted;
7. WHEREAS, during the disciplinary proceeding pursuant to the quashed charge sheet dated 28th June, 2005, the Department of Personnel and Training had advised imposition of minor penalty.
8. NOW, THEREFORE, Shri Sarat Kumar Dash, the then Addl.CIT, Salem is hereby informed that it is proposed to take against him under rule 16 of the CCS(CCA) Rules, 1965. A statement of Imputation of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.
9. Shri Sarat Kumar Dash is hereby given an opportunity to make such representation as he may wish to make against the proposal.
10. If Shri Sarat Kumar Dash fails to submit his representation within 10 days of the receipt of this Memorandum it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Sarat Kumar Das ex parte".

6. In consideration of the representations made by the applicant to the Memorandum of Charge as well as the advice tendered by the UPSC and other connected materials, the Disciplinary Authority vide order dated 14.02.2017 imposed penalty, which reads as follows:

"NOW THEREFORE, THE DA imposes 'a penalty of withholding of an increment of pay for a period of one year without cumulative effect and not adversely affecting the pension on the CO, Sh. S.K.Dash, CIT".

7. The point No.1 under reference is whether there are procedural lapses which have vitiated the disciplinary proceedings to the extent of violating the legal rights of the applicant or the disciplinary proceedings as conducted

under CCS(CCA) Rules are adequate to impose a minor punishment on the applicant.

8. In this respect, it is to be noted that the earlier proceedings initiated against the applicant under Rule-14 of CCS(CCA) Rules, 1965 having been quashed by the CAT, Principal Bench on the ground that the Memorandum of Charge had not been approved by the Disciplinary Authority, viz., the Union Finance Minister, it was considered expedient to initiate disciplinary proceedings under Rule-16 of CCS(CCA) Rules, 1965. Therefore, with the quashment of Memorandum of Charge dated 28.6.2005, the entire proceeding conducted against the applicant under Rule-14 of CCS(CCA) Rules, 1965, was set at naught and to that extent, the applicant could not have any grievance. As regards the proceedings initiated against the applicant under Rule-16 of CCS(CCA) Rules, 1965 vide Memorandum of Charge dated 14.3.2014, the applicant had admittedly submitted his reply on 26.3.2014 denying the charges, inter alia, with a request to supply him copies of evidences and materials based on which the Charge Memo had been issued. According to him, since no reply was received from the CBDT, he submitted a petition dated 25.8.2014 to the Disciplinary Authority with a prayer to drop of the charge sheet dated 14.3.2014. While the matter stood thus, the applicant was communicated with the advice of UPSC vide communication dated 24.6.2016 requiring him to submit his representation and as it appears from the record, the applicant so submitted on 17.7.2016 with a request to exonerate him of the charges. The Disciplinary Authority taking into consideration the advice of the UPSC as well as the comments of the applicant thereon, imposed penalty on the applicant vide order dated 14.2.2017, which has already been indicated above.

9. I have considered the point No.(i) under reference against the weight of materials. The indictment against the applicant was that while working as Joint/Additional Commissioner of Income Tax, Salem Range in Tamil Nadu from October, 2001 to July, 2002, he had used his influence in his official capacity to collect donations for Utkalmani Palli Unnayan Samiti, Cuttack which was founded on 5.10.2002 in which his father was the President along with his another son who had the power to open and operate the accounts of the Trust. A total of Rs.4,15,000 had been collected in the name of Utkalmani Palli Unnayan Samiti Trust during the period when the applicant was Joint/Additional Commissioner of Income Tax, Salem Range and all the assesseees and donors were within the Salem Range.

10. The findings recorded by the Hon'ble Member(A) are that the CBI Court, Coimbatore had acquitted the applicant in the criminal case filed against him on the ground that there was no direct connection between the applicant and the Utkalmani Palli Unnayan Samiti Trust and there was no direct evidence of the applicant's using influence on the donors to make donation to the said Trust. The Criminal Court appears to have applied the strict proof of "beyond all reasonable doubt" while acquitting the applicant. The Respondents however are entitled to make their own assessment and apply the standard of proof as required in a departmental proceedings, i.e., preponderance of probability. The principle of preponderance of probability in the present case involves the fact that places like Tiruchengode and Pallipallyam are remote areas in Salem District of Tamil Nadu and the chances of donors coming into the knowledge of a Trust such as Utkalmani Palli Unnayan Samiti Trust situated in a far off place at Cuttack in Orissa are remote. Moreover, the fact that of many such Trusts which are dedicated to welfare activities in Orissa,

the donors have chosen Utkalmani Palli Unnayan Samiti Trust where the applicant's father is the President and his brother is the nominee having the authority to open and operate the Bank accounts contributes to the factor of preponderance of probability. We have no reasons to find fault with the respondents in applying the standard of proof of preponderance of probability in the present case. In a catena of judgments, the Hon'ble Supreme Court has held that the standard of proof in a criminal case and the departmental proceedings are different and despite acquittal by the criminal court, the department can still continue with the departmental proceedings and take it to a logical conclusion.

11. On the other hand, the findings of the Hon'ble Member (J) are that the Disciplinary Authority imposed the punishment by holding that CO in his submission dated 17.7.2016 has not put forth any evidence to rebut charge on account of misconduct mentioned in the charge memorandum dated 14.3.2014 whereas, the law is otherwise that it is not the CO to disprove the charge rather the prosecution is to prove the charge.

12. Admittedly, the applicant is not aggrieved because, no inquiry was conducted while imposing punishment on account of disciplinary proceedings initiated against him under Rule-16 of CCS(CCA) Rules, 1965. Therefore, in the absence of an inquiry conducted into the charges levelled against the applicant, the materials which were worthy of being considered by the Disciplinary Authority were taken into consideration before imposition of punishment. It is also not the case of the applicant that there has been any procedural violation under Rule-16 of CCS(CCA) Rules, 1965, while imposing minor penalty of withholding of an increment of pay for a period of one year without cumulative effect and not adversely affecting his pension. Since there

was no inquiry conducted in the instant case, a duty was cast on the applicant to refute the imputation of charge levelled against him. Had an inquiry been conducted, certainly, it was imperative on the part of the prosecution to bring home the charges levelled against the applicant and if it would have been otherwise, the applicant was bound to be exonerated of the charges. However, in the proceedings conducted under Rule-16 of CCS(CCA) Rules, 1965, the applicant admittedly, could not be able to refute the imputations made against him that while working as Joint/Additional Commissioner of Income Tax, Salem Range in Tamil Nadu from October, 2001 to 2002 Utkalamani Palli Unnayan Samiti Trust, Cuttack, which was founded on 5.10.2001 and in which his father was the President along with his another son who had the power to open and operate the accounts of the Trust, he had used his influence in his official capacity to collect donations and a total sum of Rs.4,15,000 was collected in the name of Utkalmani Palli Unnayan Samiti Trust, all the assesseees and donors being within the Salem Range. In the circumstances, the standard of proof "preponderance of probability" as is required in a disciplinary proceedings, is fully satisfied with a view to imposing minor penalty on the applicant. Therefore, with great respect, I beg to differ from the findings and conclusion arrived at by the Hon'ble Member(J) that the Disciplinary Authority imposed the punishment by holding that CO in his submission dated 17.7.2016 has not put forth any evidence to rebut charge on account of misconduct mentioned in the charge memorandum dated 14.3.2014 whereas the law is otherwise that it is not the CO to disprove the charge rather the prosecution is to prove the charge.

13. With the above views, I also concur with the findings and conclusion as arrived at by Hon'ble Member(A) in so far as Point No.(ii) under reference is

concerned and hold that the punishment imposed on the applicant through the impugned orders based on the degree of proof on preponderance of probability is legally sustainable. At this juncture, with great respect, it is pertinent to mention that the findings recorded by the Hon'ble Member(J) vide Paragraphs-4 to 6 of the order have no bearing on the disciplinary proceedings initiated against the applicant under Rule-16 of CCS(CCA) Rules, 1965.

14. In view of the above, I am of the opinion that there is no need to conduct a fresh hearing of the matter and thus the point No.(iii) under reference is decided.

15. Since I agree with the views and findings as given by the Hon'ble Member(A) as per the discussions made above, therefore, in view of the majority view, the O.A. is accordingly dismissed. No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

BKS

