
(2005) 08 GAU CK 0025
In the Gauhati High Court
Case No : Writ Petition (C) No. 49 (AP) of 2000

Darshan Singh

APPELLANT

Vs

State of Arunachal Pradesh and Others

RESPONDENT

Date of Decision : 19-08-2005

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 11
Central Civil Services (Conduct) Rules, 1964 — Rule 3(1)

Citation : (2005) GLT 24 Supp

Hon'ble Judges : B.K. Sharma, J

Bench : Single Bench

Advocate : H. Rahman, for the Appellant; B.L. Singh, for the Respondent

Final Decision : Dismissed

Judgement

B.K. Sharma, J.—The challenge made in this writ petition is in respect of the order of dismissal passed against the Petitioner pursuant to a departmental proceeding.

2. The Petitioner while he was in service as Chief Engineer under the Respondents was placed under suspension by order dated 21.6.1995 in contemplation of departmental proceeding. The same was followed by a memorandum dated 7.9.1995 levelling certain serious allegations involving financial irregularities in awarding contract, etc. Certain other allegations were also made regarding dereliction of official duties, etc.

3. The aforesaid memorandum dated 7.9.95 was followed by formal memorandum of charges dated 26.7.1996 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 1.1.1994 to 24.7.1995 by committing serious

irregularities awarded contract to M/s. Horizon HT Tech Engicon (Pvt. Ltd), Calcutta 12 by enhancing the original quoted rate from Rs. 28,53,76,306/- (Rupees twenty eight crores, fifty three lacks, seventy six thousand, three hundred six) to Rs. 45,59,00,000/- (Rupees forty five crores, fifty nine lacks) 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 1.1.1994 to 24.7.1995 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 23.11.1994 M/s. Hydro-Power Equipments, Jorhat not a tenderer.

Shri Darshan Singh, Chief Engineer (Power) while functioning as such during the period from 1.1.1994 to 24.7.1995 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 9.1.1995 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 1.1.1994 to 24.7.1995 had move a proposal to the Govt. vide letter No. CE/Power/WC-9/94-95/9180, dated 17.1.1995 seeking approval of the Govt. for making the advance payment to the extent of 252 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. The Petitioner submitted his written statement of defence on 26.7.1996. In his forwarding letter, the Petitioner stated that if the situation demanded he might be allowed to inspect the relevant documents as and when required.

5. On receipt of written statement of defence, the disciplinary authority being not satisfied with the same decided to proceed against the Petitioner by launching a departmental enquiry. The Petitioner duly participated in the enquiry proceeding and on conclusion of the same, the Petitioner submitted his written brief (Annexure-XV). Thereafter, the Inquiry Officer submitted his report on 4.8.1997 holding that while the Charge Nos. 2 and 3 were partially established. Charge Nos. 1 and 4 could not be established. In fact, Charge No. 4 was dropped.

6. The Petitioner was provided with a copy of the enquiry report enabling him to make his representation which the Petitioner submitted on 15.9.1997.

7. By order dated 4.12.1997, the disciplinary authority recorded its disagreement with the findings of the Inquiry Officer in respect of Charges Nos. 1, 2 and 3 on

the basis of the reasons detailed in the enclosure. The Petitioner was asked to make his representation on the reasons of disagreement. The reasons of disagreement as enclosed to the order dated 4.12.1997 are as follows:

Annexure "A"

(Attached to Govt. Order No. PWRS/E-75/ 95-96/Pt. III dated 04.12.1997)

Charge-I.

(i) As per recommendation of the Work Advisory Board the award value of the contract for 132 KV Deomali-Namsai Transmission Line works out to Rs. 43.67 crores and not Rs. 45.59 crores. Thus the communication by the charged officer, as then Chief Engineer (Power), asking the company to enter into an agreement on 24.2.1995 for work value of Rs. 43.67,45.59 crores is not tenable legally. The cost of Rs. 43.67 crores has also been confirmed by the company in writing. The charged officer, therefore, enhanced the cost of the project arbitrarily thereby giving an opportunity to the company to enlarge the scope of the work to the enhanced contract value of the contract.

(ii) The Work Advisory Board is not the competent authority for approving project in as much as the Cabinet decision on 23.1.1993 has clearly laid down the Government policy that any recommendation of the Work Advisory Board has to be approved by the concerned Minister.

(iii) The Work Advisory Board had not insisted on the execution of the transmission line erection work on a turnkey basis but the newspaper advertisement (NIT) issued by the charged officer had specified this.

(iv) The communication of the then Commissioner (Power) conveying Government's approval was issued on 20.3.1995 whereas the charged officer entered into an agreement with the company on 6.3.1995, i.e. well before superior authority's communication.

(v) Although the Inquiry Authority in para 7.3 of his report admitted that there was no finality of a decision from the State Government on the said project yet the Inquiry Authority ignored this vital fact. The Inquiry Authority has wrongly accepted the evidence of Defence witness-5 (then Commissioner of Power) that CPWD Manual was not being followed in the Department of Power. The fact is by virtue the State of Arunachal Pradesh Adaptation of Laws order (No. 2) 1987 all the Laws that were in operation in the Union Territory of Arunachal Pradesh before 20.2.1987 continue to remain applicable in the State of Arunachal Pradesh after 20.2.1987. CPWD Manual, therefore, was/is still in application in the State of Arunachal Pradesh.

(vi) If the charged officer was not satisfied with the recommendation of the Work Advisory Board that scope of work should include supply of cement; MS Rod and ACSR Panther 30.7.2003 MM conductor, these should have been stated by him and brought out in the minutes. As he drafted the minutes his dissenting opinion

at least should have been so reflected in the minutes. Neither seems to have been done.

Charge-II.

(i) The firm M/s. Hydro Power Equipment with whom the order for supply for the sets of hydel power equipment was placed by the charged officer was not a tenderer.

(ii) The fact that no Work Advisory Board was required was never communicated to the charged officer, hence he had no basis for communicate to the firm on 23.11.1994 that their offer to supply 30 sets of 20 KW and 10 sets of 30 KW at a cost of Rs. 7,98,87,000/- had been approved by the Government. In this connection, copy of which was endorsed to the then Commissioner (Power), the charged officer admitted that the proposal was awaiting approval of the Finance Department. He in fact requested the then Commissioner (Power) to pursue the matter with Finance Department. Approval of the Finance Department was conveyed on 28.3.1995.

(iii) It is not correct that CPWD Manual was not in force in the Department of Power due to difference existing in the working of Power Department with other Departments. It is very much applicable.

Charge III.

(i) The Inquiring Authority has stated in para 12.0. of his report that "the rate offered by M/s. Biogene International was the lowest offer." It has been further said that "it has been ignored that in the NIQ no preference for imported sets was indicated and negotiations were held exclusively with M/s. MR Power Projects disregarding the case of M/s. Biogene International who had made the lowest offer."

(ii) The Inquiring Authority has also quoted the argument of charged officer that reference to the CPWD Manual was not tenable as there were no formal orders of the Government adopting the document for regulating the work of Power Department. Inquiring Authority seems, to have accepted the argument. It is important to note that while functioning as Chief Engineer (Power) the charged officer in the meeting to procurement of light weight small hydel sets was also discussed, has been cited to be informing the Board that procedure of CPWD Manual Vol. II has been followed in opening and calling of the quotations/tenders. It does not require any elaboration to say that a Manual cannot be partially applied to a Department. It is also to mention that the important point missed by the Inquiry Authority in that case of additional hydel sets was dealt with by them Commissioner (Power) any on 16.11.1994 and was approved by the Finance Department on 28.3.1995. Hence the charged officer acted hastily in awarding works to M/s. MR Power Project, Guwahati, by awarding them work on 9.1.1995 when Government approval had not been received.

Although owing to these disagreements on Charge II and III the outcome of

charges having been proved partially would not change, yet for enabling the charged officer to prepare his representation, these points of disagreement are communicated to the charged officer.

Sd/- (D. Mukharjee), Joint Secretary (Power), Government of Arunachal Pradesh, Itanagar.

8. On receipt of the said order dated 4.12.1997 containing the reasons of disagreement with the findings of the Inquiry Officer, the Petitioner submitted his representation on 13.12.1997. Thereafter by the impugned order dated 30.12.1997 (Annexure-XXII), the Petitioner was dismissed from service.

9. The Petitioner has basically challenged the order of dismissal basically on three grounds which are as follows:

(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 Nos. 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.

10. The Respondents have filed their counter affidavit denying the contentions raised by the Petitioner. According to them, the inquiry was conducted giving all reasonable opportunities to the Petitioner. According to them, the reasons assigned for disagreement on the findings recorded by the Inquiry Officer are not extraneous and that considering the gravity of the misconduct nothing less than the penalty of dismissal was warranted.

11. Mr. H. Rahman, learned Counsel for the Petitioner, during his long and elaborate arguments took this Court to the observations made by the Inquiry Officer in his enquiry report so as to bring home his point of argument that certain documents were not furnished to the Petitioner. Referring to the Article of Charges and the findings recorded by the Inquiry Officer, he submitted that the reasons for disagreement are not on the basis of the materials on record. Finally placing reliance on certain decisions of the Apex Court as well as of this Court, Mr Rahman submitted that even if the alleged misconduct is held to be established, the penalty of dismissal from service is highly disproportionate. Mr. Rahman places reliance on the following decisions:

B.C. Chaturvedi Vs. Union of India and others, . Ram Kishan Vs. Union of India and others, , State of Tamil Nadu and others Vs. M. Natarajan and another, , State of Tamil Nadu and others Vs. M. Natarajan and another, , M/s. Savita Chemicals (Pvt.) Ltd. Vs. Dyes and Chemical Workers Union and Another, , Akshay Kr. Goswami v. State of Assam and Ors. 2003 (2) GLT 86 , Unreported

judgment in W.P (C) No. 6671/2000 (Dipti Prakash Banerjee Vs. Satvendra Nath Bose National center for Basic Sciences, Calcutta and Others, Committee of Management v. Sambhu Saran Pandey and Ors. 1995 ALJ 1156, Chandrama Tewari v. Union of India and Ors. 1987 SCC (Supp) 519 , Kuldeep Singh Vs. The Commissioner of Police and Others,

12. Mr. C.K. Sarma Baruah, learned Advocate General, appearing for the State Respondents assisted by Mr. A. Apang, learned State Counsel, countering the above the arguments submitted that the Petitioner having submitted his written statements of defence, written brief and representations against the enquiry report as well as the reasons for disagreement, without any reservation relating to the so-called non-furnishing of the documents, the plea of non-furnishing of the required documents to the Petitioner is wholly unsustainable. He submitted that even if the charges, so serious in nature are held to be partially established, the same will entail the penalty of dismissal from service. As regards the reasons for disagreement with the findings of the Inquiry Officer, he submitted that there was nothing wrong in doing so and the same was on the basis of the materials on records. He submitted that having regard to the gravity of the offence, the penalty of dismissal from service was rightly imposed on the Petitioner.

13. Mr. Rahman, the learned Counsel for the Petitioner, at the very outset of his argument submitted that the dismissal from service which is a major penalty could not have been imposed in view of the amendment of Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, (for short the "Rules"), placing reliance on the amendment by which two provisos were inserted to Rule 11 of the Rules vide notification dated 10.6.1987, he submitted that as per the first proviso, in substance, where the charge of acceptance of illegal gratification or bribe in common parlance is established against a government servant, the penalty of removal or dismissal from service shall be imposed on him.

14. Mr. Rahman argued that with such an amendment to the Rule 11 of the Rules, the Petitioner could not have been imposed itself the penalty of dismissal from service in absence of any charge of illegal gratification or bribe. On being pointed out that such an insertion of misconduct of illegal gratification or bribe was only inclusive and not exhaustive, Mr. Rahman agreed to the same and did not pursue his submission that in absence of any proof of charge of illegal gratification or bribe, the Petitioner could not have been imposed with the penalty of dismissal.

15. The Petitioner submitted his written statement of defence without any objection to the alleged non-furnishing of same documents. While submitting his written statement of defence, he simply stated that if need be, he should be allowed to inspect the relevant documents during the enquiry. The Petitioner himself has annexed a copy of the letter dated 24.11.96 addressed to the Inquiry Officer by the Presenting Officer furnishing documents category wise. The same was done as per the order of the Inquiry Officer. The additional documents

requested by the Petitioner were divided into three categories as indicated in the letter dated 24.11.96 and on a bare perusal of the same, it would appear that most of the documents were furnished to the Petitioner. The letter indicated that some of the documents were not relevant to the charges framed against the Petitioner.

16. Large number of documents were produced in the enquiry and naturally when the documents were voluminous each and every document could not be furnished to the delinquent. It is in such circumstances, the procedure relating to departmental enquiry envisages inspection of documents by the delinquent officer. The Petitioner has made statement in paragraph-17 of the writ petition relating to alleged procedural irregularities in conducting the enquiry. In paragraph-17 A, the Petitioner has stated that the Inquiry Officer allowed 25 out of 28 documents as requested by his application dated 20.9.1996. While making some reservation relating to non-furnishing of certain documents, the Petitioner by and large has admitted furnishing of the required documents during the course of enquiry. The Respondents in their counter affidavit have dealt with the contention raised by the Petitioner in paragraph-17 A of the writ petition relating to non-furnishing of certain documents by categorically denying the same. They have given the details of the documents and furnishing of the same to the Petitioner during the course of enquiry to which there is no denial on the part of the Petitioner.

17. Even assuming that some of the documents were not furnished to the Petitioner, the test of prejudice so well known in the procedure envisaged in a departmental proceeding will have to be established. Throughout the writ petition, the Petitioner has not even obliquely stated about the relevance of the documents which were allegedly not furnished to him and also as to how his defence was prejudiced due to non-supply of such documents. Had it been a case of non-supply of documents causing prejudice to the Petitioner, he would have surely agitated about the same firstly in his written statement and brief and secondly in his representations submitted against the enquiry report and the reasons for disagreement.

18. On being pointed out as to whether the Petitioner made any grievance relating to non-furnishing of any document nothing could be pointed out except the statements made in Paragraph-2.16 of the written brief submitted by the Petitioner which reads "In support of my contention that due to utter vagueness and other defects, I have been denied a reasonable opportunity and there has been a violation of Principles of Natural justice, I quote below various decisions of the Supreme Court of India, other Courts of law and Government of India's instructions " From such a statement, it will be seen that the point of non-furnishing of documents so seriously agitated by the learned Counsel for the Petitioner was agitated in the written brief in the above manner.

19. Thus, the argument relating to non-furnishing of documents coupled with non-disclosure of relevance of the same and causing any prejudice having not

been agitated during the course of the enquiry, cannot be allowed to be agitated coming to the Writ Court. Even in this proceeding, the Petitioner has not even obliquely agitated about the documents which were allegedly not furnished to him and as to how the same were relevant and caused prejudice to his defence.

20. The Inquiry Officer held the Charge Nos. 2 and 3 to have been established partially. Some of the observations of Inquiry Officer in his report are quoted below:

ARTICLE OF CHARGE-2

8.0 This Article of charge reads as follows Shri Darshan Singh, Chief Engineer (Power) (under suspension) while functioning as such during the period from 1.1.1994 to 24.7.1995 had placed a supply order on M/s. Hydro Power Equipments, A.T. Road, Jorhat-785001 for procurement of 30 (thirty) sets of 20 KW Light, Weight Micro Hydro Power Plants at a total cost of Rs. 5,47,20,000.00 (five crore forty seven lakhs twenty thousand) vide letter No. CE/Power/WC-32/94-95 dated 23.11.94. M/s. Hydro Power Equipments, Jorhat was not a tenderer in response to the NIT issued by the Power Department under No. CE/Power/WC-2/93/3167-84 dated 18.8.93. In the tender for procurement of light, Weight Micro Hydro Power Plants floated by the Power Department under the aforesaid tender notice dated 18.8.1993. M/s. Steel Industries Kerela Limited was the lowest tenderer and M/s. Hydel Equipments, Guwahati was the second lowest tenderer for 20 KW horizontal hydel sets. Shri Darshan Singh, Chief Engineer (Power) (under suspension) did not consider the lowest quotation of M/s. Steel Industries Kerela Limited but accepted the second lowest tender of M/s. Hydel Equipments, Guwahati without any reason and also without approval from the higher authorities. Shri Darshan Singh did not however, make any transaction with M/s. Hydel Equipments, Guwahati for entering into an ultimate agreement. He also did not make any negotiations with the lowest tenderer M/s. Steel Industries Kerela Limited. Instead he had placed order on M/s. Hydro Power Equipments, Jorhat for procurement of the said articles arbitrarily under his own authority without obtaining the approval of the higher authority who was not a tenderer. Thus, Shri Darshan Singh, Chief Engineer (Power) (under suspension) while functioning as such had failed to maintain established procedure in regard to the acceptance of tenders in accordance with the rules and instructions of the Government and thereby failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)(ii)(iii) of the CCS (Conduct) Rule, 1964.

10.1. The GS has also not been able to clarify the circumstances under which he had directly placed orders with M/s. Hydel Equipments, Guwahati for the supply of 10 sets of 30 KW Micro Hydro Power plants vide orders dated 29.5.1994 (document P-21). The copy of this order was never endorsed to the Government although the tenor of the acceptance letter says that the offer" of the firm had been accepted on behalf of the Governor of Arunachal Pradesh. The only defence advanced against this action has been that this order could not materialize.

Although no financial liability was caused to the Government arbitrariness in the handling of the case and also lack of transparency gets established.

10.4 The way the proposal was drafted and referred to the Government reflects clearly upon the arbitrary conduct of the GS. Nowhere, it was stated suddenly 30 KW size. Therefore, without even a limited tender the justification of the rates quoted for the 30 KW sets had no basis. But it is a fact that the GS had kept the Government informed of his proposals and had obtained the formal A/A and E/S for making purchases. The exhibit D-41 clearly shows that proper E/S was obtained. Whether this was procedurally correct or not cannot be commented in view of the above noting of DW-5. In this regard, it may be also quite relevant to refer to para-4 of the statement of DW-5 in which it had been affirmed that the procurement of Micro Hydro Plants from M/s. Hydro Power Equipments during 1994-95 on a total cost of approximately Rs. 8 crores was awarded after approval of the members of the WAB and after the case was subjected to proper scrutiny and proper application of mind. That has also been affirmed that the GS had maintained complete transparency in this case keeping the witness and other members of the WAB posted with all facts of the case. The records reflect that the WAB procedure was dispensed with and indirectly it can be construed that all its members were involved in approving the contract in their individual official capacities. But it has at the same time been mentioned in Para-7 that the proposal was discussed with the members of the WAB before deciding not to convene a meeting of the WAB.

12.1 The interesting thing is that this comparison was made on the basis of responses received in August 1993 for the NIQ published by the Department (exhibit P-15). In this NIQ as already stated, no preference for imported sets was indicated by the Department. In their original offer M/s. M.R. Power Projects, Naharlagun also had quoted additionally for the supply of water conducting system without any undertaking for the installation of the sets as it was not required as per the terms and conditions of the NIQ. Document D-1/A shows that GS had held separate negotiations exclusively with only M/s. M.R. Power-Projects and got them relax their conditions vide their letter MRPE/2070/A/94 dated 19.5.1994 at Page-8 of D-I/A and this negotiated offer was reflected in the proposal submitted to the WAB dated 16.6.1994. Thus, it is very evident that the GS had not maintained absolute transparency in this case and the full facts were not apprised to the WAB. The necessity for going in for additional imported sets suddenly is also not fully justified in view of the fact that neither adequate funds were available nor the sites were known. Even for the advance payment, the GS had to take an arbitrary decision and book it against Bomdila Division. The relevant files produced during the inquiry also show that the orders for the supply of the sets were modified due to non-selection of the sites and field officers have complained about this. That shows lack of transparency.

12.2 As far as the charge of not having obtained approval of the Government, the GS has brought on record sufficient evidences which would show that he was

specifically directed by the Government to place the order with M/s. M.R. Power Projects for the supply of the sets at the rate quoted by them. Thus in this case also, the charge has been partially substantiated to reflect upon the lack of transparency in dealing and not being truthful and fair in rendering the advice to the WAB. To this extent, GS has partly failed to maintain highest order of integrity. The charge could be substantiated only to this extent partially.

21. With the findings of the Inquiry Officer that the Charge Nos. 2 and 3 had been partially established, the enquiry report was submitted to the disciplinary authority who in turn asked the Petitioner to submit his representation. The Petitioner submitted his detailed representation mostly placing reliance on certain decisions as in his written brief. Thereafter the note of disagreement to the findings recorded by the Inquiry Officer was forwarded to him by order dated 4.12.1997 asking him to make representation against the same. The note of disagreement recorded by the disciplinary authority has already been quoted above. The Petitioner submitted his detailed representation against the ground of disagreement. In his representation unlike the arguments advanced during the course of hearing, the Petitioner did not agitate the ground of the reason being based not on the materials adduced during the course of the enquiry proceeding. In his representation he could deal with all the grounds of disagreement to persuade the disciplinary authority to tackle a different view of the matter. As on the point of non-furnishing of documents, on the second point of reason for disagreement being extraneous and not based on the materials on record also, the Petitioner in his representation did not agitate the same and submitted his representation without any reservation.

22. As per the provisions of the Rules, the disciplinary authority is entitled to disagree with the finding of the Inquiry Officer on the basis of the materials considered by the Inquiry Officer. The reasons assigned by the disciplinary authority to disagree with the findings of the Inquiry Officer in respect of Charge Nos. 1, 2 and 3 cannot be said to be unreasonable and/or arbitrary. Such disagreement on the face of it was based on the materials of the enquiry proceeding.

23. Even otherwise also Charge Nos. 2 and 3 were partially established in the enquiry proceeding as has been clearly recorded. No material could be brought as to how the reasons for disagreement can be said to be based on extraneous consideration and not on the basis of the materials home by the records of the enquiry proceeding. Needless to say that the Writ Court in exercise of its powers of judicial review in matters relating to disciplinary proceedings cannot re-appreciate the evidence on record and sit on appeal over the findings recorded by the Inquiry Officer and the disciplinary authority unless it is a case not based on any evidence at all or the findings are perverse on the face of it. None of these two ingredients is available in this case. The view taken by the disciplinary authority for disagreement with the findings of the Inquiry Officer is a plausible view and in absence of any material to show that such a view is arbitrary,

unreasonable and based on no evidence at all, this Court in exercise of its Writ Jurisdiction cannot interfere with the same.

24. In view of my above findings relating to first two grounds of attack, the third ground of penalty being disproportionate to the gravity of misconduct falls through. The charges held to be established against the Petitioner are of very serious nature. The Petitioner was the head of the department and the highest degree of integrity and conduct was expected of him. On the basis of the findings recorded by the Inquiry Officer and the disciplinary authority, there is no manner of doubt that he failed to maintain the same. If that be so, there is no question of showing any misplaced leniency to the Petitioner. Even otherwise also, it is not within the domain and jurisdiction of the Writ Court to substitute another penalty than the one imposed by the disciplinary authority unless the same is contrary to the settled principle relating to imposition of penalty. It cannot be said to be a penalty which shocks the judicial conscience. The disciplinary authority is the best judge to impose penalty as per the prescription in the Rules. Having regard to the facts and circumstances involved in the instant case; having regard to the gravity of the misconduct which according to the Inquiry Officer partially and proved in respect of Charge Nos. 2 and 3 and fully proved according to the findings recorded by the disciplinary authority, if the disciplinary authority in its wisdom thought it prudent to impose the penalty of dismissal from service no interference is called for in respect of the same.

25. In view of above, I do not find any merit in this writ petition. Writ Petition is dismissed, leaving the parties to bear their own cost.