

**(2010) 12 SHI CK 0433**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP (T) No. 10271 of 2008**

Lekh Raj Gupta

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

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**Date of Decision :** 27-12-2010

**Acts Referred:**

**Citation :** (2010) 12 SHI CK 0433

**Hon'ble Judges :** Rajiv Sharma, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Rajiv Sharma, J.—Petitioner has already preferred an appeal for the redressal of his grievance. Same has been rejected vide Annexure A-12, dated 11th November, 2003 without a speaking order. It is settled law by now that the disciplinary authority is required to pass reasoned/speaking orders.

2. Their Lordships of the Hon"ble Supreme Court in Roop Singh Negi Vs. Punjab National Bank and Others, have held as under:

Furthermore, the order of disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the Appellant, there was no reason as to why the order of discharge passed by the criminal Court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inference drawn by the enquiry officer apparently were not supported by any evidence. Suspicion as is well known,

however high may be, can under no circumstances be held to be substitute for legal proof.

3. The Petitioner has filed an appeal against the imposition of penalty to the appellate authority. The appellate authority has not taken into consideration while considering the appeal, the grounds/pleas raised in the memorandum of appeal. It is necessary for the appellate authority to take into consideration all the pleas raised in the memorandum of appeal and thereafter to apply independent mind. The purpose of passing a detailed/reasoned order is to enable the Court to see whether there is due application of mind or not. Their Lordships in Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others, , have held that the appellate authority must give reasons while affirming the order of lower authority.

4. Accordingly, the present petition is allowed. Annexure A-12, dated 11th November, 2003 is quashed and set aside. The appellate authority is directed to hear and decide the appeal afresh, within a period of two months after the production of certified copy of this judgment. The Petitioner shall also be heard and for that purpose the date shall be notified separately to him by the appellate authority. The pending application(s), if any, also stands disposed of. No costs.