
(2013) 02 GAU CK 0036
In the Gauhati High Court
Case No : WA No. 36 (AP) of 2007

Darshan Singh

APPELLANT

Vs

State of Arunachal Pradesh and Others

RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 2 GLT 685

Hon'ble Judges : N. Kotiswar Singh, J;Indira Shah, J

Bench : Division Bench

Advocate : S. Pandey, for the Appellant; K. Ete, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

N. Kotiswar Singh, J.—Heard Mr. S. Pandey, learned counsel appearing for the appellant and Mr. K. Ete, learned Addl. Advocate General appearing for the State respondents. The present appeal has been preferred against the judgment and order dated 9.8.2005 passed by the learned Single Judge in W.P(C) No. 49(AP)/2000 by which the learned Single Judge dismissed the writ petition filed by the appellant challenging his dismissal from service by invoking powers conferred under Rule of the 15 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 vide order dated 30.12.1997.

2. Mindful of the limitation imposed upon this Court in exercise of powers under Article 226 of the Constitution of India in matters relating to disciplinary proceeding and also the limited scope of the appellate Court in deciding matters, the Court has proceeded to consider the appeal as below.

3. The facts, in brief, which may be relevant for the purpose of disposal of this appeal, may be stated as follows.

Before dismissal from service, the petitioner was serving as a Chief Engineer (Power) under the State of Arunachal Pradesh. He was placed under suspension vide order dated 21.6.1995 in contemplation of a disciplinary proceeding against

him. The disciplinary proceeding was initiated on furnishing the memorandum dated 7.9.1995 against him making various allegations of financial irregularities in awarding contract, dereliction of official duties, etc. The said memorandum dated 7.9.1995 was followed up by formal memorandum of charges dated 26.6.1996 under four headings. The gist of the charges aforesaid has been dealt with by the learned Single Judge in para No. 3 of the judgment and order dated 09.8.2005, which is reproduced hereinbelow:-

3. The aforesaid memorandum dated 7.9.95 was followed by formal memorandum of charges dated 26.7.96 issued by the Chief Secretary to the Government of Arunachal Pradesh, containing four charges along with the statements of imputations of misconduct and the list of documents and witnesses. The gist of the four charges are as follows:

Sri Darshan Singh, Chief Engineer (Power), Govt. of Arunachal Pradesh while functioning as such for the period 1.1.94 to 24.7.95 by committing serious irregularities awarded contract to M/s Horizon HT Tech Engcon (Pvt. Ltd), Calcutta 12 by enhancing the original quoted rate from Rs. 28,53,76,306/- (Rupees twenty eight crores, fifty three lacs, seventy six thousand, three hundred six) to Rs. 45,59,00,000/- (Rupees forty five crores, fifty nine lacs) in respect of the work for 132 KV-SC Deomali-Namchoi Transmission line.

Sri Darshan Singh, Chief Engineer (Power) while functioning as such during the period from 1.1.94 to 24.7.95 had placed a Supply Order on M/S Hydro Power Equipments A. T Road, Jorhat for procurement of 30 sets of 20 KW light weight Micro-Hydro-Power Plants at a total costs of Rs. 5,47,20,000/- (Rupees five crores, forty seven lacs, twenty thousand) vide letter No. CE/Power/WC-32/94/95 dated 23.11.94 M/S Hydro-Power Equipments, Jorhat not a tenderer.

Shri Darshan Singh, Chief Engineer (Power) while functioning as such during the period from 1.1.94 to 24.7.95 had placed a supply order on M/S M.R Power Project, 18 Mahavir Bhawan, A.T. Road, Guwahati for the supply of 10 sets of 20 KW light weight small hydel sets at the rate of Rs. 18,24,000/- (Rupees eighteen lacs twenty four thousand) per set vide letter No. CE/Power/WC-31/94/6959-65 dated 9.1.95 without expenditures sanctioned from the competent authority.

Sri Darshan Singh, Chief Engineer (Power), Govt. of Arunachal Pradesh while functioning as such during the period from 1.1.94 to 24.7.95 had move a proposal to the Govt. vide letter No. CE/Power/WC-9/94-5/9180 dated 17.1.95 seeking approval of the Govt. for making the advance payment to the extent of 25% of awarded work for the purchase of poles from two firms, namely-

I. M/S R.B Enterprises, Itanagar; and

II. M/s D.N Steel Fabrication, Itanagar and obtained approval of the Govt. on the said proposal.

4. Being not satisfied with the written statement of defence submitted by the

petitioner, an enquiry was held. The Enquiry Officer submitted his report dated 4.8.97 holding that while charges No. 2 and 3 were partially established, charges No. 1 and 4 could not be established and charge No. 4 was dropped. The disciplinary authority in view of the disagreement with the findings of the Enquiry Officer in respect of the Charges No. 2 and 3 by giving reasons for their disagreement, asked the petitioner to submit his objections and representation on the said reasons of disagreement furnished by the disciplinary authority. As we are not dealing with the merit of the case as to whether the charges have been proved or not in view of the fact that we are remanding the matter to the disciplinary authority for a fresh order to be passed for the reasons hereinafter discussed, we deem it appropriate not to burden with the details of the aforesaid disagreement note as well as the reply furnished by the petitioner and make any observation thereon.

5. On receipt of the communication from the disciplinary authority conveying disagreement on the findings of the enquiry report, as stated above, the petitioner submitted his representation/objection to the disciplinary authority vide his representation dated 13.12.1997. Thereafter, the disciplinary authority passed the impugned order dated 30.12.1997, which has been challenged in the writ petition. The relevant portion of the said final order passed by the disciplinary authority on 30.12.1997 may be reproduced as below:-

ORDER

Whereas, an inquiry under Rule 14 of Central Civil Services (Classification Control and Appeal Rules 1965) has been held against Shri Darshan Singh, Chief Engineer (Power) (under suspension)

Whereas, Shri R. Chandra Mohan, Commissioner (Home), Government of Arunachal Pradesh was appointed Inquiry Authority to inquire into the charges against Shri Darshan Singh vide order No. PWR/E-75/95-96/PT. (III) dated 16th August, 1996 and whereas, Shri R. Chandra Mohan submitted his Inquiry Report CMRH/INQ/1/96 on 4th August, 1997.

Whereas, a copy of the inquiry report was forwarded to Shri Darshan Singh, Chief Engineer (Power) (under suspension) and whereas Shri Darshan Singh submitted his written submission vide his letter dated 16th September, 1997;

Whereas, the competent Authority, after considering the report of the Inquiry Authority and the representation of Shri Darshan Singh thereon, decided to disagree with the findings of the Inquiry Authority with regard to charges I, II and III;

Whereas, Shri Darshan Singh, Chief Engineer (Power) (under suspension) submitted his representation dated 15th December, 1997 on the reasons of disagreement by the Competent Authority with the report of the Inquiry Authority;

Whereas, the Competent Authority considered the facts of the case on the basis

of the report of the Inquiry Authority, materials evidence adduced to during the course of inquiry and the representations of the charged officer and inferred that the charges framed had been proved and therefore deemed the penalty of dismissal from service as appropriate;

Whereas, the Competent Authority, in compliance with the requirement of Rule 15(4) of the Central Civil Services (Classification Control and Appeal) Rules, 1965 consulted the Arunachal Pradesh Public Service Commission (APPSC);

And, whereas, the advice of the Commission has been duly considered by the Competent Authority before making this order.

Therefore, the Competent Authority, in exercise of the powers conferred vide Rule 15 of the Central Civil Services (Classification Control and Appeal) Rules has decided to dismiss Shri Darshan from service with immediate effect. This dismissal from service shall ordinarily be a disqualification for future employment under the Government.

6. The learned Single Judge has dealt with the various contentions raised in the writ petition. The learned Single Judge has referred to three grounds of assailment raised by the petitioner against the order dated 30.12.1997 as evident in para No. 9 of the judgment and order which are reproduced as below:-

9.....

(a) Some of the documents relied on by the disciplinary authority in the enquiry were not supplied to the petitioner.

(b) The reasons for disagreement with the findings of the Inquiry Officer are extraneous to the materials on records.

(c) On the basis of the findings recorded by the Inquiry Officer holding the Charge No. 1, 2 and 3 to be partially proved, even if the petitioner is held to be guilty of misconduct to that extent, the penalty of dismissal from service is disproportionate to the gravity of the misconduct.

7. With reference to the contention of the petitioner that some of the documents relied on by the disciplinary authority in the enquiry have not been supplied to the petitioner, the learned Single Judge held that since the said objection was not raised specifically while submitting the written statement of defence, the same cannot be considered. The learned Single Judge also held that the petitioner had not been able to show that non-furnishing of the said documents had caused any prejudice to the petitioner. As regards the contention of the petitioner that the disagreement with the findings of the Enquiry Officer was based on extraneous materials, the learned Single Judge has held that the reasons assigned by the disciplinary authority to disagree with the findings of the Enquiry Officer in respect of the Charges No. 1 and 2 cannot be said to be unreasonable or arbitrary. According to the learned Single Judge, such disagreement on the face of it was based on the materials of the enquiry proceeding and further held that

even otherwise also, a Writ Court in exercise of powers of judicial review in matters relating to disciplinary proceeding cannot re-appreciate the evidence on record and sit on appeal over the findings recorded by the Enquiry Officer unless it is a case not based on no evidence at all. The learned Single Judge on consideration of the materials on record, came to the conclusion that it could not be said that there was no evidence at all when the disciplinary authority gave the finding against the petitioner.

8. As regards the grounds raised in the writ petition about of penalty being disproportionate to the gravity of the misconduct, the learned Single Judge held that since the charges held to be established against the petitioner are of very serious nature, it cannot be said that the penalty of dismissal from service imposed cannot be held to be disproportionate. Accordingly, the learned Single Judge held that there was no merit in the writ petition and dismissed the writ petition.

9. We have heard the learned counsel appearing for the parties.

Learned counsel appearing for the appellant tried to take us to the evidence on record and also demonstrate before this Court that the finding of the disciplinary authority by ignoring various evidences which have come up in course of enquiry was perverse. Learned counsel appearing for the appellant has also contended that appellant being the junior most officer in the chain of hierarchy in the Committee which took the decision relating to the contract in issue, he was to implement the decision of the Committee and the higher authorities, as such singling out the petitioner for taking disciplinary action by leaving out others clearly demonstrates malafide act on the part of the authorities. He forcefully contends that whatever had been done by him was pursuant to the decision taken by the higher authorities and the Committee and as such, he could not be blamed singly. The learned counsel also tried to draw attention to other aspects of the inquiry which would demonstrate that the authorities were bent on penalizing the petitioner, apart from other evidences which would indicate his non culpability.

10. Be that as it may, as observed earlier, this Court is not entering into the merit of the contentions relating to the evidentiary aspects of the inquiry for the reason that this Court is remanding this matter to the disciplinary authority for passing a fresh final order so as not to prejudge any of the contentions raised by the appellant/petitioner.

11. The disciplinary proceeding, in the present case, is admittedly governed by the provisions of Central Civil Services (Classification Control and Appeal) Rules, 1965. The imposition of penalty has to be done only after following the rules therein, more particularly, Rule 15, Rule 17 and Rule 32 of the said Rules. Rule 15 of the CCS(CCA) Rules provides for imposition of minor penalty as specified in Clauses (i) to (iv) of Rule 11 under sub-rule (3) of Rule 15 or of major penalties as specified in Clauses (v) to (ix) of Rule 11 as provided under sub-rule (4) of

Rule 15. Therefore, a reading of Rule 15 clearly demonstrates that disciplinary authority can impose a minor or major penalty under Rule 15(3) or 15(4) as the case may be having regard to the findings on all or any other articles of charges. In other words, there is a discretion on the part of the disciplinary authority to impose any of the penalties as provided under Clauses (i) to (iv) of Rule 11 under sub-rule (3) of Rule 15 or under Clauses (v) to (ix) of Rule 11 as provided under sub-rule (4) of Rule 15. It has been also provided that whenever a disciplinary authority seeks to impose any penalty under Rule 15 and where it is necessary to consult the Commission, the advice of the Commission shall be taken into consideration before making the order imposing any such penalty on the Government servant. The said Rule, however, is silent as to whether a copy of the advice so given by the Commission shall be furnished to the charged officer or not. However, a reading of Rule 32 of CCS (CCA) Rules makes it abundantly clear that whenever a Commission is consulted as provided in these Rules, a copy of the advice given by the Commission and where such advice has not been accepted also, a brief statement of the reasons for such non-acceptance shall be furnished to the Government servant concerned along with a copy of the order passed in the case, by the authority making the order. Rule 32 reads as follows:-

32. Supply of Copy of Commission's advice Whenever the Commission is consulted as provided in these rules, a copy of the advice by the Commission and where such advice has not been accepted, also a brief statement of the reasons for such non-acceptance, shall be furnished to the Government servant concerned along with a copy of the order passed in the case, by the authority making the order.

Rule 17 of the CCS (CCA) Rules also provides that at the time of communication of the final order, a copy of the advice, if any, given by the Commission, and, if not accepted by the disciplinary authority, a brief statement of the reasons for such non-acceptance has to be provided. Rule 17 reads as follows:-

17 [Communication of Orders]

Orders made by the Disciplinary Authority shall be communicated to the Government servant who shall also be supplied with a copy of its finding on each article of charge, or where the Disciplinary Authority is not the Inquiring Authority, a statement of the findings of the Disciplinary Authority together with brief reasons for its disagreement, if any, with the findings of the Inquiring Authority and also a copy of the advice, if any, given by the Commission, and where the Disciplinary Authority has not accepted the advice of the Commission, a brief statement of the reasons for such non acceptance.]

Therefore, a conjoint reading of Rules 3, 15, 17 and 32 of CCS (CCA) Rules would show that whenever a disciplinary authority is required to seek advice of the Commission before imposing penalty and if such advice is given which is not agreed to or accepted by the disciplinary authority, the reasons for non-

acceptance of the advice of the Commission has to be recorded and copy of the advice of the Commission has to be furnished to the charged officer at the time of passing of the final order.

12. In view of the above provisions of Central Civil Services (Classification Control and Appeal) Rules, 1965, we will examine whether provisions of these Rules have been complied with while passing the final order by the disciplinary authority on 30.12.1997.

13. A perusal of the impugned final order dated 30.12.1997, as quoted above, reveals that it simply mentions that the disciplinary authority had consulted the Arunachal Pradesh Public Service Commission and the advice of the Commission had been duly considered by the competent authority before passing the impugned order. The final order does not say whether the advice of the Commission was accepted or not by the disciplinary authority before passing the order dated 30.12.1997. What would, therefore, follow is that if the advice of the Commission had not been accepted, in that event, as required under Rule 17 of the CCS(CCA) Rules, reasons for disagreement of the advice of the Commission ought to have been recorded in the final order which is not discernable in the order dated 30.12.1997 which, therefore, would be in contravention of the Rule 17 of the CCS (CCA) Rules. On the other hand, if the advice of the Commission had been accepted, perhaps, the reasons for acceptance of the advice of the Commission may not be necessary to be recorded in the order as the Rules do not provide for recording reasons for acceptance of the advice of the Commission.

14. At the time of hearing, the learned counsel appearing for the respondents has made available the records of the case which contains the advice of the Arunachal Pradesh Public Service Commission. Perusal of the said advice reveals that the Commission had recommended for imposition of any penalty as provided under clauses (v) to (vii) of Rule 11 for the reasons given in their advice. Thus, it is clearly apparent that the final order dated 30.12.1997 is not consistent with the advice of the Commission. In other words, the advice given by the Commission was not agreed to and not accepted by the disciplinary authority at the time of passing the final order and chose to impose a penalty not recommended by the Commission. In that case, as required under Rule 17 of the CCS (CCA) Rules, it was incumbent upon the disciplinary authority to record its reasons, whatsoever brief these may be, for non-acceptance of the advice given by the Commission, which has not been done in the present case.

15. It is also not in dispute that the copy of the advice given by the Commission to the Disciplinary Authority has not been furnished to the petitioner at the time of passing of the order dated 30.12.1997 as required under Rule 32 of the CCS (CCA) Rules. Therefore, what emerges from the above facts are that

(1) the disciplinary authority have sought for advice of the Arunachal Pradesh Public Service Commission;

(2) the Commission had given its advice for a lesser penalty with reasons thereof;

(3) the disciplinary authority had not accepted the advice of the Commission and instead imposed a major penalty of dismissal against the advice of the Commission;

(4) for non-acceptance of the advice of the Commission, the disciplinary authority has not assigned any reason in the final order dated 30.12.1997;

(5) a copy of the advice of the Commission has not also been furnished to the petitioner.

16. In other words, the provisions under Rule 17 and Rule 32 of the CCS (CCA) Rules have not been complied with. Therefore, the question arises for consideration is as to whether non-compliance of Rules 17 and 32 of the CCS (CCA) Rules would be fatal and vitiate the final order dated 30.12.1997. The Courts, while deciding issues of disciplinary proceeding, in exercise of power of judicial review are not primarily concerned with the decision taken by the authority per se, but with the decision making process. The Rules, as noted above, under CCS (CCA) Rules provide for certain procedures to be adopted at the time of imposing major penalty and these provisions have been specifically enacted so as to ensure a fair trial and enquiry. The Rules, as quoted above, are consistent with the principles of natural justice so as to afford the charged officers concerned of opportunity to prove their innocence or for imposition of appropriate or lesser penalty under the Rules, for which they would be required to be furnished with all the necessary documents or materials.

It is also now well settled that if a statute provides for certain procedures to be adopted in exercise of the powers of the statutory, such procedures must be followed. This assumes more significance, when non compliance of such procedure causes serious prejudice to any party.

These Rules under CCS(CCA) Rules, 1965, in absence of statutory enactments have the force of law and violation of provisions of Rules 17 and 32 which has caused prejudice to the petitioner, therefore, would vitiate the impugned order.

17. The right to be heard against the proposed punishment has been specifically taken away after the 42nd Amendment of the Constitution inasmuch as the charged officer would not have any right to submit a representation as against the proposed quantum of penalty or the nature of penalty. Nevertheless, if a copy of such an advice of the Commission, which is favourable to the charged officer for imposition of lesser penalty, considering the fact that the disciplinary authority had chosen to impose a harsher penalty, had been provided to the charged officer as required under the Rules aforesaid, certainly would have given an opportunity to the charged officer to submit his case more effectively before the appropriate authorities. There are provisions for appeal against the final order and also for revision and review of the orders before the appropriate authority as provided under the Rules. Therefore, the charged officer would have an opportunity to submit his case before the appropriate authorities as provided under the Rules to make out his case in his favour on the basis of such advice. In

the present case, by denying a copy of the advice given by the Commission which had recommended for a lesser penalty, the charged officer/petitioner has been deprived of an opportunity to submit his case effectively for imposition of lesser penalty before the competent authority apart from other issues which may touch upon the merit of the case. Therefore, this Court is of the view that non-furnishing of the copy of the advice of the Commission as provided under the Rules, has caused a serious prejudice to the petitioner. What has been also noted is that as required under Rule 17, the disciplinary authority has not recorded the reasons for non-acceptance of the advice given by the Commission. Therefore, in absence of a copy of the advice given by the Commission and also in absence of recording of reasons for disagreement or non-acceptance of the advice given by the Commission in the order which are in violation of Rules 17 and 32 as stated above, the petitioner had been denied of the opportunity of giving an effective representation against the impugned order dated 30.12.1997 before the appropriate forum, because of which, this Court, is of the view that the impugned order dated 30.12.1997 has been vitiated.

18. Learned counsel appearing for the respondents, however, has vehemently argued that the issues whether the petitioner ought to have been furnished a copy of the advice of the Commission and also the fact that reasons for non-acceptance of the advice of the Commission had not been recorded in the final order, have not been raised at all before the learned Single Judge, and have been raised for the first time before this appellate Court and as such, these pleas which were not taken before the learned Single Judge ought not allowed to be taken before this appellate forum. To this, learned counsel appearing for the appellant has submitted that the petitioner had indeed taken up these grounds as mentioned in para No. 38 of the writ petition, which is reproduced hereinbelow:-

38. That the petitioner submits that it is mandatory on the part of the Disciplinary Authority to supply a copy of the advice of the Commission along with a brief statement of reasons for non accepting the advice, if any, as per Rule 17 and 32 of the Rules alongwith the order. But in the instant case it appears that the advice of the Commission was issued only on 30.12.97 and the respondent No. 2 in hot-haste passed the order in the afternoon of 30.12.97 as he held a Press Conference in the Noon where he divulged that he dismissed the petitioner although the impugned, order only contained the decision to dismiss the petitioner and a such the impugned order is liable to be set aside and quashed.

19. Apart from that, the point which has been raised, as discussed above, about the non-furnishing of, the advice of the Commission as well as of non-recording of the reasons for not accepting the advice of the Commission by the disciplinary authority, is plainly evident on the impugned order without any further reference to any other record, and as such, taking such pleas even if for the first time before this appellate Court, which are based on admitted available records,

cannot cause any prejudice to the respondents as the respondents cannot be said to have been taken by surprise. Accordingly, this Court is of the view that the contention raised by the respondents that the said pleas ought not to be taken into consideration at this stage, cannot be sustained.

20. Learned counsel appearing for the respondents has also urged that the petitioner had not been able to show as to how the petitioner has been prejudiced by non-furnishing of the advice of the Commission. This contention, however, is noted only to be rejected for the reasons discussed above that the advice of the Commission was favourable to the petitioner to the extent that the Commission had advised imposition of a lesser penalty as contemplated under clauses (v) to (vii) of Rule 11 and therefore, the fact that the petitioner has been imposed a harsher penalty by ignoring the advice of the Commission to impose a lesser penalty, cannot be but said to be prejudicial in nature. Therefore, denial of such document, which is favourable to the petitioner, certainly has caused prejudice to the petitioner.

21. It may be also noted that the appellate authority while dismissing the appeal of the petitioner had clearly mentioned in the appellate order dated 8th April, 1999, a copy of which is made available by the appellant before this Court, which is placed on record as "Document X-series", that the appellate authority had also seen the advice tendered by the Arunachal Pradesh Public Service Commission and considered that disciplinary authority had given sufficient reasons for not agreeing with the advice of the Commission. This, however, is not borne by the records inasmuch as nothing is shown in the final order dated 30.12.1997 as to the reasons given by the disciplinary authority to disagree and not to accept the advice of the Commission. It is also seen that even though the advice of the Commission was also considered by the appellate authority, a copy of which was not made available to the petitioner even at the time of decision by the appellate authority. In other words, the appellate authority also considered certain materials which were not made available and not known to the charged officer/ the appellant, which in the opinion of this Court cannot be also overlooked for if the appellate authority decides on such materials, such materials ought to have been made available to the affected person. The appellate authority must decide on materials which are made available or known to the charged officer. Therefore, non-furnishing of the advice given by the Commission has greatly prejudiced the petitioner, thus violating the principle of natural justice.

22. Last but not the least, it is now well settled that powers exercised by the disciplinary authority are in the nature of quasi-judicial and it is incumbent upon such authority, which decides the rights of a person or an employee, to give cogent reasons for coming to certain conclusions. A reading of the impugned order dated 30.12.1997, however, does not reveal any reason for coming to the conclusion of guilt against the petitioner vis-a-vis the materials available before the Enquiry Officer and disciplinary authority. There is no indication as to how the disciplinary authority has come to the conclusion of guilt with reference to the

facts available by way of reasons. In absence of reasons, it is difficult to ascertain on what basis the authorities have come to the conclusion. Reasons are heart and soul of a judicial/quasi judicial order, without which, it is not possible to examine the validity of a judicial order or quasi judicial order and how the authority has come to such a conclusion. Reasons in an order provide the rational connection between the facts and materials with the conclusions so arrived and to justify the same. Therefore, if the reasons are extraneous or irrational, the conclusions so reached may be subject to interference by the appropriate and competent authority or forum. In the present case, as reproduced above, the order dated 30.12.1997 does not give any reason except for stating that the disciplinary authority had considered the facts of the case on the basis of the report, the materials evidence adduced in course of the inquiry and representation of the charged officer/the petitioner and inferred that the charges framed against the petitioner had been proved without disclosing as to the reasons and grounds for coming to such conclusion. Thus, we are of the view that the impugned order dated 30.12.1997 is a non-speaking order bereft of any reason or justification which would render this impugned order dated 30.12.1997 unsustainable. It may be also noted that the Government of India in their office memorandum No. 134/1/81-AVD.I, dt. 13.7.1981 had impressed upon all the concerned that the authorities exercising disciplinary powers should issue self contained, speaking and reasoned orders. For the reasons discussed above, the impugned final order dated 30.12.1997 is liable to be interfered with and is accordingly, quashed and set aside and consequently, as a corollary, the order of the appellate authority dated 8th April, 1999 is also set aside and the authorities would be at liberty to proceed with the matter afresh by passing a fresh final order in accordance with law by furnishing a copy of the advice tendered by the Arunachal Pradesh Public Service Commission to the petitioner. Since this matter has been pending for a long time, it is expected that the respondent authorities would proceed with the matter and pass appropriate order in accordance with law as expeditiously as possible preferably, within a period of three months from the date of receipt of a certified copy of this order. As a result, the impugned order dated 09.8.2005 passed by the learned Single Judge in W.P(C) No. 49(AP)/2000 is also set aside for the reasons stated above.

This writ appeal is accordingly allowed.