

(2001) 07 KAR CK 0069
In the Karnataka High Court
Case No : Writ Petition No. 7357 of 1993

A.M. Sugunasundaram

APPELLANT

Vs

Syndicate Bank, Manipal, Dakshina Kannada District

RESPONDENT

Date of Decision : 17-07-2001

Acts Referred:

Citation : (2001) ILR (Kar) 4052 : (2001) 5 KarLJ 557 : (2001) 4 KCCR 352 SN

Hon'ble Judges : H.L. Dattu, J

Bench : Single Bench

Advocate : Sri P.S. Rajagopal, for the Appellant; Sri Radesh Prabhu for Sri
Tukaram S. Pai, for the Respondent

Final Decision : Allowed

Judgement

The Court

1. Petitioner was working as an Officer in Junior Management, Grade Scale I in the respondent-Syndicate Bank. While he was working in that capacity in the Bellary Branch of the respondent-Bank, he was served with a charge memo dated 14-3-1991. The charges relate to some of the omissions and commissions said to have been committed by the petitioner while he was working at Kuniamuthur and Tirupur Branch. There are six charges against the petitioner. The charge memo was replied by the petitioner by his reply letter dated 18-5-1991. In that, he has totally denied the assertions and the allegations made in the charge memo. The disciplinary authority not being satisfied with the explanation offered by the petitioner, had appointed an Enquiry Officer to enquire into the allegations made in the charge memo by his order dated 20-8-1991. Before the Enquiry Officer, the management had examined the Investigating Officer, who had conducted a preliminary investigation, and had submitted a preliminary enquiry report to the management of the respondent-Bank, which is the foundation for preparing and serving the charge memo on the petitioner. Through him, they had also got marked several documents in support of their allegations in the charge memo. The delinquent employee officer had examined

himself but had not examined any other witness in support of his case. The Enquiry Officer after completion of the enquiry proceedings and on analysis of the oral and documentary evidence on record, is of the view that Charge Nos. 1, 2, 4 and 6 are partly proved. Charge No. 3 is not proved and Charge No. 5 is proved. With these findings, he submits his report and records of the enquiry proceedings to the disciplinary authority. As required under the regulations, a notice was sent to the employee-officer along with the report by the disciplinary authority, inter alia directing him to show cause why the findings of the Enquiry Officer should not be accepted and major penalty should not be imposed. After receipt of the notice and the report of the Enquiry Officer, petitioner files his detailed reply by his reply letter dated 29-10-1992. In that, he states that the Enquiry Officer has not conducted the enquiry proceedings in accordance with law and further points out the procedural irregularities committed by the Enquiry Officer during the enquiry proceedings and further points out various discrepancies and unreasonable assumptions of the Enquiry Officer in the report, while finding him guilty of several charges alleged against him in the charge memo. The disciplinary authority as usual proceeds to confirm the findings of the Enquiry Officer and then frames the impugned order dated 17-11-1992. In that, he imposes a major penalty of dismissal against the petitioner. Aggrieved by the said order, the delinquent officer goes through the formality of filing the appeal, may be knowing the result of such appeal on the date of the institution of appeal itself. Here, I should definitely confess, till today, I have not come across one order, where the Appellate Authorities have taken a decision contrary to the decision of disciplinary authority. Filing of the appeals seems to be only a religious ritual before approaching this Court, which in my opinion, is not serving the cause, the purpose and the object for which an appellate forum is created. The appellate forum is provided under the Statute with a specific purpose and object. Firstly, they are authorised to exercise quasi judicial functions and secondly, they are empowered to decide both questions of fact and law. But invariably, the Appellate Authorities seem to think that the appellate forum is created under the Statutes/Rules/Regulations only to formally bless the orders of disciplinary authority. This, in my opinion, is a very sorry state of affairs. Be that as it may.

2. Learned Counsel appearing for the petitioner, Sri P.S. Rajagopal, has raised six issues for consideration and decision of this Court. They are as under:

I. Petitioner was prevented to have a defence representative of his choice by the Enquiry Officer and thereby petitioner could not effectively participate in the enquiry proceedings and therefore, the entire enquiry proceedings are vitiated.

II. Investigating Officer was the sole witness, examined and a copy of his preliminary report was not furnished to the delinquent either before the commencement of the enquiry proceedings or during the enquiry proceedings, and thereby petitioner was denied a reasonable opportunity to effectively cross-examine the management witness.

III. Though certain documents were sought for, the same were not furnished to the petitioner and thereby petitioner was prevented from effectively defending himself in the inquiry proceedings.

IV. The findings of the Enquiry Officer are wholly perverse and based on such perverse findings, the disciplinary authority could not have passed the impugned order.

V. The disciplinary authority is bound to support his order with reasons while imposing a major penalty on the charge-sheeted officer and in that, necessarily he should take into consideration the explanation offered by the petitioner to the show-cause notice issued along with the report of the Enquiry Officer. Since that has not been done, the order suffers from the vice of non-application of mind.

VI. The Investigating Officer while conducting the preliminary investigation had examined several witnesses and not even one was called before the Enquiry Officer to substantiate the statements made before the Investigating Officer. Therefore, the entire enquiry proceedings are vitiated and the punishment imposed by the disciplinary authority based on such invalid proceedings is not only invalid but wholly illegal.

These are the main contentions canvassed by learned Counsel-Sri Rajagopal, in support of the reliefs sought in the writ petition.

3. While elaborating on Issue 1, the learned Counsel firstly points out the request made by the charge-sheeted officer before the disciplinary authority for the assistance of one Mr. M.U. Pai, who was an employee officer working at Hyderabad Branch of the respondent-Bank. According to the learned Counsel, the respondent-Bank ought to have permitted the petitioner to engage the services of Mr. M.U. Pai to properly defend him in the enquiry proceedings. Since that has not been done, according to the learned Counsel, the proceedings are vitiated since they are opposed to the rules of natural justice. In support of that submission, the learned Counsel relies upon Regulation 6(7) of the Syndicate Bank Officer Employees" (Discipline and Appeal) Regulations, 1976 (hereinafter for the sake of brevity referred to as "Regulations 1976").

4. The learned Counsel also brings to my notice the circular instructions issued by the Bank, wherein the Bank had specifically stated that an officer facing the enquiry proceedings should take the assistance of only an employee officer of the State and not an employee working outside the State.

5. In opposing this issue, Sri Radesh Prabhu, learned Counsel appearing for the respondent-Bank states that at no point of time, the Bank had rejected the request of the petitioner to have the assistance of one Sri M.U. Pai, who was working as an employee-officer at Hyderabad Branch. The learned Counsel further states that the delinquent had taken the assistance of one Mr. Anekar, to defend him in the enquiry proceedings. Therefore, it is stated by him that the enquiry proceedings were held in accordance with Regulations of the Bank and

after complying with the principles of natural justice, and therefore, no exception can be taken to the enquiry proceedings. In support of that submission, the learned Counsel invites my attention to the statements made on oath by the respondent-Bank in its statement of objections.

6. To answer this precise issue, in my opinion, Regulation 6(7) of Regulations, 1976 requires to be noticed. They are as under:

"6(7). The officer-employee may take the assistance of any other employee but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner or the disciplinary authority, having regard to the circumstances of the case, so permits.

Note: The officer-employee shall not take the assistance of any other officer-employee who has two pending disciplinary cases on hand in which he has to give assistance".

7. A perusal of the aforesaid Regulation makes it abundantly clear that an employee-officer can take the assistance of any other officer-employee to defend him in the enquiry proceedings but the exception is, he cannot take the assistance of legal practitioner. Even here also, if for any reason, the Presenting Officer before the Enquiry Officer is a legal practitioner, in such an event, the employee-officer can take the assistance of a legal practitioner, and further a discretion is vested in the disciplinary authority to permit the delinquent employee to have the assistance of legal practitioner having regard to the circumstances of the case. This could be in such circumstances, where the charges alleged involve complicated questions of law and fact or in other circumstances, which in the opinion of the disciplinary authority requires the delinquent official to be defended by a legal practitioner.

8. The expression "officer/employee" is defined under the Regulations. It only means a person who holds a supervisory administrative or managerial post in the bank or any other person who has been appointed and is functioning as an officer of the bank, by whatever designations called and includes a person whose services are temporarily placed at the disposal of the Central Government or a State Government or any other Government undertaking or any other public sector bank or the Reserve Bank of India or any other organisation, but shall not include casual, work charged or contingent staff or the award staff.

9. Keeping in view the possible construction that can be placed on Regulation 6(7) of the Regulations 1976, let me now look into the request made by the petitioner before the disciplinary authority. The request letter is produced as Annexure-G in the writ petition. In that request letter, petitioner requests the disciplinary authority of the respondent-Bank for the assistance of Sri M.U. Pai, who was working in Hyderabad Branch of the respondent-Bank. The petitioner also has produced the circular issued by the Bank which is dated 16-11-1990. In the circular, it is stated that the employee officer facing the disciplinary proceedings cannot take the assistance of an employee-officer of a different

State. It is the contention of the petitioner before this Court that being under the impression that the disciplinary authority may not permit him to engage the services of Sri M.U. Pai, who was working in Hyderabad Branch, he had to take the assistance of Sri Anekar, and therefore, it is stated that he was not afforded a reasonable opportunity to have the assistance of a competent officer to defend him in the enquiry proceedings.

10. In my opinion, this assertion of the petitioner and his learned Counsel cannot be accepted for more than one reason. Firstly, the respondent-Bank at no point of time had rejected the request of the petitioner to engage the services of Sri M.U. Pai, who was an employee-officer at Hyderabad Branch as his defence representative to defend him in the proceedings. The petitioner being under a mistaken notion that disciplinary authority of the Bank may not permit him to engage the services of an officer residing outside the State to defend him in the enquiry proceedings, had thought it fit to take the services of one other officer. The defence representative so engaged by the charge-sheeted officer had effectively participated in the enquiry proceedings. The cross-examination of the management witness by the defence representative would clearly show that he was well versed in the conduct of domestic enquiry proceedings. Therefore, it cannot be said that the petitioner did not have the assistance of an employee officer to defend him in the enquiry proceedings. Therefore, in my opinion, it cannot be said that the petitioner was prevented from having a defence representative of his choice to defend him in the enquiry proceedings. Accordingly, the first issue canvassed by the learned Counsel for the petitioner has no merit whatsoever. Accordingly, the same is rejected.

11. The second issue canvassed by the learned Counsel for petitioner in sum and substance is that, non-furnishing of the preliminary investigating report of the Investigating Officer before the commencement of the enquiry proceedings would vitiate the enquiry proceedings. While elaborating this submission, the learned Counsel states that the management to prove the accusation made against the charge-sheeted officer in the charge memo, had examined only the Investigating Officer as its witness, and that evidence has been relied upon by the Enquiry Officer to find the charge-sheeted officer guilty of the charges alleged in the charge memo. According to the learned Counsel, the Investigating Officer, while holding the preliminary enquiry/investigation meets several persons with whom, petitioner is said to have business dealings to support his wife's business venture and that is the basis for his preliminary investigation report and therefore, that should be treated as his prior statement and the same should have been furnished to the charge-sheeted officer as required under Regulation 6(10)(b)(iii) of the Regulations before the commencement of the examination of the witness by the enquiring authority and since that is not done in the instant case, the enquiry proceedings are vitiated. In aid of the aforesaid submission, the learned Counsel heavily relies upon the language employed in sub-regulation (10)(b)(iii) of Regulation 6 of the Bank's Regulations and also the observations of this Court in the case of *P. Bhargava v Superintendent of Police, Mangalore*

and Another .

12. The learned Counsel further asserts, though the preliminary enquiry report was not asked to be furnished by the delinquent employee/officer, it was expected of the Enquiry Officer to have furnished the same to the charge-sheeted officer for examining the sole management witness. Since that is not done, the enquiry proceedings so conducted are in violation of rules of natural justice and therefore, they are vitiated.

13. Per contra, learned Counsel for the respondent-Bank firstly submits that, the Investigating Officer had not recorded the statement of any witnesses during his preliminary enquiry and therefore, question of supplying the statement of witnesses which is not there, would not arise at all. Secondly, it is contended that the charge-sheeted officer either before the commencement of enquiry proceedings or during the proceedings, had asked for the copy of the preliminary enquiry report and therefore, after completion of the proceedings, he cannot make grievance of the same and even otherwise, since the author of preliminary enquiry was examined as a witness and since he was subjected to cross-examination by the defence representative of the charge-sheeted officer and since the Enquiry Officer has not based his findings on the report of the Investigating Officer, no prejudice is caused to the petitioner in the enquiry proceedings, and therefore non-supply of the preliminary enquiry report to the charge-sheeted officer is not fatal to the proceedings.

14. To answer this precise legal issue, let me first notice Regulation 6(10)(b)(iii) of the Bank's Regulations. It is extracted and it reads as under:

"Regulation 6(10)(b)(iii).--Be supplied with copies of statements of witnesses, if any, recorded earlier and the inquiring authority shall furnish such copies not later than three days before the commencement of the examination of the witnesses by the inquiring authority".

15. The literal interpretation and construction of this regulation would only mean that, the inquiring authority shall furnish the copies of the statement of witnesses recorded earlier, to the charge-sheeted officer at least three days earlier before the commencement of the examination of the witnesses in the enquiry proceedings. The purpose and object of this Regulation is only to provide an opportunity to the delinquent officer to effectively cross-examine those witnesses, who would be examined in support of the charges by the management. It is the stand of the department in their statement of objections that, the Investigating Officer during his preliminary enquiry had not recorded the statement of any witnesses. This statement is made on oath and the petitioner has not filed any rejoinder to dispute this factual assertion. The respondents have also produced the entire records for the perusal of this Court in support of their assertion made in the statement of objections. From the statement of objections filed and perusal of the records, one thing is clear that the Investigating Officer during his preliminary investigation had not recorded

any statement of any person, but whatever information that they had furnished and stated during the preliminary enquiry, finds a place in the enquiry report. The learned Counsel's statement is that non-furnishing of the inquiry report which is in the nature of statement of witnesses is contrary to the C and D Regulations of the Bank and thereby rules of natural justice are violated.

16. The object of the preliminary enquiry is to make out a prima facie case against the delinquent- It is mainly intended to satisfy the disciplinary authority to initiate enquiry proceedings. In other words, after preliminary enquiries are held, to come to a decision whether the disciplinary proceedings should be commenced or not against the employee/officer often questions have been raised, whether the delinquent official should be furnished a copy of the preliminary enquiry report. It has been held in Krishna Chandra Tandon Vs. The Union of India (UOI), , that a copy of such report should be made available to the charge-sheeted employee, if such report is relied on. Otherwise, the charged employee is not entitled to a copy thereof, because unless such report is relied upon, such report is nothing more than mere interdepartmental correspondence. The view expressed in Bhargava's case, supra, to me it appears, where the departmental enquiry was initiated on the basis of preliminary enquiry against a delinquent officer, it is necessary that he should be supplied with a copy of the report of preliminary enquiry in order to cross-examine the witnesses. The refusal to supply the report of the preliminary enquiry amounts to denial of reasonable opportunity.

17. In the present case, it is not in dispute nor it can be disputed that preliminary enquiry had preceded the domestic enquiry. During preliminary enquiry, statements were obtained from several persons, but the same is not recorded in the form of any statement, but the information so collected forms the basis for the report and that report which is in the nature of statement of witnesses requires to be supplied to the delinquent officer. Secondly, the preliminary report of the Investigating Officer is the basis on which allegations are levelled against the delinquent. The Investigating Officer, who had conducted the preliminary investigation is examined as a main and sole witness in support of the allegations made in the charge memo, and therefore, in my opinion, all reasonable opportunity must be given to the delinquent in the ends of justice to peruse the report to enable him to defend himself effectively in the enquiry proceedings. The right to cross-examine the management witness is a valuable right and that right cannot be effectively exercised without the assistance of relevant documents and if those documents are not supplied to the delinquent, that would be an infraction of the rules of natural justice. Therefore, failure to supply the preliminary enquiry re-port to the delinquent officer for cross-examination of the Investigating Officer, who conducted the preliminary enquiry would constitute denial of reasonable opportunity to effectively participate in the enquiry proceedings, and the proceedings against the delinquent official would be liable to be quashed. But the respondents would contend that the Investigating Officer, who has investigated the matter is examined as the main witness and

opportunity is given to the delinquent officer to cross-examine the witness and therefore, the non-supply of Investigating Officer's report has not caused any prejudice to the charge-sheeted officer and therefore, it cannot be said, the proceedings are vitiated in any manner whatsoever. This submission of the learned Counsel requires to be looked into by keeping in view the observation made by the Apex Court in *State Bank of Patiala and others Vs. S.K. Sharma*, . The Apex Court summarised the principles of natural justice as under:

"34.(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 inspite 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) herein below is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle".

18. The present case is one of violation of procedural provisions. As observed by

the Apex Court, they are generally meant for affording a reasonable and adequate opportunity to the delinquent employee/officer. Regulation 6(10)(b)(iii) of the Regulations envisages that the Enquiry Officer would ensure that the delinquent would be supplied with the statement of witnesses at least three days earlier before the commencement of examination of the witnesses by the inquiring authority. As I have already stated, the report of the Enquiry Officer is in the nature of consolidation of evidence both documentary and oral statement of persons, whom he had interrogated for preparing the preliminary enquiry report. The Enquiry Officer does not provide the delinquent with a copy of this report, which naturally prevents the delinquent officer from effectively cross-examining the sole witness of the Bank, whose evidence is taken as a basis by the Enquiry Officer to arrive at a conclusion that the delinquent is guilty of the charges alleged in the charge memo. In this type of case, the prejudice is self-evident. As observed by the Apex Court in S.K. Sharma's case, *supra*, in this type of cases no proof of prejudice as such need be called for.

19. Then we come to the third issue namely, though certain documents were sought for by the delinquent official, the same were not supplied to the delinquent and therefore, the proceedings are vitiated. This issue requires to be noticed only to be rejected. Petitioner by his request letter dated 9-12-1991 requests the Enquiry Officer to direct the Presenting Officer to make available the following documents, viz., (a) Second Stage Housing Loan application, office note and rejection letter, (b) Letter seeking permission to guarantee the loan transactions of his wife. Petitioner sought for these documents only to prove the bona fide reasons of borrowals from third parties. In response to this request, the management furnishes the aforesaid documents except the office note in respect of Second Stage housing loan application, claiming privilege over the document.

20. The learned Counsel for the petitioner states that the management may claim privilege over certain documents only under two circumstances, namely, if the production of such document will be against the public interest or in the interest of the Bank. The learned Counsel in support of this submission, invites my attention to the proviso to sub-regulation (12) of Regulation 6 of the Regulations. The said proviso is as under:

"Provided that the authority having the custody or possession of the requisitioned documents may claim privilege if the production of such documents will be against the public interest or the interest of the Bank. In that event, it shall inform the inquiring authority accordingly".

21. In my view, failure to supply the documents which petitioner had requested in his letter dated 9-12-1991, had in no way prevented the delinquent to make effective cross-examination of the bank's witness. The document that was demanded by the delinquent was only to demonstrate the necessity to borrow funds from private agencies and financiers. By these documents, the delinquent wants to prove that, he had made additional loan application before the

management of the Bank for sanctioning the additional loan to complete the house construction. These documents in fact were supplied to the petitioner except the note prepared by the Bank. The note prepared by the Bank, in my opinion, is not such an important document. Even if it is supplied, it would not have tilted the case of the petitioner and the petitioner could not have proved that he incurred loans from the private agencies in the hope of getting loans sanctioned from the Bank. After perusal of evidence on record, it is very difficult to see how any prejudice could conceivably have been caused to the delinquent by the non-supply of "note sheet" maintained by the Bank.

22. Now we come to the question, whether the Bank could have claimed privilege over the "note-sheet", which the petitioner requested to be supplied to him for the purpose of his defence in the proceedings. Under sub-regulation (12) of Regulation 6, the Bank could claim the privilege over a document only under two circumstances, namely, if the production of the document will be against public interest, secondly, if it is against the interest of the Bank. In the present case, "note sheet" that the petitioner was asking may at the most contain the information with regard to the fate of the petitioner's second application for housing loan. It can never be assumed that the production of that document in the enquiry proceedings, in anyway would have affected either the public interest or the interest of the Bank. Therefore, in my opinion, the Presenting Officer was not fully justified in withholding the document, which the petitioner had requested for its production in the enquiry proceedings on the sole ground of "claiming privilege". But as I have already noticed, the non-production of that document has not caused any prejudice to the delinquent official in the enquiry proceedings and therefore, on this count, it cannot be held that the entire enquiry proceedings are vitiated.

23. Perversity in the findings of the Inquiry Officer is often one of the legal issues canvassed in matters relating to domestic enquiries, but this argument is accepted only in a very few cases by the Courts. The Courts have time and again observed that if the findings of the Enquiry Officer are based on some evidence on record, the Courts normally in exercise of their power of judicial review will not upset the findings unless the finding is based on no evidence or is entirely against the evidence on record or on irrelevant evidence. Even if there is some evidence on record, however little it may be to support the finding, there is no perversity, for the reason, this Court is not Court of Appeal, which can reassess or weigh the evidence. Now it is well-settled position of law, that the findings can be held to be perverse or baseless, only if it is shown that the findings are not supported by any evidence or is entirely opposed to the evidence adduced at the enquiry and not otherwise and the Courts are not expected to weigh evidence for itself and come to its own conclusion. In the present case, there is sufficient evidence on record, but that evidence recorded as I have already observed, is in violation of the Bank's own Regulation and also in violation of principles of natural justice, and the same could not have been the basis for the Enquiry Officer to come to the conclusion that the delinquent is guilty of the charges

alleged in the charge memo.

24. The learned Counsel nextly contends that there is total non-application of mind by the disciplinary authority, while affirming the findings of the Enquiry Officer and while imposing a major penalty of dismissal from service. Since I have answered issues II and III in favour of the petitioner, this legal issue canvassed by the learned Counsel for petitioner pales into insignificance. Similarly, the contention that, though the Investigating Officer had examined several witnesses during his preliminary investigation, not even one is called to substantiate their statement for the same reason.

25. Since I have come to the conclusion that there is procedural irregularity while recording the evidence of the Bank's only witness and that has caused prejudice to the case of the petitioner, it is difficult to sustain the orders made by the disciplinary authority as well as the Appellate Authority.

26. In the result, petition deserves to be allowed. Accordingly, it is allowed. Rule made absolute. The impugned orders made by the disciplinary authority dated 17-11-1992 and the orders made by the Appellate Authority dated 19-1-1993 are set aside. Respondents are directed to reinstate the petitioner into service. Liberty is reserved to the respondent-Bank to proceed with the enquiry, by placing the employee under suspension and continuing the enquiry from the stage the defects are noticed by this Court. The back wages and other service benefits will depend on the final outcome of the fresh enquiry as observed by Apex Court in Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., . All the contentions of both the parties are left open. Ordered accordingly.