

(1997) 04 AP CK 0078

In the Andhra Pradesh High Court

Case No : Writ Petition No. 28141 of 1996

M. Koteswara Rao

APPELLANT

Vs

APSRTC, Tirupati and Others

RESPONDENT

Date of Decision : 17-04-1997

Acts Referred:

Andhra Pradesh State Road Transport Corporation Employees (Classification, Control and Appeal) Regulations, 1967 — Regulation 11, 12, 7

Citation : (1997) 3 ALD 491 : (1997) 3 ALT 68 : (1997) 2 LLJ 489

Hon'ble Judges : G. Bikshapathi, J

Bench : Single Bench

Advocate : P. Gangaiah Naidu, for the Appellant; A.V. Sivaiah, for the Respondent

Judgement

1. This is a classic case of the disciplinary proceedings & groaning under insurmountable intricate technicalities of service jurisprudence.
2. The petitioner landed before this Court seeking number of reliefs. But, however, the learned Counsel for the petitioner submits that the challenge is only to the order of removal passed by the 5th respondent dated August 19, 1996 and the modified order of the 4th respondent dated November 12, 1996 reverting the petitioner to the post of Traffic Inspector Grade-I for a period of 18 months.
3. The relevant facts leading to the case are is that the petitioner was working as Chief Inspector (Enquiries) at the Regional Office, at Tirupathi. According to the petitioner, he made a request to the 2nd respondent -Regional Manager to change the Steno-Typist working with the petitioner as he was not maintaining secrecy of information. When he made such a request, the 2nd respondent for the reasons best known to him lost his temper and insulted in his Chambers. Thereafter, the petitioner was placed under suspension on November 9, 1995 by the 1st respondent and the charge-sheet was also issued on the same date alleging the following charges:

"Charge No. 1: For having entered the chambers of Regional Manager at 10-00 a.m. on November 9, 1995 without prior permission while he was attending on important urgent work, which constitutes misconduct under Regulation 28 (xxxii) of APSRTC. Employees" (Conduct) Regulations, 1963;

Charge No. 2 : For your insubordination and misbehaviour with Regional Manager by sitting before his table to record the enquiry statements in his chambers and not leaving his chamber on November 9, 1995 in spite of instructions by Regional Manager to go to his room, which constitutes misconduct under Regulation 28 (viii) and (xxi) of APSRTC Employees" (Conduct) Regulations, 1963;

Charge No. 3 : For having caused obstruction to attend the important urgent official work by Regional Manager on November 9, 1995 in his chambers, which constitutes misconduct under Regulation 9(1) Note-2 (xiii) of APSRTC Employees" (CCA) Regulations, 1963.

Charge No.4 : For your failure to obey the orders of the Regional Manager on November 9, 1995 to leave his chambers and go to your chamber to record enquiry statements which constitutes misconduct under Regulation 28 (viii) of APSRTC Employees" Conduct Regulations, 1963;"

The petitioner submitted an explanation and thereafter one Mr. Y. Sudhakar Gupta, Depot Manager of Vakadu, the 3rd respondent herein was appointed as Enquiry Officer to conduct the enquiry into the charges framed against the petitioner on November 9, 1995, "Re petitioner submitted a protest before the Enquiry Officer stating that the enquiry cannot be conducted at 5 Tirupathi as that would influence the mind of the other employees. He also submitted that the Regional Manager, who is the head of the Region cannot be examined by a lower Officer and therefore he sought appropriate orders. But, however, disregarding his objections an aparte enquiry was conducted and finally he was issued with a show cause notice by the Regional Manager, Nellore, the 5th Respondent herein calling upon the petitioner as to why the petitioner should not be removed from service for the charge framed against him and finally the 5th respondent passed orders on August 19, 1996 removing the petitioner from service. Thereupon the petitioner filed an appeal to the 4th respondent Zonal Manager. While confirming the order of removal and taking a lenient view on account of length of service put in by the petitioner and on humanitarian grounds, the petitioner's removal was set aside and he was reverted as Senior Traffic Inspector for 18 months by fixing his pay at the last basic pay drawn by him as Senior Traffic Inspector at the time of his promotion as Chief Inspector. The said orders of the 5th respondent as well as the modified orders of the 4th respondent are assailed in this Writ Petition.

4. In the counter filed on behalf of the Corporation, it is stated that the petitioner has committed serious misconduct of insubordination and therefore, a charge-sheet was issued and an enquiry was conducted. Since the petitioner was holding the post of Chief Inspector, an Officer of higher rank to the petitioner namely

Depot Manager was appointed as Enquiry Officer, who conducted the enquiry and therefore there was no question of causing prejudice to the petitioner. It is also stated in the counter since the complainant himself is the Regional Manager, Tirupathi, it would not be in the interest of justice to pass the orders of punishment by the complainant himself. Therefore, the matter was referred to the Executive Director, the 3rd respondent herein, who directed the 5th respondent to take further action on the basis of the enquiry report submitted by the Enquiry Officer. The petitioner in spite of giving number of chances failed to appear before the enquiry. As there was no alternative for the Enquiry Officer, the ex parte proceedings were held and all the witnesses including the Regional Manager, Tirupathi, the 2nd respondent herein and the Senior Manager (Ghat), the 1st respondent herein were examined and the petitioner was found guilty of the charges by the Enquiry Officer. Therefore, it is submitted that the entire procedure adopted by the Corporation is quite legal and valid and the same in accordance with the Regulations framed by the Corporation.

5. The point that arises for consideration is whether the impugned orders of punishment imposed by the 5th respondent and as modified by the 4th respondent are valid in law ?

6. The learned Counsel for the petitioner submits that the initiation of the disciplinary proceedings itself is illegal and incompetent. The 1st respondent is not competent to issue charge-sheet and therefore the entire proceedings conducted in pursuance of the incompetent charge sheet are void, ab-initio and therefore required to be set aside. He submits that the appointing authority in respect of the post of Chief Inspector held by the petitioner is the Regional Manager. Therefore, under Rule 11 the appointing authority or the higher authority to the appointing authority or any other authority authorised by the Corporation are only empowered to initiate proceedings against the petitioner. In the instant case, the Senior Manager (Ghat) has issued suspension order and also framed the charges. He is neither an appointing authority nor higher authority to the appointing authority nor he was authorised by the Corporation by a resolution to initiate disciplinary proceedings. Hence, the charge-sheet as issued by the 1st respondent is wholly illegal and incompetent. On the other hand, the learned Standing Counsel for the Corporation submits that the Corporation has delegated the powers to various Officers. In respect of the Chief Inspector, the 1st respondent has been delegated with the powers and hence the petitioner cannot find fault with the charge-sheet issued by the 1st respondent. To consider this aspect, it is necessary to extract some of the provisions of the APSRTC Employees" (C.C.A.) Regulations. Appointing authority is defined under Regulation 7, which is extracted below:

"Appointing authorities :

(1) Appointments to posts in the Classservice shall be made by the Board.

Provided that the Corporation may, by a resolution and subject to such conditions

and limitations, if any, as it may specify, authorise any other authority subordinate to it to make such appointments.

(2) Appointments to posts in Class-II, Class-III and Class-IV services shall be made by the authority authorised in that behalf by the Board by a Resolution, or by any other authority to which such authority is administratively subordinate, subject to such conditions and limitations, if any, as it may specify"

The authority competent to impose penalties is contained in Regulation 10 and the matter relevant to the case is extracted below :

"Authority competent to impose penalties :

(1) The Corporation may impose any of the penalties specified in Regulation 8 on an employee.

(2) Without prejudice to the provisions of Clause (1), any of the penalties specified in Regulation 8 may be imposed on an employee by the appointing authority or any other authority authorised by a regulation or resolution of the Corporation, subject to such conditions and limitations, if any, as may be specified.

Explanation :

The expression "appointing authority" means the authority competent to make substantive appointment to the post held by the employee for the time being."

Regulation 11 deals with the initiation of the disciplinary proceedings while Regulation 12 deals with the procedure for imposing the penalty. Regulation 11 reads thus :

"Initiation of disciplinary proceedings :

(1) The appointing authority or any authority to which it is subordinate or any other authority authorised in that behalf by the Corporation by a resolution, may initiate disciplinary proceedings against an employee in a case calling for disciplinary action under these Regulations.

(2) The competent authority under Clause (1) above may itself conduct further enquiry in accordance with the provisions of Regulation 12 or may, subject to the provisions of any general or special order of the Managing Director or any higher authority, as the case may be, authorise any other employee superior in rank to the employee charged, to conduct an enquiry in the case.

Note : The authority conducting an enquiry under the provisions of Clause (2) is herein so, after referred to as the Enquiring Authority in these Regulations.

Explanation : In this Regulation the expression "appointing authority" means the authority competent to make substantive appointment to the post held by the employee for the time being.

(3) Where two or more employees are concerned in any case, the authority competent to impose the penalty of dismissal on all such employees may make an order directing that disciplinary action against all of them may be taken in a common proceeding. Any such order shall specify-

(a) The authority which may function as the inquiring Authority for the purpose of such common proceeding; and

(b) Whether the procedure prescribed in Clause (1) or Clause (2) to (14) of Regulation 12 may be followed in the proceeding. The Authority competent to impose a penalty specified in Regulation 8 in respect of employees against whom such joint enquiry is held shall be the authority competent to impose such penalty on all such employees under Regulation 10.

(4) Nothing contained in this Regulation shall be deemed to preclude an employee from calling for an explanation from another employee who is administratively subordinate to him in respect of any matter pertaining to his duties.

From a reading of Regulation 11, it is clear that appointing authority or any authority to which it is subordinate (namely the higher authority to the appointing authority) or any other authority authorised by the Corporation by a resolution, is empowered to initiate disciplinary proceedings against an employee. Therefore, three types of authorities are empowered to initiate disciplinary proceedings, namely (i) a pointing authority, (ii) higher authority to Hie appointing authority. (iii) any other authority authorised by resolution by the so Corporation. In the case on hand, it is admitted case that the appointing authority in respect of the Chief Inspector is the Regional Manager. So, therefore, it is open to the second respondent Regional Manager or any higher authority to the Regional Manager to initiate action against the petitioner. It is also permissible to any other authority which is authorised by the Corporation by a resolution to initiate disciplinary proceedings. The proceedings were initiated by the Senior Manager (Ghat) who issued a chargesheet, and it has to be considered whether the 1st respondent is competent initiating authority under Regulation 1. It cannot be disputed that the 1st respondent is only a subordinate Officer to the 2nd respondent, 2nd is respondent is the appointing authority. The 1st respondent is also not an authority who has been authorised by the Corporation by a resolution to initiate disciplinary proceedings. Thus it is clear that the initiating authority is neither an appointing authority nor a higher authority to the apity authorised circumstances, contention of the ondent is competent to the disciplinary proceedings. The initiation of the disciplinary proceedings starts from the issuance of charge-sheet . It is now well settled that in disciplinary matters appointing authority need not be competent authority

"Appointinng Authority

To initiate disciplinary action

To impose penalty under Regulation 8 (I),
Se (II), (IV) of C.C.A. Regulations
To place the employee under suspension Se
under Regulation 18
To impose punishment under
Regulation (I), (II), (IX), of the Regulations
Appellate Authority
Revisional Authority

to impose the proposed penalties. Therefore, various authorities are empowered depending on the Regulations framed by the respective organisations. The 2nd respondent herein has to made a complaint on November 9, 1995 to the .he 2nd (sic. 1st) respondent, who is admittedly sub-ordinate to him alleging certain misconducts against the petitioner towards him and asked him to initiate the disciplinary proceedings. Based on that letter, obviously the 1st respondent has placed the petitioner under suspension is-and initiated disciplinary proceedings by issuing charge-sheet. This procedure runs contrary rid is to the procedure stipulated in Regulation 11 1st which does not permit an appointing authority en to direct subordinate authority to initiate the action against the employee. Therefore, I have to ,ar necessarily find that the 1st respondent is incompetent to issue the charge-sheet.

7. It is also argued by the Learned Standing Counsel for the Corporation that the Corporation has delegated the powers to various authorities. He submitted the manual containing delegations to various authorities under C.C.A. Regulations. In respect of the post of Chief Inspector (Traffic Superintendent), the following delegations were made by the Corporation :

- : Head of the Department /Regional Manger .
- : District Manger/Junior scale Officer.
- : Senior Scale Officer/Divisional Manager.
- : Senior Scale Officer/ Divisional Manager.
- : Regional Manager/Head of the Department.
- : Executive Director.
- : Managing Director.

On the basis of the aforesaid reasons, the learned Counsel submits that the initiation by the Senior Manager (Ghat) is in accordance with the powers delegated by the Corporation. I am afraid, I cannot countenance the said contention as the District Manager/Junior Scale Officer is entitled to initiate

disciplinary action. Admittedly, in the instant case, the 1st respondent is a Senior Scale Officer. Therefore, the initiation is also in accordance with the powers delegated by the Corporation. The learned Counsel again tries to argue that the Senior Scale Officer is a Senior Officer to the Junior Scale Officer and therefore under Regulation 11, it is permissible for the appointing authority or any other authority to which it is subordinate to initiate disciplinary action. Therefore, since the Senior Scale Officer is the higher authority to the Junior Scale Officer, there is no illegality or irregularity in initiating the disciplinary proceedings by the higher authority than the authority to which the power is conferred. This argument also does not stand to reason for the Senior Scale Officer may be Senior Officer to the Junior Scale Officer, but that principle cannot be applied under Regulation 11. It is only confined to the appointing authority or any other authority to which the appointing authority is subordinate. It has to be understood in the context of the appointing authority and not the delegated authority. If the appointing authority" is the Junior Scale Officer, then the learned Counsel would be justified to say that the Senior Scale Officer can initiate the disciplinary proceedings. Hence the initiating authority having been specified under Regulation 11 and the delegation having been given to Junior Scale Officer/Depot Manager, the said power cannot be usurped by Senior Scale Officer, even though he is superior to the Junior Scale Officer. That leads to any amount of confusion as Junior Scale Officers and also Senior Scale Officers irrespective of the appointing authority will initiate the action against the employees. Therefore, even by virtue of the powers delegated by the Corporation to the initiating authority, it is to be found that the delegated authority was only Junior Scale Officer and the 1st respondent being the Senior Scale Officer cannot exercise such a power of initiating so authority in the absence of necessary statistic support. On this ground also, I have to hold that the initiation is wholly illegal and incompetent.

8. It is now settled proposition that initiation of a departmental proceeding and conducting an enquiry can be by any authority other than the competent authority to impose the proposed penalty. It is also held that in the absence of a Rule, any superior authority can initiate departmental proceedings and that would not per se visit the Officer concerned with any evil consequences (See: State of Madhya Pradesh and Others Vs. Shardul Singh, , P.V. Srinivasa Sastry and others Vs. Comptroller and Auditor General and others, , Transport Commissioner v. A. Radha Krishna Murthy 1955 1 S.C.C. 332, Inspector General of Police v. Thavasiappan 1997 1 LLJ 191 (SC). Necessary corollary is that it is not necessary that the charges should be framed by the authority competent to award the proposed penalty or that the enquiry should be conducted by that authority. But, in the instant case, the Regulation itself empowers the appointing authority or higher authority or any other authority to initiate disciplinary proceedings. Even the power is delegated to Junior Scale Officer to initiate proceedings. Therefore, I am not finding fault with the proposition. But, the Corporation having delegated the 30 Power to Depot Manager/Junior Scale Officer, to initiate the proceedings, it has to be held apart from Regional Manager

and higher authority to the Regional Manager, Depot Manager /Junior Scale Officer is alone entitled to initiate action.

9. It is next urged by the learned Counsel for the petitioner that the entire disciplinary proceedings conducted by the Enquiry Officer are in gross violation of principles of natural justice, namely, hit by principles of the Rule against bias. He submits that the Enquiry Officer was a Depot Manager. who is a Junior Scale Officer and the complainant was the Regional Manager, who was the head of the region. Therefore, the Senior Scale Officer figuring as a witness before the Enquiry Officer i.e. before the Junior Scale Officer would certainly tend to influence the mind of the Enquiry Officer being subordinate Officer and the proceedings are hit so by principles of bias.

10. The learned Standing Counsel for the Corporation on the other hand submits that there was no such Rule which prohibits the examination of Senior Officer the Junior Officer and no bias or prejudice could be said to cause to the petitioner. As far as the regulations are concerned, he says that it is mandatory that the Enquiry Officer should not be below the rank of the delinquent. In this case, admittedly the Enquiry Officer is superior to the petitioner and there is no question of bias in the instant case.

11. The principles of natural justice demand that those whose interest may be directly affected by an act or decision to be given prior notice and an adequate opportunity to be heard, but also deciding authority should be disinterested impartially. Therefore, the Courts have devised fair administrative procedures. Hence, however the wide powers of the State and however extensive discretion they confer, they are to be exercised in a manner that is procedurally fair.

12. H.W.R. Wade in Administrative Law, Seventh Edition, at page 464 stated thus:

"It is true that the Rules of natural justice restrict the freedom of administrative action 30 and that their observance costs a certain amount of time and money. But, time and money are likely to be well spent if they reduce friction in the machinery of Government; and it is because they are essentially Rules for upholding fairness and so reducing grievances that the Rules of natural justice can be said to promote efficiency rather than impede it. Provided that the Courts do not let them run riot and keep them in touch with the standards which good administration case, they should be regarded as a protection not only to citizens but also to officials. A decision which is made with out bias, and with proper consideration of the views of those affected by it, will not only be more acceptable; it will also be of better quality. Justice and efficiency go hand in hand, so long at least as the law does not impose excessive refinements".

13. The basic concept in the principles of natural justice., comprises of two fundamental rules namely Nemo Judex In Causa Sua - no one should be made Judge in his own cause or rule against bias and Audi Alteram Partem - hear the other party or the rule of fair hearing or the rule no one should be condemned unheard.

14. However, in the instant case, we are only concerned with the first principle, namely RULE AGAINST BIAS. This rule is not a new concept which is brought into judicial and administrative actions. Bracton wrote that a Judge was not to hear a case if he was suspected of partiality because of consanguinity, affinity, friendship or enmity with a party or because of his subordinate status towards party or because he was or had been the party's Advocate (De Ugibus P. 412).

15. In modern Administrative Law, the bias rule has gained considerable importance. Its frontiers are fast expanding and various decisions and procedures in quasijudicial and administrative spheres are getting sullied by bias syndrome. In Black's Law Dictionary Sixth Edition at page 162 bias is defined as under :

"Inclination; bent; prepossession; a preconceived opinion; a predisposition to decide a cause or an issue in a certain way, which does not leave the mind perfectly open to conviction, To incline to one side, Condition of mind, which says judgment and renders Judge unable to exercise his functions impartially in particular case. As used in law regarding disqualification of Judge, refers to mental attitude or disposition of the Judge toward a party to the litigation, and "40 not to any views that he may entertain regarding the subject-matter involved (State Ex Rel. Mitchell v. Sage Stores Co. 157 Kan. 622:143 2 d 652).

16. De Smith's Constitutional and Administrative Law New Edition at page 583 states as follows :

"First, an adjudicator must not have any direct financial or proprietary interest in the outcome of the proceedings. Secondly, he must not be reasonably suspected, or show a real likelihood of bias."

17. In the instant case, as already noted, we are concerned with the second aspect. The law is as stated by De Smith's Constitutional and Administrative Law, New Edition at pages 584-85 :

"If an adjudicator is likely to be biased he is also disqualified from acting. Likelihood of bias may arise from a number of causes; membership of an organisation of authority that is a party to the proceedings; partisanship expressed in extra-judicial pronouncements; the fact of appearing as a witness for a party to the proceedings; personal animosity or friendship towards a party; family relationship with a party; professional or commercial relationships with a party; and so on. The categories of situations potentially giving rise to a likelihood of bias are not closed".

"..... How should the test of disqualification for likelihood of bias be formulated ? A more common formulation of the test is: Would a member of the public, looking at the situation as a whole, reasonably suspect that a member of the adjudicating body would be biased? Another common formulation is: Is there in fact a real likelihood of bias? There is no need, on either formulation, to prove actual bias; indeed, the Courts may refuse to entertain

submissions designed to establish the actual bias of a member of an independent Tribunal, on the ground that such an inquiry would be unseemly. In practice the test of "reasonable suspicion" and "real likelihood" of bias will generally lead to the same result. Seldom indeed will one find a situation in which reasonable persons adequately apprised of the facts will, reasonably suspect bias but a Court reviewing the facts will hold that there was no real likelihood of bias. Neither formulation is concerned wholly with appearances or wholly with objective reality. In ninety-nine cases out of a hundred it is enough for the Court to ask itself whether a reasonable person viewing the facts would think that there was a substantial possibility of bias".

18. Geoffrey Aflic in his work on Natural Justice (Principles and Practical Application) 1979 Edition at 118-120 states :

"PERSONAL INVOLVEMENT

Whenever a decision maker becomes personally involved with one of the parties there arises the suspicion that a determination may not be reached exclusively on the merits of the case as discussed at the hearing. Unlike allegations of bias by reason of the pecuniary interest of the decision maker, however, allegations of bias founded upon a personal involvement will only result in disqualification where there is real likelihood that a hearing will not be fair; De Smith at 232-27; David @ 12.02.

The most obvious group of cases calling for scrutiny are those in which one of the parties has close ties of kinship with the decision maker. A Chairman of County Commissioners, therefore, cannot hear a petition to build a new road which was intended to pass over land belonging to his brother-in-law; nor can a member of a zoning commission determine his wife's application for a change in zoning from residential to business; *Low v. Toym of Madison*, 60 A 2d 774 (Conn 1948). In the last cited case the Court was concerned with both the family sentiment that was present and with the opportunity for the wife to have what in reality a private hearing before the Board with her husband acting as Advocate: See 778. But not all family relationships will disqualify and, by way of contrast, on the circumstances of one particular case it was said that a Board of adjustment could decide an application by a company for permission to develop a free parking area despite the fact that an employee of the company was the wife of one Board member and the fact that a third or fourth cousin of another Board member was the President of the Company; *Moody v. F 50 City of University Park* 278 SW 2d 912 (Ct. Civ. App Tex 1955).

Disqualification on the basis of personal involvement is not, of course, limited to the above two situations but may result whenever there is a sufficient nexus between the decision maker and a party to justify the apprehension that this nexus may influence the decision reached: of *R. V. Aityincham Justices*, *Ex parte Pennington* 1975 QB 549, Street C.J. has stated the law in this respect in yet another New South Wales Decision: 1955 72 WN (NSW) 457. The last cited case

involved a member of Education who later sat as a Member of the Public Service Board inquiring into alleged false and scandalous allegations made by a teacher against various persons, including the Officer in question, and during the course of his judgment Street C. J. observed :

Where bias arises not from (pecuniary) interest, the Officer must have so conducted himself that a high probability arises of a bias inconsistent with the fair performance of his duties, with the result that a substantial distrust of the result must exist in the minds of reasonable persons.

Put in other words, the issue is not merely whether justice has in fact been done, but whether it has manifestly and undoubtedly been seen to be done. It may, therefore, be improper for the clerk of the Court to act as a solicitor for a party. Similarly, it may be unwise for a Headmaster to sit in judgment upon a case involving a former pupil who had been adversely criticised in a detailed staff report signed by the Headmaster some three months previously even where the existence of the report has been forgotten: *R.V. Abingdon Justice, Ex parte Cousins* 1964 108 Sol 1 M".

19. The Rules of natural justice operate as implied mandatory requirements, non-observance of which invalidates exercise of power. The Court presumes that the requirements are implied in the absence or indication to the contrary in the Act, conferring the power or in the circumstances in which the Act is to be applied. The rules requiring fundamental adjudicators and fair hearings can be traced back to medieval precedents and indeed they were not unknown in the ancient world. These principles were regarded as part of immutable order of things, so that in theory even the power of the legislature could not alter them. Chief Justice Coke in *Dr. Bonham's case* (8 Co. Rep. 113 b at 118 a, extracted from F.W.R Wade's *Administrative Law*) said that Court should declare an Act of Parliament void if it made a man Judge in his own cause, or was otherwise "against common right and reason". In *Dr. Bonham's case*, when examining the claim of College Physicians to find its member's malpractice, he said that "Censors of the College cannot be Judge, Ministers, and parties and one cannot be a Judge and attorney for any of the parties, more over when the Act of Parliament is against common rights or reason or repugnant or impossible for performance, the Canon Law will control it and adjudge such act to be void".

20. Lord Chancellor Cottenham while sitting in a Chancery suit affirmed number of decrees made by the Vice-Chancellor in favour of Canal Company in which Lord Cottenham was a share holder. The decrees were set aside by the House of Lords on account of his pecuniary interest. But, however, the House then dealt with the appeal on merits and affirmed the decrees (*Dimes v. Grand Junction Canal* 1852 3 H.L.C.759. While dealing with the appeal Lord Campbell said:

"No one can suppose that Lord Cottenham could be, in the remotest degree, influenced by the interest that he had in this concern; but, my Lords, it is of the

least importance that the maxim, that no man is to be a Judge in his own cause, should be held sacred And it will have a most salutary influence on (inferior) Tribunals when it is known that this High Court of last resort, in a case in which the Lord Chancellor of England had an interest, considered that his decree was on that account a decree not according to law, and was set aside. This will be a lesson to all inferior Tribunals to so take care not only that in their decrees they are not influenced by their personal interest, but to avoid the appearance of labouring under such an influence".

21. Even in cases where the offending interest was of non-pecuniary the same principle is applied. A Solicitor was also acting Clerk to the Justices before whom the same motorist was convicted of dangerous driving and he retired with them when they were considering their decision. The fact that the Clerk's firm was acting against the interest of the convicted motorist in other proceedings was held to invalidate the conviction, even though it was proved that the Justices had not in fact consulted the Clerk and that he had scrupulously refrained from saying anything prejudicial (*R. v. Sussex Justices ex. P. Mc. Carthy* 1924 1 K.B. 256. Hewart C.J. expressed the essence of the Rule :

"The question therefore is not whether in this case the Deputy Clerk made any observation or offered any criticism which he might not properly have made or offered; the question is whether he was so related to the case in its civil aspect as to be unfit to act as Clerk to the Justices in the criminal matter. The answer to that question depends not upon what actually was done but upon what might appear to be done. Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice."

22. Similarly, where a prosecution for selling vegetables under weight to a local authority school was heard before a Magistrate who was a member of the authority's education committee, the conviction was quashed (*R. v. Altonham Justices Ex.p. Pennington* (Supra)).

23. In development of modern law relating to disqualification of a Judicial Officer for interest and bias the golden thread that passes through the principles which is of a fundamental importance is that Justice should not only be done, but should manifestly and undoubtedly be seen to be done (*R. v. Sussex JJ* 1924 2 KB 475. Lord Hewart further observed "nothing is to be done which creates even a suspicion that there has been an improper interference with the so Courts of Justice. This principle is based on public policy to repose confidence in the administration of justice. The best known decision setting the judicial function in Administrative Law is *Franklin v. Minister of Town and Country Planning* 1948 AC 87. The House of Lords held thus :

"that the Minister, who in the face of objections by (not clear) from his own draft order to for the designation of Stevenage as the site of a new town, was under no judicial or quasi-judicial duty and was acting administratively throughout, so that allegations that he was biased in deciding to make the final order were

irrelevant. Their Lordship rightly considered that it would be absurd to require a Minister, when examining objections to his own proposals on a matter of policy, to be impartial between himself initiator of the order and custodian of the public interest, and the objectors; and their refusal to review his conduct by reference to the common-law standards of bias was buttressed by characterizing his functions administrative

24. An application for Licence which was refused by Licensing Authority, although no third party has objections to the application, may have the decision set aside by the Court if members of the Tribunal have so conducted themselves, as to create a real likelihood that they will be biased against him (See : *From Unity Brevaries Company v. Bath JJ* 1926 AC 15 581.

25. The strict standard applied to the Courts of justice are equally applicable to the bodies such as quasijudicial and administrative authorities. De Smith in his works on Judicial Review of Administrative action (Second Edition, page 238 to 239) stated that the rule against bias, not only applies to the Courts of justice, but also applies to the bodies possessing the following characteristics :

"a procedure analogous to that of the Courts; a duty to decide disputed questions of law or fact; a duty to exercise discretionary powers only by reference to standards that are not self-created but are explicitly prescribed by statutory or other rules; a duty to decide in accordance with evidence openly tendered; members who can normally be expected to preserve a detached attitude towards the parties or issues that come before them. To that extent that the absence of any of these characteristics makes the body significantly different from a Court of justice, the standards applicable to Courts of justice may be modified in relation to it. The degree in which impartiality, or the appearance of impartiality, must be maintained by any authority may therefore vary with the circumstances that surround and condition the discharge of its functions".

26. Some of the leading cases on the rule against bias may also be relevant in this regard. In *R. v. Essex JJ* [1927] 2 KB 475 Avory J, at page 488 said :

"We have here to determine, however, or not there might appear to be a reasonable likelihood of his being biased.

And Swift, J said :

"It is essential that justice should be so administered as to satisfy reasonable persons that the Tribunal is impartial and unbiased".

In *R. v. Salford Assessment Committee, Ex. P. Ogden*, [1937] 2 All E. R. 103, applied the "reasonable likelihood" test, while Greene, J dissented only on the inference to be drawn in *Cottle v. Cottle*, [1939] 2 All E.R. 535 asked himself the question whether the party complaining might reasonably find the impression that Mr. Browning (the Chairman of the Bench) could not give this case an unbiased hearing".

Bucknill, J said :

"The test which we have to apply is whether or not a reasonable man, in all circumstances, might suppose that there was an improper interference with the course of justice".

The right test was prescribed by Blackburn J. J. 1866 LR 1 QB 230 in *R. v. Rand* namely that to disqualify a person from acting in a judicial or quasijudicial capacity on the ground of interest (other than pecuniary or proprietary) in the subject matter of the proceeding a real likelihood of bias must be shown. The Court further opined that a real likelihood of bias must be made to appear not only from the materials in fact ascertained by the party complaining, but from such further facts as he might readily have ascertained and easily verified in the course of his inquiries.

27. In *Rex v. Hendon Rural District Council*, 1933 (2) KB 696, it was said :

"Where the rule against the bias was applied to a Rural District Council when it passed order affecting civil rights of the parties, there it was laid down that where one of the Councillors voting in favour of the resolution to grant permission to develop, had such an interest in the matter as to disqualify him from taking part or voting, on account of bias, an order nisi for a writ of certiorari to quash the decision of the Council could be issued. Lord Heward C.J. applied the principles of bias as to a decision of Hendon Rural District Council which affected the rights of subjects. In the concurring Judgment, Avory J., observed that the jurisdiction of the Court ought to be exercised widely when dealing with matters which are not perhaps strictly judicial but in which the rights and obligations of persons may be affected. Though the question in that case was whether the decision of the council was amenable to certiorari, the application of the doctrine of bias to such a decision of the council was not doubted and holding that certiorari would lie, the decision was quashed on the ground of bias. This is a case where doctrine or bias was applied where duty to act fairly existed though there was no judicial or quasi-judicial proceedings".

28. In *Metropolitan Properties Co. (F. G. O.) Ltd. v. Lannon* 1969 I KB 577, dealing with the question of bias of the Rent Assessment Committee in rent restriction proceedings, Lord Denning M. R. observed thus :

"that a man might be disqualified from sitting in a judicial capacity if he had a direct pecuniary interest in the subject matter or if he was biased on one side or other. The lis was between the landlord and the tenant. It was held that the connections of the Chairman of Rent Assessment Committee with the tenant were such as to give reasonable impression that he was biased even though there was no actual bias on his part, the determination of fair rent by the Committee was quashed and the matter was remitted to another Assessment Committee".

29. A police sergeant was dismissed by the Chief Constable of Liverpool, and his

appeal against dismissal was rejected by the Watch Committee. But the Chief Constable was present with the Watch Committee when they decided the appeal. In fact, as it was held, the police sergeant had succeeded in resigning before the purported dismissal, so that it had no legal effect, and did not prejudice his right to recover his pension contributions. But, the Court also granted a declaration that the presence of the Chief Constable, whose mind was made up in advance and who was in effect the respondent to the appeal, was fatal to the validity of the Watch Committee's decision. Scott LJ said: "That risk that a respondent may influence the Court is so abhorrent to English notions of justice that the possibility of it or even the appearance of such a possibility is sufficient to deprive the decision of all judicial force, and to render it a nullity" (See: *Cooper v. Wilson* 1937 2 KB 309. For similar reasons, the Court quashed the decision of a disciplinary committee which had consulted with the Chief Fire Officer, who had reported a fireman for indiscipline (See: *R. v. Leicestershire Fire Authority ex.p. Thompson* 1978 77 LGR 373).

30. A police authority, when considering whether to retire a Police Officer permanently because of permanent disability, must refer the question of disablement to a qualified doctor. The Kent police authority were proceeding to retire a Chief Inspector compulsorily on grounds of mental health, and informed him that they would refer to a doctor who had in fact examined him during the previous year and had reported that he was suffering from mental disorder. The Court of Appeal held that "the doctor to whom reference was made had a quasi-judicial duty to act fairly and in accordance with natural justice; and that he could not do so if he had committed himself to an opinion on the case in advance of the inquiry (See: *R v. Kent Police Authority ex.p. Golden* 1971 2QB 662).

31. In *R. v. Liverpool City Justices, ex parte Topping* 1983 1 All.E.R. 49, it was observed thus :

"In the past there has also been a conflict of view as to the way in which the test should be applied. Must there appear to be a real likelihood of bias? Or is it enough if there appears to be a reasonable suspicion of bias? (For discussion on the case, see de Smith's *Judicial Review of Administrative Action* (4th edn. 1980) PP 262-264 and HWR Wade, *Administrative Law* (5th Edn. 1982) PP 430-432). We accept the view of Cross LJ expressed in *Hannam v. Bradford City Council* 1970 2 All ER 690 at 700, that there is really little, if any difference between the two tests :

"If a reasonable person who has no knowledge of the matter beyond knowledge of the relationship which subsists between some members of the Tribunal and one of the parties would think that there might well be bias, then there is in his opinion a real likelihood of bias. Of course, someone else with inside knowledge of the character of the members in question might say, "Although things don't look very well, in fact there is no real likelihood of bias". But that would be beside the point, because the question is not whether the Tribunal will in fact be biased, but whether a reasonable man with no inside knowledge might well think

that it might be biased."

"We conclude that the test to be applied can conveniently be expressed by slightly adapting in words of Lord Widgery C. J. in a test which he laid down in *R. v. Uxbridge Justices, ex p Burbridge*, 1972 Times, 21 June and referred to by him in *R v. McLean, ex p Aikens* 1974 139 JP 261 at 266: would a reasonable and fair-minded person sitting in Court and knowing all the relevant facts have a reasonable suspicion that a fair trial for the applicant was not possible?"

32. In *University College of Swansea v. Cornelius* 1988 ICR 735 at 739, holds thus :

"Cases of bias and ostensible bias had to be regarded in the light of their own circumstances. The circumstances of this case could have no relevance to other cases."

33. However, the rule of bias would not apply in the case of necessity where no substitution is possible, since no one else is empowered to act. Natural justice has to be given weight to necessity. Otherwise, there is no means of deciding and the machinery of justice of administration will breakdown (See: *Dimes v. Grand Junction Canal* (supra)).

34. Some of the notable judgments of the Supreme Court can also be referred.

35. In *Manak Lal Vs. Dr. Prem Chand*, , the Supreme Court held thus:

"But where pecuniary interest is not attributed but instead a bias is suggested, it often becomes necessary to consider whether there is a reasonable ground for assuming the possibility of a bias and whether it is likely to produce in the minds of the litigant or the public at large a reasonable doubt about the fairness of the administration of justice. It would always be a question of fact to be decided in each case. "The Principle, says Haisbury, "Nemo Debet Esse Judex In Causa, Propria Sua precludes a Justice, who is interested in the subject matter of a dispute, from acting as a Justice thereon. " In our opinion, there is and can be no doubt about the validity of this principle and we this principle as mentioned so and bodies which are given jurisdiction to determine judicially the rights of parties."

36. In *J. Mohapatra and Co. and Another Vs. State of Orissa and Another*, , the Supreme Court observed thus :

"It is not, therefore, the actual bias in favour of the author members that is material but the possibility of such bias. All these considerations require that an author-member should not be a member of any such committee or sub-committee".

37. In *Ashok Kumar Yadav and Others Vs. State of Haryana and Others*, , the Supreme Court emphasised the reasonable likelihood of bias thus :

"This Court emphasised that it was not necessary to establish bias but it was

sufficient to invalidate the selection process if it could be shown that there was reasonable likelihood of bias. The likelihood of bias may arise on account of proprietary interest or on account of personal reasons, such as, hostility to one party or personal friendship or family relationship with the other. Where reasonable likelihood of bias is alleged on the ground of relationship, the question would always be as to how close is the degree of relationship so great as to give rise to reasonable apprehension of bias on the part of the authority making the selection.

38. In *Ranjit Thakur v. Union of India* 1988 1 LU 256, the law was stated by one of us, Venkatachaliah (as he then was) as under :

"As to the tests of the likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look at his own mind and ask himself, however, honestly, "Am I biased?" but to look at the mind of the party before him".

39. In *International Airports Authority of India Vs. K.D. Bali and Anr*, , the Supreme Court observed thus:

"Several points were taken in support of the application for revocation. It was sought to be urged that the petitioner had lost confidence in the sole arbitrator was biased against the petitioner. It is necessary to reiterate before proceeding further what are the parameters which an appointed arbitrator on the application of a party can be removed. It is well settled that there must be purity in the administration of quasi-justice as are involved in the adjudicatory process before the arbitrators. It is well said that once the arbitrator enters in an arbitration, the arbitrator must not be guilty of any act which can possibly be construed as indicative of partiality or unfairness. It is not a question of the effect which misconduct on his part had in fact upon the result of the proceeding, but of what effect it might possibly have produced. It is not enough to show that, even if there was misconduct on his part, the award was unaffected by it, and was really just; arbitrator must not do anything which is not in itself fair and impartial.

(See : *Russell on Arbitration*, 18th Edition In *Re Brien and Brien* 1910 2 IR 84 at P.89, Lord O'Brien In *Kind (De Vesci) v. Justices of Queen's County* 1908 (2) IR 285 observed as follows :

By bias I understand a real likelihood of an operative prejudice, whether conscious or unconscious. There must in my opinion be reasonable evidence to satisfy us that there was a real likelihood of bias, I do not think that their vague suspicions of whimsical capricious and unreasonable people should be made a standard to regulate our action here. It might be a different matter of suspicion rested on reasonable grounds was reasonably generated but certainly mere flimsy, elusive, morbid suspicions should not be permitted to form a ground of decision."

40. In *Union Carbide Corporation, etc., etc. Vs. Union of India, etc. etc.*, the

Supreme Court observed thus:

"But the effects and consequences of non-compliance may alter with situational variations and particularities, illustrating a "flexible use of discretionary remedies to meet novel legal situations". "Onemotive" says Prof. Wade "for holding administrative acts to be voidable where according to principle they are void may be a desire to extend the discretionary powers of the Court." As observed by Lord Reid in *Wiseman v. Borneman* 1971 AC 297, natural justice should degenerate into a set of hard and fast rules. There should be a circumstantial flexibility."

41. In *Tata Cellular Vs. Union of India*, , the rule against bias, came up for consideration. It was contended that one Mr. B. R. Nair was the tender deciding authority and his son Mr. Satish Nair was working in B. P. L. System and Projects Limited as Territory Manager (Sales) and in order to favour his son, the said employee was selected for grant of licence for operation of Cellular Mobile Telephone Service and therefore the decision was hit by principles of bias. It was found that Mr. Satish Nair was selected purely on merit basis. More over there were 5,500 employee in 27 offices all over India and there were 89 officers of the Rank of Mr. Satish Nair. Applying the doctrine of necessity the Supreme court held thus :

"The doctrine has been elaborated in *Nalshury's Laws of England*, 4th Edn. page 89, paragraph 73, where it was reiterated that even if all the members of the Tribunal competent to determine a matter were subject to disqualification, they might be authorised and obliged to hear that matter by virtue of the operation of the common law doctrine of necessity. An adjudicator who is subject to disqualification on the ground of bias or interest in the matter which he has to decide may in certain circumstances be required to adjudicate if there is no other person who is competent or authorised to be adjudicator or if a quorum cannot be formed without him or if no other competent Tribunal can be constituted."

42. A somewhat identical situation arose in *M.L.L. Kumar Vs. The Divisional Manager, A.P.S.R.T.C. Cuddappah and Another*, . In the said case, the employee misbehaved with the Divisional Manager of the Corporation. The enquiry was conducted by the Subordinate Officer and the Superior Officer (Complainant) was the witness in the enquiry. Justice M. Jagannadba Rao (as he then was) while dealing with the situation held thus :

"Enquiry should not have been conducted by Subordinate Officer to the Complainant".

The learned Judge observed thus :

"the principle that justice must not only to be done, but must be seen to be done is applicable to judicial as well as domestic proceedings. The principles of natural justice as applicable to the domestic Proceedings have been held to include with them, the right to employee to have a fair trial".

The learned Judge also rejected the Plea Of waiver pressed into service by the A.P.S.R.T.C. by observing though the plea of bias could be waived, there must be evidence that there was such a waiver by conscious understanding of the situation and particularly awareness that the employee was entitled to raise the objection vide R v. Essex Justice Ex B. P. Perkin 16 CKB 475 (Quoted in H.W. R. Wade Administrative Law Fifth Edition 403).

43. I had to consider another case of similar nature which was reported in B. Rajagopal v. General Manager, Nizam Sugar Factory Limited 1996 (1) An.WR.412. In the said case, the Complainant was the disciplinary authority and he issued the charge-sheet and appointed Enquiry Officer and thereafter he issued the show cause notice of dismissal. In such circumstances, it was held that "the bias was intrinsically inherent in the proceedings and vitiated the entire proceedings."

44. From the survey of long line of decisions, the following principles can be deduced from rule against bias:

(1) Every Judge, authority, arbitrator, or a body or person having power to decide, disputed questions of law and facts shall display fair play in action.

(2) He acquires disqualification if he has interest (either pecuniary or otherwise) in the proceedings or conducts in a biased manner so as to create real likelihood of bias.

(3) The bias need not be established as a fact. It is sufficient if there was real likelihood of bias or bona fide suspicion of bias or there was substantial possibility of bias.

(4) The measuring rod of actual bias or real likelihood of bias is that a reasonable and fair-minded person adequately apprised of all relevant facts might reasonably and bona fide think that there was real likelihood of bias and that bias cannot be inferred on vague suspicions of whimsical, capricious (sic.) and unreasonable person.

(5) Bias may be apparent or inherent in the proceedings and there must be reasonable evidence to satisfy that there was a real likelihood of bias.

(6) Bias may arise under various circumstances viz. pecuniary, non-pecuniary affinity, consanguinity, friendship or hostility, subordinate status etc.

It may be personal bias or departmental or administrative bias or objectionable bias (e.g. prejudging to (sic. the) issue)

(7) Principle of waiver applies to the rule against bias provided the objection is taken as soon as the party prejudiced knows the facts which entitle him to object. However, in cases where even though true facts are known, but if he establishes that he was unaware that he was entitled to take objection, the principle will not apply.

(8) The principle has no application where the authority discharges the function under so a statute or when the doctrine of necessity is invoked.

(9) The proceedings or decisions afflicted with bias are wholly void.

45. Keeping the above principles in view, it has to be considered whether there was real likelihood of bias in the disciplinary proceedings against the petitioner.

46. The undisputed facts are that the 2nd respondent is the appointing authority and also the complainant, who had figured as witness before the Enquiry Officer (of the rank of a Junior Scale Officer). The 1st respondent who had issued the charge sheet also a Senior to the petitioner and he is a Senior Scale Officer, who Of again figured as witness before the Enquiry Officer. Both the complainant and the Officer, who issued charge-sheet are administratively superiors to the Enquiry Officer. Under these circumstances, can it be said that the proceedings are tainted by bias. Though the Regulations do not in many words provide that a Senior Officer should not be examined by the Junior Officer in a disciplinary proceedings, but at the same time, the principles of fairplay require that there should neither be bias in the proceedings nor the real likelihood of bias. The test for real likelihood of bias is that one should not put a question to himself " Am I biased?", but he should look the mind of the party before him. Therefore, the Court does not look at the mind of the Enquiry Officer, who functions as a quasi-judicial authority to find out whether he is likely to be influenced by the higher Officers or whether there is any likelihood of bias creeping into proceedings. But, the test is that even if the Enquiry Officer is impartial, if right minded persons would think that, in the circumstances of the case, there was a real likelihood of bias on his part, then the Enquiry Officer should not function as such and if he functions and renders a decision that gets invalidated. Thus, the Court will not enquire whether the Enquiry Officer in fact favoured one side unfairly. Suffice if the reasonable people think that he did. The reasons are obvious that Justice must be rooted in confidence. The said confidence is destroyed when the right minded people can say that the Judge was biased. Let us consider the case on hand whether the real likelihood of bias has been established.

47. Admittedly, the person who issued the charge-sheet figured as a witness before the Enquiry Officer, who is subordinate in rank. So also, appointing authority who is a complainant is higher in rank to that of Enquiry Officer, who also gave statement before the Enquiry Officer, a subordinate Officer by many stages. In fact the petitioner right from the beginning has been making a hue and cry not to allow the Enquiry Officer to proceed with the enquiry as the Enquiry Officer being subordinate would be susceptible for leaning towards his superiors when they are examined before him. In such a situation, it is always reasonable to think that the mind of the Officer of a lower rank is prone to influence when his higher Officers present before him and give statement against the delinquent officer. Therefore, the Enquiry Officer cannot be said to act independently, howsoever clean his conscience may be and inescapable conclusion one can draw is that there was real likelihood of bias. The crucial test

that has to be applied in such cases is whether there was a real likelihood of bias. If a reasonable man of ordinary prudence appraised of the facts and situation comes to the bona fide conclusion that there was real likelihood of bias, it is sufficient to invalidate the proceedings, and actual bias need not be proved. Thus, I hold that the bias is inherent in the proceedings.

48. It is always desirable that when the higher Officer is a complainant than the delinquent Officer, the enquiry should be conducted by an officer not below the rank of the complainant. Otherwise, it is prone to suffer from bias inherent in the proceedings. Nothing could have prevented the authorities from nominating the Enquiry Officer of the equivalent or higher rank of the Regional Manager. The Corporation cannot also apply the doctrine of necessity in this case, as it cannot be said that there were no Officers of the rank of the Regional Manager and above. In fact the order of punishment was passed by another Officer of the same rank. The doctrine of necessity has been elaborated in Haisbury's Laws of England, 4th Edn., page 89, paragraph 73, wherein it was reiterated thus:

"that even if all the members of the Tribunal competent to determine a matter were subject to disqualification, they might be authorised and obliged to hear that matter by virtue of the operation of the common law doctrine of necessity. An adjudicator who is subject to disqualification on the ground of bias or interest in the matter which he has to decide may in certain circumstances be required to adjudicate if there is no other person who is competent or authorised to be adjudicator or if a quorum cannot be formed without him or if no other competent Tribunal can be constituted."

Therefore, viewed from any angle, I am driven to an irresistible conclusion that the disciplinary proceedings suffer from bias inherent. Proceedings which are afflicted with bias can neither be cured nor dissected. Therefore, such proceedings have necessarily to be declared as illegal and invalid. Accordingly, entire disciplinary proceedings including the order of punishment passed by the 5th respondent and also the modified order passed by the 4th respondent are illegal and unsustainable in law, and they are set aside. In view of this finding, I do not intend to consider the contention of the learned Counsel for the petitioner that the findings of the Enquiry Officer are perverse and the punishment meted out to the petitioner both by the 5th respondent and modified by the 4th respondent are arbitrary and grossly disproportionate to the misconduct if any committed by the petitioner.

49. The Writ Petition is accordingly allowed and the impugned orders dated August 19, 1996 passed by the 5th Respondent as modified by the 4th Respondent dated November 12, 1996 are quashed.

50. However, the conscience of this Court compels to make certain observations:

The Corporation is a statutory body constituted under the Road Transport Act and it had framed the C. C. A. Regulations for proper conduct of the disciplinary proceedings so as to maintain discipline at all levels. It is incumbent on the part

of the Officers more especially who are in the higher echelons to have a thorough knowledge of conduct and disciplinary rules. In the tension mounted scuffle erupted between the Subordinate Officer and his Superior Officer, it is always open for the higher authorities of both these Officers to initiate disciplinary proceedings in accordance with the Regulations. But, at the same time, the 2nd Respondent cannot give a go-by to the Regulations and act himself to the dictates of the situation rather than following the regulations. It may be that he was hurt by the behaviour of the Subordinate Officer, but at the same time, he cannot make a complaint of the situation to his Subordinate Officer and direct him to proceed against the delinquent Officer in the absence of any Regulation to that effect. This is what exactly happened in this case on November 9, 1995 when the incident took place in which the 2nd Respondent Regional Manager makes a complaint to the Senior Manager, a subordinate Officer to take action against the petitioner. The 2nd Respondent could have sought instructions from the higher authorities instead of asking the lower authority directing to initiate action: which is contrary to the Regulations. By this, an inherent and incurable defect had crept in, which cannot be extricated by any amount of genuineness in the complaint. A simple omission costed the Corporation heavily both on discipline and financial front. Thus, it is emphasised that the Officers in the higher strata should be fully equipped with the procedural aspects while dealing with the disciplinary matters and if necessary they should be deputed for training in disciplinary matters, so as to get themselves fully acquainted with the procedures. Otherwise, the disciplinary proceedings even though there is sufficient evidence to find the delinquent employee guilty of the charges, yet they escape on account of the technical snags. It is hoped that the Corporation will take prompt action to ensure that the authorities who are vested with the disciplinary powers are kept abreast of the various steps and procedures, which have to be observed in the disciplinary proceedings.

51. Accordingly, the writ petition is allowed. No costs.