

(2007) 04 GAU CK 0001
In the Gauhati High Court

Prasanna Kumar Agarwal (Dr.)	Vs	APPELLANT
State Bank of India and Others		RESPONDENT

Date of Decision : 13-04-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 3 GLT 394 : (2008) 1 LLJ 10

Hon'ble Judges : T. Vaiphei, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

T. Vaiphei, J.—The legality of the disciplinary proceedings conducted against the petitioner and the major penalty in the form of reduction to one stage lower in his time scale of pay for a period of two years with further direction of withholding his increment of pay during the period of such reduction having the effect of postponing his future increment of pay, even after the expiry of such reduction, is called into question in this writ petition.

2. Mr. V.K. Jindal, the learned senior Counsel for the petitioner and Mr. S.S. Sarmah, the learned senior Counsel for the respondent-Bank have been extensively heard by me.

3. The material facts giving rise to this writ petition are that the petitioner was appointed as Part Time Medical Officer sometime in the year 1983 and was posted at the Regional Office of the respondent-Bank, Shi Hong and that on or about January 30, 1987, the Central Bureau of Investigation (CBI for short) registered a criminal case against him on the ground that he and the Deputy General Manager of the Bank had entered into a criminal conspiracy and cheated the Bank to the order of Rs. 1,89,850.70p. over the purchase of medicines for the Bank's Clinic/Dispensary in 1984. The petitioner was then placed under suspension on November 17, 1989. Against this suspension, the petitioner instituted a civil suit being Title Suit No. 155(H)89 challenging his suspension

order and managed to obtain an interim injunction against the suspension order, but the suit came to be dismissed on July 24, 1992 in default of prosecution even before he got his suspension order revoked by the Bank. Undaunted, he kept on requesting the Bank to revoke the suspension, but he refused to do so. After sixteen years of the incident, which is the subject matter of the criminal case, the respondent No. 6 on April 26, 2000 issued the charge sheet against the petitioner, who denied all the charges by submitting his reply. The petitioner again filed a writ petition being W.P. (C) No. 262 (SH) 2000 challenging his suspension order, which was quashed by the learned single Judge of this Court by the judgment and order dated June 1, 2001 by directing the Bank to reinstate him to his post. The respondent-Bank complied with the order of this Court and accordingly allowed the petitioner to resume his duty on June 7, 2001. The respondent-Bank, however, preferred Writ Appeal No. 10(SH)2001 from the said judgment of the learned single Judge, and the same was quashed by the Division Bench of this Court by the judgment and order dated March 18, 2002 by giving the liberty to the Bank to pass fresh orders in accordance with law. Even so, the Division Bench directed the Bank to conclude the enquiry within six months from the date of the first sitting held by the Enquiry Officer.

4. The petitioner ultimately replied the show cause notice dated March 29, 1994 on December 21, 1999 as he apprehended that he would be proceeded against ex parte. At this stage, it may be noted that the petitioner had in the interregnum made a grievance against the refusal of the respondent-Bank to allow him to inspect the documents pertaining to the allegations made against him, which, according to him, handicapped him from giving effective reply to the said show cause notice.

5. Since the petitioner was charged with four charges, but was found guilty of only Charge Nos. I and II in the departmental enquiry, which are the subject matter of the writ petition for the sake of brevity, only those charges may be reproduced as under:

Charge-I

It is observed that while you were Medical Officer at Zonal Office, Shillong medicines worth Rs. 40,120.48 and Rs. 44,690.17 were purchased from Agarwal Pharmacy, Guwahati for Zonal Office Dispensary. It is also observed that prior to your appointment, as the Bank's Medical Officer, you used to function as consultant doctor at the above mentioned pharmacy and the proprietor of the pharmacy is your father. You had failed to disclose the fact to the appropriate authority. You have thus violated Rules 50(I) and 52(3)(iii) of the State Bank of India Officers Service Rules which are applicable to you.

Charge-II

Medicine worth Rs. 65,518.25 and Rs. 39,486.80 were purchased from Shalex Distributors, Pan Bazar, Guwahati, a fictitious firm. The licence No. 1630/1631 mentioned on the bills, etc. actually belong to Mehendi Medical Store, Nagrijuli,

Kamrup, under the restricted drug licence issued by the Controller of Drugs, Assam. No such firm under Shalex Distributors or its proprietor Shri Bimal Choudhury is registered with the Controller of Drugs, Assam. The firm also does not exist in the given address at Pan Bazar, Guwahati. It is alleged that the bills of the medicines purported to have been supplied by Shalex Distributors paid by bank draft issued by Laitumkhrah branch vide drafts No. OL/AP 305632 dated February 19, 1985 for Rs. 39,486.80 and No. OL/AP 305339 dated November 12, 1984 for Rs. 65,518.25 were received by you under your signature. Thus you have violated Rules 50(4) and Rule 52(3)(iii) of SBI Officers Service Rules by placing order with a non-existing/fictitious firm.

6. Apparently, things started moving forward only after all this spate of litigations initiated at the behest of the petitioner, rightly or wrongly. The Enquiry Officer concluded his enquiry and submitted his report to the disciplinary authority on March 31, 2003. The Enquiry Authority found that none of the charges levelled against the petitioner were proved. A grievance is made by the petitioner that the enquiry was not completed within the time stipulated by this Court. The disciplinary authority by his letter dated May 8, 2003 informed the petitioner that he disagreed with the findings of the Enquiry Authority in respect I of the Charge No. 1 and held this charge to be proved and called upon him to submit his explanation within a period of 7 days, which he did. Subsequently, the disciplinary authority apparently changed his mind and by his letter dated August 6, 2003 informed the petitioner that he also held the Charge No. 2 as proved and required him to make his representation in that behalf within seven days. Terming this exercise by the disciplinary authority as illegal and tantamount to ordering de novo trial and questioning the failure on the part of the disciplinary authority to complete the proceedings against him within six months as directed by the Division Bench of this Court, the petitioner embarked upon another journey of litigation by filing W.P. (C) No. 259 (SH) 2003 before this Court but the same was withdrawn by him with a liberty to file a fresh case. In the meantime, the petitioner had already submitted his representations against both the letters dated May 8, 2003 and dated August 6, 2003. The representations of the petitioner apparently did not find favour with the disciplinary authority, who thereupon held him guilty of the two charges and imposed major penalty by the impugned order. This is how this writ petition has been filed.

7. The respondent-Bank contested the writ petition and filed their affidavit-in-opposition. While denying the allegations of the petitioner that he has been subjected to arbitrary, wrongful and capricious actions at the hands of the respondent-Bank, the Bank pointed out that the delay in the disposal of the disciplinary proceeding against him was attributable to his own conduct in engaging the Bank in a series of unmerited frivolous litigations, all of which were dismissed eventually. To demonstrate this state of affairs, the respondent-Bank also quoted therein the observations made by this Court on the dilatory tactics adopted by the petitioner to stall both the departmental and criminal proceedings against him. It is pleaded by the Bank that the CBI prosecuted the petitioner for

criminal conspiracy and cheating over the purchase of medicines. The respondent-Bank flatly denied that the charges levelled against the petitioner in the disciplinary proceeding initiated against him are substantially similar to the allegations; against him in the criminal proceeding started by the CBI, a fact not accepted by this Court in its observations made in W.A. No. 234/01 (W.A. No. 10(SH)01). The Bank also controverted the claim made by the petitioner; that he was denied an opportunity to inspect relevant documents, which rendered him handicapped in his defence and asserted that some documents, which were in the custody of the CBI, could not obviously be handed over to him by the Bank. According to the Bank, the disciplinary authority has the power to disagree with the findings of the Enquiry Authority and can independently come to a different conclusion if there are adequate reasons for the same; that sufficient reasons were indicated by the disciplinary authority in the letter dated May 8, 2003 for disagreeing with the findings of the Enquiry Authority and the petitioner was also given sufficient opportunity to submit his representation.

8. It is also contended by the respondent Bank that the letters dated May 8, 2003 and August 6, 2003 nowhere indicated that the disciplinary authority changed his mind on the findings recorded by the Enquiry Authority. The Bank denied that the said two letters were issued with an ulterior motive to deprive the petitioner of the benefits of his suspension period. The Bank maintained that the respondent No. 5 is the appointing authority of the petitioner and, was, and is, therefore, the competent authority to issue the impugned penalty. It is added by the Bank that at the relevant time, there was no post like General Manager (Operations) and, in fact the said post has been re-christened as General Manager, Commercial Network. It is asserted by the Bank that the continued sufferance of the petitioner since 1989 was due to his own acts and was already paid what he was entitled to. It is contended by the Bank that to accede to the request of the petitioner for treating his period of suspension of 12 years as on duty with pay and allowances would amount to rewarding him for the dilatory tactics adopted by him in filing one case after another without reasonable cause, especially when he did not perform any duty during that period. It is also pleaded by the Bank that the petitioner misused his position and was instrumental in placing orders for purchasing medicines from Agarwal Pharmacy, Guwahati, of which he was one of the partners along with Ms. Shanti Devi Chandgothia, a fact he did not disclose and that he was also instrumental in placing supply orders with Shalex Distributors, which was found to be a fictitious firm and also received the cheques on behalf of the said firm. It is thus contended by the Bank that there is no merit in this writ petition, which is liable to be dismissed.

9. The petitioner thereafter filed two rejoinder-affidavits which was followed suit by an additional affidavit from the respondent Bank. On careful examination of these affidavits, I am of the view that the contents thereof are virtually repetition of their respective averments in their original pleadings and are accordingly not reproduced herein for the sake of brevity. The first contention of Shri V.K. Jindal, the learned senior Counsel for the petitioner is that the incident in question

pertains to the period of 1983-84, for which show cause notice was issued by the Bank only on March 29, 1994 i.e. after the lapse of almost 10 years, while the charge-sheet against the petitioner was issued to him only on April 26, 2000 i.e. after the lapse of nearly 16 years from the date of the incident in question the respondent-Bank acted illegally in issuing the charge sheet after such an inordinate delay. The learned senior Counsel further contends that in the absence of any material produced by the disciplinary authority to sustain the charges made against the petitioner, the disciplinary authority did not have any reasonable ground for disagreeing with the findings of the Enquiry Authority holding the charges against the petitioner not proved: the findings so arrived by the disciplinary authority to the contrary is: wholly erroneous and are perverse. Drawing my attention to the allegation No. 1 in the charge sheet, the learned senior Counsel submits that there is no evidence to show that the order for the purchase of the medicines were issued by the petitioner; he merely prepared the indents for the same while the Chief Regional Manager from time-to-time placed such purchase orders. He also invites my attention to the document marked PEX-3 to show that all the medicines mentioned in the Bill dated May 7, 1984 were duly received and entered in the Stock Register.

10. It is also contended by the learned senior Counsel that the petitioner had nothing to do with the payment of the bills either inasmuch such payments were processed by the Office Manager of the Bank and were approved by the Chief Regional Manager. As for the allegation, No. 2, the learned senior Counsel admits that the petitioner, being a Medical Officer, undoubtedly, had a role to play in preparing the list of medicines to be purchased, but he contends that it was the Chief Regional Manager and the Office Manager, who identified and selected the Distributor to supply the medicines and the findings of the disciplinary authority that it would be naive to suggest that they would have chosen the distributors for supplies, is absolutely incorrect and is contrary to the evidence on record. According to the learned senior counsel, it was not the duty of the petitioner to verify the existence or otherwise of the firm or distribution he was merely the authority to prepare the indents for the purchase of medicines and was never involved in the selection of distributors. Thus, the findings of the disciplinary authority are not based on evidence and are liable to be quashed, contends the learned senior counsel. In any view of the matter, according to the learned senior counsel, the disciplinary proceedings against the petitioner culminating in the impugned order of the disciplinary authority and that of the appellate authority cannot be sustained in law.

On the other hand, Mr. S.S. Sarmah, the learned senior Counsel for the respondent-Bank, inviting my attention to the file relating to the disciplinary proceedings as well as the provisions of the State Bank of India Service Rules, vehemently submits that there was no violation of principles of natural justice or of the regulations of the Bank prescribing the mode of enquiry nor was the decision vitiated by consideration of extraneous matters or by non-consideration of relevant matters or by arbitrariness or by perverse findings, which alone can

warrant the interference of this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. He, therefore, urges this Court to dismiss the writ petition, which is absolutely devoid of merit.

11. In so far as the question of inordinate delay in the disciplinary proceeding against the petitioner is concerned, the submission of the learned Counsel for the petitioner that such delay vitiates the entire disciplinary proceedings deserves to be rejected inasmuch as it is now demonstrably shown, from the own showing of the petitioner, that it was he who effectively hampered the proceeding by initiating a spate of litigations without reasonable cause, as evidenced by the subsequent dismissals of those proceedings. Therefore, the petitioner cannot have legitimate grievance in this behalf. The second contention of the learned senior Counsel for the petitioner is that when the allegations levelled against the petitioner in the criminal case initiated by the CBI ended in his acquittal, the enquiry held by the Bank in respect of similar charges and allegations against him cannot be sustained, must also meet similar fate. In the first place, the petitioner was not acquitted, but was only discharged from the case and this did not, therefore, preclude fresh proceeding against him in the criminal case if more evidence comes to light in future. Thus, the doctrine of *autrefois acquit* cannot apply in such a case. *A fortiori*, such discharge in contradistinction to acquittal cannot bar the disciplinary proceeding against the petitioner even if it is assumed that the facts and evidence being produced in the two cases are found to be identical. Therefore, it is hardly necessary to examine whether the charges, facts and evidence in the two cases are similar or identical. Whether the disciplinary authority can disagree with the findings of the enquiry authority and if so, under what circumstances, are the next questions to be examined. Before proceeding further, it will be useful to remind ourselves on the correct legal positions, which have emerged from a long line of decisions rendered by the Apex Court, and which are reiterated by the top Court in one of the cases, namely, *High Court of The High Court of Judicature at Bombay, Through Its Registrar Vs. Shashikant S. Patil and Another*,

79. The reasoning of the High Court that when the Disciplinary Committee differed from the finding of the Enquiry Officer it is imperative to discuss the materials in detail and contest the conclusion of the enquiry officer, is quite unsound and contrary to the established principles in administrative law. The Disciplinary Committee was neither an appellate nor a revisional body over the enquiry officer's report. The enquiry is primarily intended to afford the delinquent officer a reasonable opportunity to meet the charges made against him and also to afford the punishing authority with the materials collected in such enquiry as well as the views expressed by the enquiry officer thereon. The findings of the enquiry officer are only his opinion on the materials, but such findings are not binding on the disciplinary authority as the; decision-making authority is the punishing authority and, therefore, the authority can come to its own conclusion, bearing in mind the views expressed by the enquiry officer. But it is not necessary that the disciplinary authority should "discuss materials in

detail and contest the conclusions of the enquiry officer". Otherwise the position of the disciplinary authority would get relegated to a subordinate level.

12. From the authority cited above, it is no longer *res integra* that neither the findings of the enquiry authority nor his recommendations are binding upon the disciplinary authority. The disciplinary authority may agree with the report or may differ, either wholly or partially, from the conclusions recorded in his report. If the enquiry officer makes findings in favour of the delinquent official and the disciplinary authority disagrees with the said findings and holds that the charges framed against him are *prima facie* proved, the disciplinary authority should record his reasons for such disagreement in terms of Clause 68(ii) of the relevant Service Rules, records his reasons for disagreement and record his findings on such charge; if the evidence on such charge record is sufficient for the purpose. The disciplinary authority may, in fairness, communicate his reasons for the disagreement to the delinquent official and requires him to submit his representation against his findings, even though this requirement is not expressly provided for in the rule. Having set out the correct procedures to be followed, the next question which falls for consideration is whether such reasons for disagreement with the findings of the Enquiry Authority have been recorded by the disciplinary authority? At this stage, it may also be in place to set out the parameters for reviewing the findings of a disciplinary authority in a departmental enquiry in the words of the Apex Court in *Sashikant Section Patil* case (*supra*), which are as follows:

The Division Bench of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such inquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, grounds very similar to the above. But it cannot be overlooked that the departmental authority (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the enquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed under Article 226 of the Constitution.

13. It is thus clear that the adequacy of the; evidence, nay, even the reliability of the evidence, brought on record in the course of enquiry, cannot even be examined by this Court. In other words, this Court is barred from re-appreciating the evidence on record; such exercise can be undertaken only by the appellate authority and not by this Court in exercise of its writ jurisdiction. The scope of

enquiry by this Court in a case of this nature is whether there is some evidence, which can; reasonably support the conclusion of the disciplinary authority. The charge against the petitioner in Allegations No. 1 is that while he was the Medical Officer at the Zonal Office, Shillong, he purchased medicines worth Rs. 40,120.48p. and Rs. 44,690.17p. from Agarwal Pharmacy, Guwahati for the Zonal Office Dispensary for which he used to be the Consultant Doctor prior to his appointment and which firm belonged to his father, which he had, failed to disclose to the appropriate authority. The Disciplinary authority recorded the finding that as per exhibit PEX-1, the list of medicines was prepared and signed by the petitioner on May 1, 1984, while the order dated May 1, 1984 for supply of medicines was signed by the Chief Regional Manager (CRM): that the letter vide Exhibit PEX-2 appeared to be an order addressed to Agarwal Pharmacy listing the medicines to be supplied and signed by him, which showed that unlike the supply orders at PEX-7 and PEX-9, the supply order was directly placed by him to Agarwal Pharmacy, Guwahati, which was in violation of the existing procedure that as per PEX-17, the bill for the said supply order was paid by a draft bearing No. 305202 dated September 5, 1984 in the amount of Rs. 44,690/- favouring Agarwal Pharmacy, and the same was collected by him under his signature, which, demonstrated that he showed extra interest in the transaction. According to the disciplinary authority, the act of the petitioner in directly placing order with Agarwal Pharmacy, in which he had interest, without disclosing this to the Bank, violated Rule 52(3)(iii) of the State Bank of India Officers Service Rules.

14. I have carefully gone through the documents at PEX-1, PEX-2, PEX-7, PEX-9 and PEX-17, which are annexed to the writ petition. PEX-1 is the letter of the Chief Regional Manager of the Bank addressed to Agarwal Pharmacy, Guwahati for supply of medicines in the enclosed list, which were apparently to be handed over to the petitioner. The enclosure is the list of medicines prepared admittedly by the petitioner. PEX-2 is apparently the proposal made by the petitioner to the Chief Regional Manager for purchase of medicines listed therein from Agarwal Pharmacy. This letter dated August 7, 1984. PEX-2 is obviously the list of medicines to be purchased for SBI Dispensary at Shillong prepared by the petitioner addressed to Agarwal Pharmacy, Guwahati and the letter was signed by the petitioner and was dated August 7, 1984. However, there is the noting of the Office Manager dated September 1, 1984 on top of the said letter addressed to the CRM stating that the rates of medicines listed therein had been verified with the rates of local parties and were reasonable, etc. According to the disciplinary authority, this letter showed that the order was placed by the petitioner without any authority from the CRM and that it was due to this lacuna in the process adopted by him that the Office Manager had to seek the approval of the CRM. In my judgment, the view so taken by the disciplinary authority is a possible view and also not a view unsupported by evidence. The extant procedure for purchase of medicine by the Bank is found at PEX-20, which was prepared by no less a person than the petitioner himself. The said medicines in the instant case were purchased in 1984. The procedure followed prior to March

22, 1985, as per PEX-20, was that the Medical Officer submitted the list of medicines to the Chief Regional Manager who used to issue letters of authorizations to the Medical Officer, who on the basis thereof, used to place the orders with the distributors. Thus, the conclusion of the disciplinary authority that the petitioner violated the extant procedure in placing the purchase order directly to the firm in question, does not suffer from any infirmity.

15. It is, however, the case of the petitioner that his association with Agarwal Pharmacy had been well-known to the respondent-Bank and besides, being a part-time Medical Officer, he was permitted by Clause 6, 19 under the heading "Conduct and Disciplinary Rules" to carry on private practice or engaged in part-time employment elsewhere, outside working hours in the Bank. True, this rule permitted the petitioner to undertake such activities. But it must be noted that the gravamen of the charge against him is not that he undertook such activities but, rather, that he directly placed supply order with Agarwal Pharmacy in which he had an interest and, that too, without disclosing his interest to the Bank. Mr. S.S. Sarmah, the learned senior Counsel for the Bank, draws my attention to Clause 52(3)(iii) of the said Service Rules, which, inter alia, prohibits any officer of the Bank, in the discharge of his official duties, from knowingly entering into on behalf of the bank any proposal not being related to a loan or advance with any undertaking or person if any of his relatives is employed in that undertaking or under that person or if he has interest in any other manner in such proposal and the official shall refer such matter proposal to his superior officer and such proposal shall thereafter be disposed off according to the instruction of the authority to whom such a reference is made. In my opinion, on the facts established, the petitioner has violated Clause 52(3)(iii) of the related Service Rules and the finding to that effect recorded by the disciplinary and appellate authority is correct and can hardly be interfered with by me in a writ jurisdiction. In a domestic enquiry, all the strict and sophisticated rules of the Evidence Act are not applicable.

16. Coming now to the charge relating to Allegations No. 2, the disciplinary authority found that Shalex Distributors was a fictitious firm; that as per PEX-20, which was the note prepared by the petitioner himself, it was the petitioner who was evidently the key person in the whole process for preparing the list of medicines, interacting with the distributors and eventually placing orders with the distributors that it would be naive to suggest that the CRM and the Office Manager would have chosen the distributors for supplies; that as per PEX-6, the Draft dated November 12, 1984 amounting to Rs. 65,518.25p. and dated February 19, 1985 for Rs. 39,486.80p. favouring Shalex Distributors were received by him under his signature, which were in conformity with his recorded signature and that he was responsible for the placement of the two large value orders with such fictitious firm. These findings are seriously disputed by the learned senior Counsel for the petitioner. To prove that Shalex Distributors was a fictitious firm, the learned senior Counsel for the respondent refers me to the letter dated January 7, 1986 of the Addl. Drugs Controller, Dispur, Guwahati

addressed to the Circle Vigilance Officer, Vigilance Department, North Eastern Circle, A.T. Road, Guwahati, which is a part of the enquiry file, stating that no licence was granted to Shalex Distributors and that the licence under reference was granted to Mahindra Medical Store, Nongrijuly, Dist. Kamrup, which had also been cancelled with effect from January 1, 1977. Though the letter was not discussed by the disciplinary authority in his findings, the document nevertheless forms a part of the record. In fact, no objection was made by the learned senior Counsel for the petitioner against the reference to this letter by the learned Counsel for the respondents. Therefore, the conclusion of the disciplinary authority that Shalex Distributors was a fictitious firm cannot be said to, be based on no evidence.

17. Furthermore, from the document at PEX-6, there is evidence of payment of Rs. 65,518.25 and another payment of Rs. 39,486.50p by cheques/drafts in favour of Shalex Distributors. According to the disciplinary authority, these drafts were] received by the petitioner under his signatures, which were in conformity with his recorded signatures. PEX-7 is the supply order issued by the CRM on September 24, 1984 to Shalex Distributors for a bulk of medicines, while PEX-8 is the supply order issued by the same authority on the same day to Shalex Distributors for another set of medicines. In both the supply orders, the CRM asked Shalex Distributors to hand over those medicines to the petitioner. It may, however, be noted that PEX-20 did not mention anything about Shalex Distributors or the payment of bills for the medicines to this firm as claimed by the disciplinary authority. Therefore, this finding appears to be perverse and also betrays non-application of mind by the disciplinary authority. Nevertheless, this perverse finding alone cannot otherwise vitiate the remaining findings of the disciplinary authority. From the circumstances appearing- from PEX-7 and PEX-8, the conclusions of the disciplinary authority that the petitioner was responsible for the placement of two large value orders with the fictitious firm, Shalex, Distributors, Guwahati and that he had more than ordinary interest in the said firm, cannot be said to be without evidence. The law is well-settled that in a departmental enquiry, if there is some evidence, which can reasonably support the conclusion of the disciplinary authority, such conclusion is not liable to be interfered with by a writ Court. Moreover, if there can be two possible views on a matter, a writ Court cannot substitute its view for the, view of the decision-making authority on the ground that the other views could have been a better view. In this view of the matter, I have no hesitation to hold that there is no infirmity in the findings of the disciplinary authority warranting my interference.

18. It is next contended by the learned senior Counsel for the petitioner that the disciplinary authority has acted with material irregularity in holding the charges in the allegations No. I and II against the petitioner proved and at the same time requiring him to submit his representation within a period of 7 days. According to the learned counsel, this shows that the disciplinary authority had already made up his mind and required the petitioner to submit his representation only thereafter, which renders the opportunity of hearing given to him illusory. I

concede that the letter dated August 6, 2003 of the disciplinary authority addressed to the petitioner for making such representation left much to be desired and the disciplinary authority should have been more careful in the preparation of the letter in question or in its wordings so that the petitioner was not given to understand that he had already been condemned unheard. The disciplinary authority should have at least recorded that the conclusions arrived at against the charges in Allegations No. I and II were only tentative. However, on the facts and circumstances of the case, no serious prejudice could have been caused to the petitioner by such act of commission or omission on the part of the disciplinary authority, especially when the learned Counsel for the petitioner in the course of hearing could not point out any infirmity of serious nature in the findings of the disciplinary authority. It is a settled proposition of law without reference to cases that the theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether, in fact, prejudice has been caused to the employee or not on account of the denial to him of an opportunity to make such representation, has to be considered on the facts and circumstances of each case. In the instant case, where, even after full scale hearing of the case spanning for two whole days, if no infirmity of grave nature could be pointed out even by the counsel for the petitioner, it would be an unnecessary ritual to remit the matter to the disciplinary authority for fresh decision. In any case, in the course of hearing, I have repeatedly indicated to the learned senior Counsel for the petitioner that I would be willing to resort to this exercise if the outcome of such exercise could lead to different consequence, but the suggestion was not welcomed by him, and rightly so. On consideration of the entire facts and circumstances, I am of the opinion that the disciplinary proceeding against the petitioner is not vitiated by violation of natural justice, or of statutory regulations prescribing the mode of such enquiry or by non-consideration of relevant facts or consideration of irrelevant facts, or by arbitrariness or perversity.

19. The offshoot of the foregoing discussion is that there is no merit in this writ petition, which is liable to be dismissed. I accordingly dismiss the writ petition, but by directing the parties to bear their own costs.