
(2004) 04 AHC CK 0049

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 138 of 1998

Prem Chandra Yadav, Assistant Teacher Cantonment Board
Boys Primary Section

APPELLANT

Vs

Cantonment Board and Others

RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Cantonments Fund Servants Rules, 1937 — Rule 12(11), 12(2)(5A)
Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 15(5), 16(3)
Constitution of India, 1950 — Article 136, 226, 227, 311(2)
Government Servants Conduct Rules, 1947 — Rule 12(8)
Industrial Disputes Act, 1947 — Section 11
Penal Code, 1860 (IPC) — Section 120B, 302

Citation : (2004) 04 AHC CK 0049

Hon'ble Judges : R.B. Misra, J

Bench : Single Bench

Advocate : Sudhir Agarwal and V.K. Agarwal, for the Appellant; S.D. Dubey and U.N. Sharma and S.S.C., for the Respondent

Final Decision : Dismissed

Judgement

R.B. Misra, J.—In this petition prayer has been made to quash the dismissal order dated 03.03.1997 (Annexure-8 to the writ petition) passed by the respondent no. 2 and 4; the appellate order dated 28.4.1997 (Annexure-10 to the writ petition) passed by the respondent no. 1 and further appellate order dated 26.10.1997 (Annexure-12 to the writ petition) passed by the respondent No. 3, with a further prayer to issue a writ of mandamus directing the respondents to reinstate the petitioner on the post of Assistant teacher at Cantonment Board Boys Primary School, Varanasi with all consequential benefits.

2. Heard Sri Sudhir Agrawal, learned Counsel for the petitioner as well as Sri Shakti Dhar Dubey, learned Counsel for the respondents.

3. The facts necessary for adjudication of the present petition are that the

petitioner was appointed as Assistant Teacher in Cantonment Board Boys Primary School, Varanasi on 13.9.1979. On the charges of dereliction of duty, disobedience, misconduct and in respect of the charge unbecoming a government servant, the petitioner was placed under suspension, which was challenged by the petitioner by way of Writ Petition No. 33794 of 1996, which was disposed of on 16.10.1996 with the direction to the respondent to complete the disciplinary inquiry within four months from the date of production of certified copy of the order and with a further direction that the charge-sheet was to be submitted within two weeks and the petitioner was to render full co-operation in the inquiry. A charge-sheet dated 16.11.1996 was issued to the petitioner containing ten charges which was received by the petitioner on 19.11.1996. According to the petitioner as averred in para 6 of the writ petition that the charge-sheet referred and relied upon several letters, complaints and statements of other officiate as documentary evidence besides oral evidence mentioned therein expecting the reply to be given within 15 days by the petitioner, but the documents relied upon and referred in the charge-sheet were not enclosed and furnished to the petitioner along with the charge-sheet and the respondents in reply to para 6 of the writ petition have nowhere indicated in para 7 of the counter affidavit that the documents relied upon in the charge-sheet were enclosed or supplied to the petitioner. According to the petitioner he submitted reply to the charge-sheet on 25.11.1996 denying all the allegations made against him, however, since the documents referred in the charge-sheet since were not furnished to the petitioner, in absence whereof, the petitioner was handicapped in giving the specific reply to those documents and nowhere in para 8 of the counter affidavit the respondents have specifically stated that the documents referred and relied upon in the charge-sheet were supplied to the petitioner, however, in the last paragraph of the charge-sheet dated 16.11.1996 the petitioner was asked to inform the Inquiry Officer as to whether he wanted opportunity of personal hearing before the Inquiry Officer with a further direction to him that in case petitioner wanted to examine or cross examine any witnesses he should indicate in writing the names of the witnesses and also the points on which he wanted the statement of witnesses. The petitioner in his reply no doubt denied charges but did not indicate what specific documents were needed by him. The petitioner neither indicated the documents or records to be inspected nor the detail of witnesses to be examined. The petitioner in his reply wanted that his inquiry should be held before a panel comprising of the President, Vice President and elected members of the Board and without indicating the name of witnesses averred that the statements of witnesses should be recorded without any pressure. The petitioner wanted the proceeding and inquiry to be made confidential where the Executive Officer of the Board was to be kept away from the inquiry and one Sri J. S. Mishra elected member of the Board was requested to keep away from the inquiry to avoid possible influence and Superintendent, Peon and Hira, and Secretary of the Karmchari Sangh were also requested to keep away, however, such request was not found permissible and the petitioner is not expected to make such request and if the Inquiry Officer had not accepted

such request of the petitioner, it was not ingenuine and illegal as contended by the respondents.

4. Col. P.K. Dheer was appointed as Inquiry Officer to conduct the inquiry as contemplated under Rule 12(2)(5-A) of the Cantonment Govt. Servant Rules, 1937 and the Inquiry Officer on 30.12.1996 communicated the petitioner fixing 4.1.1997 as the first date of inquiry and it appears that said communication was made available to the petitioner on 8.1.1997, therefore, the inquiry was adjourned for 22.1.1997 and prior to such a date of hearing the petitioner on 20.1.1997, as averred in para 13 of the writ petition, requested the Inquiry Officer to permit him to appear before the Inquiry Officer along with a counsel to defend his case. Since the Inquiry Officer on 11.2.1997 (Annexure-4(B) of the writ petition fixed 14.1.1997 for hearing at 10.00 A.M. at Cantonment General Hospital, Varanasi for hearing and for adducing the evidence, i.e. date, time and place of the inquiry was fixed by the Inquiry Officer, however, Inquiry Officer in its discretion did not permit any counsel to defend the petitioner on the ground that there is no provisions in reference to Rule 12(8) (a) of the Cantonment Govt. Servant Rules, 1947. According to the petitioner in view of J.K. Aggarwal Vs. Haryana Seeds Development Corporation Ltd. and others, where the Supreme Court while considering the similar provisions has observed that whenever discretion is provided to the disciplinary authority he should permit to the Government Servant to be represented by legal practitioner being part of the principles of natural justice. Similar view was also taken in All 1972 SC 2178 (para 22) (C.L. Subramaniam v. Collector, Central Excise and Custom), wherein Rule 15(5) of CCS (CCA) Rules, 1967 was para-materia with the present rule. Similar view was also taken in Nripendra Nath Bagchi Vs. Chief Secretary, Govt. of West Bengal, .

5. It was contended on the part of the respondents that in view of the discretion of the Inquiry Officer in not allowing any counsel to defend the petitioner is also not ingenuine as the documents, records and statements were of such category, where assistance of the counsel was not found necessary, therefore, not allowing the assistance of an Advocate to the petitioner is also not illegal as allowing a counsel to assist the delinquent in a disciplinary proceeding and during inquiry shall depend upon the facts and circumstances of each case. The Inquiry Officer fixed the date 18.2.1997 for oral hearing at 12.30 P.M. at Recruitment Office, B. N. No. 24, Varanasi Cantt. with indication to the petitioner that earlier opportunity of being heard has since not been availed by him, therefore, a last opportunity of hearing was provided, where the petitioner was expected to appear with all the relevant documents and witnesses, with a further indication that if the petitioner did not appear it was to be presumed that he was not to say anything. According to petitioner this letter dated 17.2.1997 (Annexure-4(E) to the writ petition by the Inquiry Officer was not received by the petitioner. According to the petitioner endeavourance was made to show that the letter dated 17.2.1997 was served by the special messenger i.e. peon, cannot be said to be a true service as the letter was pasted at the residence of the petitioner in

his absence and as the petitioner had to go to Allahabad and Khaga for the matrimonial purpose of his daughter and therefore he sought station leave and the petitioner's application for seeking station leave was illegally rejected and the petitioner in absence of the knowledge could not attend the proceeding held on 18.2.1997 at 12.30 P.M. As the petitioner was not present on 18.2.1997, therefore, the Inquiry Officer in order to provide subsequent opportunity of hearing had adjourned the inquiry for 19.2.1997 at 1.00 P.M. at Cantonment Recruitment Office, Varanasi Cantt. This letter dated 18.2.1997 which was pasted by Sri Heera peon, the special messenger, at the door of the petitioner in his absence was also denied by the petitioner. As contended in para 13 of the counter affidavit the date of hearing that subsequent date, time and place for 19.2.1997 was published in daily newspaper "Aaj" dated 19.2.1997 and when the petitioner did not avail the opportunity of adducing evidence and cross-examining the witnesses, Inquiry Officer concluded the inquiry on 19.2.1997 indicating 10 charges to have been proved against the petitioner and the Executive Officer (respondent No. 2) of Cantonment Board sent the copy of the inquiry report on 31.2.1997 to the petitioner proposing punishment of the dismissal requiring the petitioner to submit his reply by 27.2.1997. A detail reply was submitted by the petitioner taking same plea that the documents relied upon in the charge-sheet had not been made available to the petitioner, in absence of which adequate opportunity of defence has not been availed by the petitioner and adequate reply could not be furnished by him. According to Inquiry Officer the petitioner had never demanded the copies of any specific documents and had never asked for any particular witness to cross-examine and has always tried to avoid to avail the opportunity of hearing and was not cooperative during inquiry. However, the petitioner filed appeal before the Cantonment Board, which was rejected on 28.4.1997 and conveyed to the petitioner by letter dated 29th May, 1997 and another appeal was filed by the petitioner before the General Officer, Commanding Chief i.e. respondent No. 3, which too was rejected on 26. 10.1997 and conveyed to the petitioner by letter dated 5.1 1997. The petitioner has submitted as below:-

(A). Ex-parte proceeding without any communication of notice fixing the date to the petitioner is illegal as in the departmental proceeding charge-sheet and other documents are required to be shown to have been actually served and the concept of "mere communication" is not sufficient in reference to the verdict of the Supreme Court in:

(i). Union of India and Others Vs. Dinanath Shantaram Karekar and Others, , which reads as under:

"3. The respondent was an employee of the appellants. His personal file and the entire service record was available in which his home address also had been mentioned. The charge-sheet which was sent to the respondent was returned with the postal endorsement "not found". This indicates that the charge-sheet was not tendered to him even by the postal authorities. A document sent by

registered post can be treated to have been served only when it is established that it was tendered to the addressee. Where the addressee was not available even to the postal authorities, and the registered cover was returned to the sender with the endorsement "not found", it cannot be legally treated to have been served. The appellant should have made further efforts to serve the charge-sheet on the respondent. A single effort, in the circumstances of the case, cannot be treated as sufficient. That being so, the very initiation of the departmental proceedings was bad. It was ex parte ever from the stage of the charge-sheet which, at no stage, was served upon the respondent."

"10. Where the disciplinary proceedings are intended to be initiated by issuing a charge-sheet, its actual service is essential as the person to whom the charge-sheet is issued is . required to submit his reply and, thereafter, to participate in the disciplinary proceedings. So also, when the show cause notice is issued, the employee is called upon to submit his reply to the action proposed to be taken against him. Since in both the situations the employee is given an Opportunity to submit his reply, the theory of "communication" cannot be invoked and "actual service" must be proved and established. It has already been found that neither the charge-sheet nor the show cause notice were ever served upon the original respondent, Dinanath Shantaram Karekar. Consequently, the entire proceedings were vitiated."

(ii) Dr Ramesh Chandra Tyagi Vs. Union of India (UOI) and Others, , where in paragraph-7 the Supreme Court has held as under:

"7. As regards the dismissal of the appellant it is unfortunate that he did not join. The service discipline does not permit such adamant attitude. We do not approve of the conduct of the appellant. At the same time the authorities too did not adopt any reasonable or rational attitude. They were out to squeeze the appellant and were not willing to budge and consider even when the Director of the Pune Institute requested them not to post-him there as sending such a person . was waste for a man of such high calibre. True, the terms and conditions of appointment provide that he could be transferred anywhere in the country. Yet the action must be fair and order legal. We have avoided entering into fairness but on legality there is not doubt. Such attitude of the administrative set-up is neither healthy nor conducive. In service culture devotion to work and duty is more important than clash of false ego. We are pained to observe that entire proceedings do not leave very happy and satisfactory impression. It was vehemently argued that there was no procedural irregularity. But that is writ large on the face of it. No charge-sheet was served on the appellant. The Enquiry Officer himself stated that the notices sent were returned with endorsement "left without address" and on other occasion, "on repeated visits people in the house that he has gone out and they do not disclose where he has gone. Therefore, it is being returned". May be that the appellant was avoiding it but avoidance does not mean that it gave a right to Enquiry Officer to proceed exparte unless it was conclusively established that he deliberately and knowingly did not accept it. The

endorsement on the envelope that it was refused, was not been proved by examining the postman or any other material to show that it was. refusal by the appellant who denied on oath such a refusal. No effort was made to serve in any other manner known in law. Under Postal Act and Rules the manner of service is provided. Even service rules take care of it. Not one was resorted to. And from the endorsement it is clear that the envelope containing charge-sheet was returned. In absence of any charge-sheet or any material supplied to the appellant it is difficult to agree that the inquiry did not suffer from any procedural infirmity. No further need be said as the appellant having been removed for not complying with the transfer order as it having been held that it was invalid and nonest the order of dismissal falls automatically "

(B). Non-supply of the documents relied upon in support of the charges as also other documents required for defence by the delinquent employee vitiates the entire proceedings in reference to the decisions of the Supreme Court in:

(i) Kashinath Dikshita Vs. Union of India (UOI) and Others, , where in paragraphs-9 and 11 the Supreme Court has held as under: -

"9. This application was unceremoniously rejected by the Board on December 20, 1963. It is thus clear that the appellant's request for supply of copies of relevant documents and statements of witnesses has been refused in no unclear terms. We do not consider it necessary to burden the records by quoting the extracts from the letters addressed by the appellant and the reply sent to him.

The extracts quoted hereinabove leave no room for doubt that the disciplinary authority refused to furnish to the appellant copies of documents and copies of statements. When a Government servant is facing a disciplinary proceedings, he is entitled to be afforded a reasonable opportunity to meet the charges against him in an effective manner. And no one facing a departmental enquiry can effectively meet the charges unless the copies of the relevant statements and documents to be used against him are made available to him. In the absence of such copies, how can the concerned employee prepare his defense, cross-examine the witnesses, and point out the inconsistencies with a view to show that the allegations are incredible? It is difficult to comprehend why the disciplinary authority" assumed an intransigent posture and refused to furnish the copies notwithstanding the specific request made by the appellant in this behalf. Perhaps the disciplinary authority made it a prestige issue. If only the disciplinary authority had asked itself the question "What is the harm in making available the material?" and weighed the pros and cons, the disciplinary authority could not reasonably have adopted such a rigid and adamant attitude. On the one hand there was the risk of the time and effort invested in the departmental enquiry being wasted if the Courts came to the conclusion that failure to supply these materials would be tantamount to denial of reasonable opportunity to the appellant to defend himself. On the other hand by making available the copies of the documents and statements the disciplinary authority was not running any risk. There was nothing confidential or privileged in it. It is

not even the case of the respondent that there was involved any consideration of security of State or privilege. No doubt the disciplinary authority gave an opportunity to the appellant to inspect the documents and take notes as mentioned earlier. But even in this connection the reasonable request of the appellant to have the relevant portions of the documents extracted with the help of his stenographer was refused. He was told to himself make such notes as he could. This is evident from the following passage extracted from communication dated 25-7-1962 from the disciplinary authority to the appellant -

"The Government has been pleased to allow you to inspect all the documents mentioned in Annexure-II to the charge-sheet given to you. While inspecting the documents, you are also allowed to take notes or even prepare copies, if you so like, but you will not be permitted to take a stenographer or any other person to assist you. In case you want copies of any specific documents, from out of those inspected by you, the request will be considered on merits in each case by the Government. In case you want to inspect any document, other than those mentioned in Annexure II, you may make a request accordingly, briefly indicating its relevancy to the charge against you, so that orders of the Government could be obtained for the same. xxxxx As pointed out above, if you wish to have copies of any specific documents, from those inspected by you, you should make a request in writing accordingly, mentioning their relevancy to the charge, so that orders of Government could be obtained.

Government, however, maintains that you are not entitled to ask for copies of documents as a condition precedent to your inspection of the same. I am further to add that in case you do not inspect the documents on the date fixed, you will do so at your own risk."

"11. Be that as it may, even without going into minute details it is evident that the appellant was entitled to have an access to the documents and statements throughout the course of the inquiry. He would have needed these documents and statements in order to cross-examine the 38 witnesses who were produced at the inquiry to establish the charges against him. So also at the time of arguments, he would have needed the copies of the documents. So also he would have needed the copies of the documents to enable him to effectively cross-examine the witnesses with reference to the contents of the documents. It is obvious that he could not have done so if copies had not been made available to him. Taking an overall view of the matter we have no doubt in our mind that the appellant has been denied a reasonable opportunity of exonerating himself. We do not consider it necessary to quote extensively from the authorities cited on behalf of the parties, beyond making passing reference to some of the citations, for, whether or not there has been a denial to afford a reasonable opportunity in the backdrop of this case must substantially depend upon the facts pertaining to this matter."

(ii) JT1995 (1) 270 (Committee of Management Kisan Degree College v. Shambhu Saran Pandey and Ors.), where the Supreme Court in paragraph-5 observed as

follows:

"5. On the facts and circumstances, we are of the view that at the earliest the respondent sought for the inspection of documents mentioned in the charge sheet and relied on by the appellant. It is settled law that after the charge-sheet with necessary particulars, the specific averments in respect of the charge shall be made. If the department or the management seeks to rely on any documents in proof of the charge, the principles of natural justice require that such copies of those documents need to be supplied to the delinquent. If the documents are voluminous and cannot be supplied to the delinquent, an opportunity has got to be given to him for inspection of the documents. He would be open to the delinquent to obtain appropriate extracts at his own expense. If that opportunity was not given, it would violate the principles of natural justice. At the enquiry if the delinquent seeks to support his defence with reference to any of the documents in the custody of the management or the department, then the documents either may be summoned or copies thereof may be given at his request and cost of the delinquent. If he seeks to cross-examine the witnesses examined in proof of the charge he should be given (he opportunity to cross examine him. In case he wants to examine his witness or himself to rebut the charge, that opportunity should be given. In this case, at the earliest, the delinquent sought for inspection of the documents. It is now admitted in the affidavits filed in this Court and in the letter written by the enquiry officer, that some of the documents were seized by the police after the murder of the Manager of the appellant-institution on 31.7.80 for investigation. In that case the respondent was also one of the accused charged for the offences u/s 302 read with Section 120B I.P.C. It is now an admitted fact that in Sessions Trial No. 228/81 dated 31.7.86 he was convicted for the said offence and was sentenced to undergo imprisonment for life. It would appear that he filed an appeal in the High Court and bail was granted to him."

(iii) State of U.P. Vs. Shatrughan Lal and Another, , where the Supreme Court in paragraphs-8 and 9 observed as under:-

"8. Learned counsel appearing for the appellant has contended that the opportunity to inspect the documents was, as a matter of fact, provided to him as set out in para 10 of the written statement filed before the Tribunal, in which, it was, inter alia indicated as under:

"The petitioner was required to reply to the Charge within a period of 15 days from the date of receipt of the charge-sheet and not from the date of the order as alleged in the petition. It is no doubt correct that the copies of the documents mentioned in the charge-sheet purporting to substantiate a particular charge were not supplied to the petitioner because it was not necessary and the petitioner had every right to inspect them at any time. It is, therefore, wrong to say that the petitioner was greatly handicapped for want of the copies of. the documents mentioned above."

"9. This paragraph of the written statement contains an admission of the appellant that copies of the documents specified in the charge-sheet were not supplied to the respondent as the respondent had every right to inspect them at any time. This assertion clearly indicates that although it is admitted that the copies of the documents were not supplied to the respondent and although he had the right to inspect those documents, neither were the copies given to him nor were the records made available to him for inspection. If the appellant did not intend to give the copies of the documents to the respondent, it should have been indicated to the respondent in writing that he may inspect those documents. Merely saying that the respondent could have inspected the documents at any time is not enough. He has to be informed that the documents of which the copies were asked for by him may be inspected. The access to record must be assured to him."

(iv) 1967 SLR 759 (SC) (para 10) (Trilok Nath v. Union of India and Ors.).

(C). The statements of individual person/ witness were, relied upon in support of the charges, correctness of the contents whereof was disputed by the petitioner in his reply submitted to the charge sheet. In absence of the examination of such witnesses/ author of the documents, such statements could not have been relied upon as these vitiate the entire proceedings in view of the following judgements:

(i) Bareilly Electricity Supply Co. Ltd. Vs. The Workmen and Others, , where in para 14 the Supreme Court has held as under: -

"14. An attempt is however made by the learned Advocate for the Appellant to persuade us that as the Evidence Act does not strictly apply the calling for of the several documents particularly after the employees were given inspection and the reference to these by the witness Ghosh in his evidence should be taken as proof thereof. The observations of Venkatarama Aiyar J., in Union of India (UOI) Vs. T.R. Varma, to which our attention was invited do not justify the submission that the labour matters where issues are seriously contested and have to be established and proved the requirements relating to proof can be dispensed with. The case referred to above was dealing with an enquiry into the misconduct of the public servant in which he complained he was not permitted to cross-examine. It however turned out that he was allowed to put questions and that the evidence was recorded in his presence. No doubt the procedure prescribed in the Evidence Act by first requiring his chief-examination and then to allow the delinquent to exercise his right to cross-examine him was not followed, but that the enquiry Officer, took upon himself to cross-examine the witnesses from the very start. It was contended that this method would violate the well recognised rules of procedure, in these circumstances it was observed at page 264:

"Now it is no doubt true that the evidence of the Respondent and his witnesses was not taken in the mode prescribed in the Evidence Act; but that Act has no application to enquiries conducted by Tribunal even though, they may be judicial in character. The law requires that such Tribunals should observe rules of natural

justice in the conduct of the enquiry and if they do so their decision is not liable to be impeached on the ground that the procedure followed was not in accordance with that which obtains in a Court of Law."

But the application of principle of natural justice does not imply that what is not evidence can be acted upon. On the other hand what it means is that no materials can be relied upon to establish a contested fact which are not spoken to by persons who are competent to speak about them and are subjected to cross-examination by the party against whom they are sought to be used. When a document is produced in a Court or a Tribunal the question that naturally arises is, is it a genuine document, what are its contents and are the statements contained therein true. When the Appellant produced the balance-sheet and profit and loss account of the Company, it does not by its mere production amount to a proof of it or of the truth of the entries therein. If these entries are challenged the Appellant must prove each of such entries by producing the books and speaking from the entries made therein. If a letter or other document is produced to establish some fact which is relevant to the enquiry the writer must be produced or his affidavit in respect thereof be filed and opportunity afforded to the opposite party who challenges this fact. This is both in accord with principles of natural justice as also according to the procedure under Order XIX CPC and the Evidence Act both of which incorporate these general principles. Even if all technicalities of the Evidence Act are not strictly applicable except in so far as Section 11 of the Industrial Disputes Act, 1947 and the rules prescribed therein permit it, it is inconceivable that the Tribunal can act on what is not evidence such as hearsay, nor can it justify the Tribunal in basing its award on copies of documents when the originals which are in existence are not produced and proved by one of the methods either by affidavit or by witness who have executed them, if they are alive and can be produced. Again if a party wants an inspection, it is incumbent on the Tribunal to give inspection in so far as that is relevant to the enquiry. The applicability of these principles are well recognised and admit of no doubt."

(ii) Union of India (UOI) Vs. Sardar Bahadur, , where in paragraph 9 and 10 the Supreme Court has held as under:

"9. It was contended on behalf of the appellant that the Inquiring Officer went wrong in finding that charges Nos. 1 and 2 had not been proved and the President was right in holding that these charges had been proved and therefore the High Court should have found that charges Nos. 1 and 2 were proved, as there was evidence to support the charges. It was contended that the Inquiring Officer wrongly rejected the copies of the statements of the witnesses examined in the criminal trial, which statements if admitted, would have fully established the first two charges against the respondent. Counsel for the appellant argued that the provisions of the Evidence Act are not applicable to disciplinary proceedings and therefore the statements of the witnesses in the criminal trial ought to have been admitted and relied on for establishing the guilt of the

respondent on the first two charges. Counsel relied on the following observation of Venkatrama Iyer, J. in Union of India (UOI) Vs. T.R. Varma, -:-

"Now it is no doubt true that the evidence of the Respondent and his witnesses was not taken in the mode prescribed in the Evidence Act; but that Act has no application to enquires conducted by Tribunal even though they may be judicial character. The law requires that such Tribunals should observe rules of natural justice in the conduct of the enquiry and if they do so their decision is not liable to be impeached on the ground that the procedure followed was not in accordance with that which obtains in a Court of law."

"10. In Bareilly Electric Supply Co. Ltd v. The workmen and Ors., the scope of the above observation was considered and this is what Jaganmohan Reddy, J. said:-

"But the application of principle of natural justice does not imply that what is not evidence can be acted upon. On the other hand what it means is that no materials can be relied upon to establish a contested fact which are not spoken to by persons who are competent to speak about them and are subjected to cross-examination by the party against whom they are sought to be used. When a document is produced in a Court or a Tribunal the question that naturally arises is, is it a genuine document, what are its contents and are the statements contained therein true."

(iii) Kuldeep Singh Vs. The Commissioner of Police and Others, , where the Supreme Court in paragraphs 32 and 34 has observed as under: -

"32. Apart from the above, Rule 16(3) has to be considered in the light of the provisions contained in Article 311(2) of the Constitution to find out whether it purports to provide reasonable opportunity of hearing to the delinquent. Reasonable opportunity contemplated by Article 311(2) means "hearing" in accordance with the principles of natural justice under which one of the basic requirements is that all the witnesses in the departmental enquiry shall be examined in the presence of the delinquent who shall be given an opportunity to cross-examine them. Where a statement previously made by a witness, either during the course of preliminary enquiry or. investigation, is proposed to be brought on record in the departmental proceedings, the law as laid down by this Court is that a copy of that statement should first be supplied to the delinquent who should thereafter be given an opportunity to cross-examine that witness."

"34. In Kesoram Cotton Mills Ltd. Vs. Gangadhar and Others, and State of Uttar Pradesh Vs. Om Prakash Gupta, the above principles were reiterated and it was laid down that if a previous statement of the witness was intended to be brought on record, it could be done provided the witness was offered for cross-examination by the delinquent."

(iv) 1981 LIC 319 SC (P. Nagmani v. State of Andhra Pradesh), where the Supreme Court in paragraph-5 observed as under:

"5. Mr Gupta who appears on behalf of the appellant has drawn our attention to

a report of the Tehsildar in which several facts have been mentioned carefully, bearing on the appellant's age. The report is prima facie persuasive but the one great impediment in accepting it is that it is in the nature of hearsay. If the Tehsildar was examined as a witness by the appellant, it would have been possible for the authorities concerned to cross examine him and ascertain as to what was the source of his information. It seems to us difficult to rely on the mere report of the Tehsildar for the purpose of concluding that the true birth date of the appellant is August 19, 1925 and not April, 1924."

(v) AIR 1961 SC 1070 (Jagdish Prasad Saxena v. The State of Madhya Bharat (now Madhya Pradesh), where the Supreme Court in paragraph- 11 has observed as below:-

"11. It is true that the appellant specifically admitted during the course of the previous enquiry that illegal liquor had been delivered to the contractor, and that he had given the key of the receiver to Naron. It is on the strength of those admissions that the High Court took the view that the appellant had substantially admitted his guilt and so there was really no need for holding a formal enquiry against him after the charge- sheet was supplied to him. In this connection it is necessary to remember that the previous enquiry was not directed against the appellant as such, and he was certainly not in the position of an accused in the said enquiry. In fact, as we have already indicated, the result of the said enquiry was that the appellant was absolved from any complicity in the commission of the offence, and the only criticism made against him was that he was slack in his supervision, that is why he was transferred. In such a case, even if the appellant had made some statements which amounted to admission it is open to doubt whether he could be removed from service on the strength of the said alleged admissions without holding a formal enquiry as required by the rules. But apart from this consideration, if the statements made by the appellant do not amount to a clear or unambiguous admission of his guilt, failure to hold a formal enquiry would certainly constitute a serious infirmity in the order of dismissal passed against him. Under Article 311(2) he was entitled to have a reasonable opportunity of meeting the charge framed against him, and in the present case, before the show cause notice was served on him he has had no opportunity at all to meet the charge. After the charge-sheet was supplied to him he did not get an opportunity to cross-examine Kethulekar and others. He was not given a copy of the report made by the enquiry officers in the said enquiries. He could not offer his explanation as to any of the points made against him; and it appears that from the evidence recorded in the previous enquiries as a result of which Kethulekar was suspended an inference was drawn against the appellant and show-cause notice was served on him. In our opinion, the appellant is justified in contending that in the circumstances of this case he has had no opportunity of showing cause at all, and so the requirement of Article 311(2) is not satisfied."

(D). The Inquiry Officer has proceeded in the matter as if charges stood proved as levelled in the charge-sheet and the department was not required to prove the

same and it was for the petitioner to disprove the charges after receiving the charge sheet. The law requires that even where delinquent employee has not submitted any reply to the charge-sheet it is incumbent upon the department to first prove the charge and thereafter required the delinquent employee to produce his evidence for disproving the charges in the light of the decisions of the Supreme Court in following cases:

(i) *Sawai Singh Vs. State of Rajasthan*, , where the Supreme Court in paragraph Nos. 12 to 18 has held as under:

"12. A fair reading of the said statement would give a complete lie to the charge that the appellant manipulated the withdrawal of Jiwan Dass. It is clear that the first charge was not clear, in the sense, how the appellant was alleged to have manipulated the withdrawal of Jiwan Dass. It is difficult for any officer to meet a charge of this nature. The second charge was about committing forgery effecting erasion of the word "panch" on the nomination paper of Shri Chaturbhuj. This allegation was sought to be proved by the evidence of handwriting expert. The handwriting expert was not available for cross-examination on the ground that at that time he was dead. But if evidence of hand-writing expert was necessary to prove the guilt of the appellant then it was necessary on the part of the department to adduce evidence to call another hand-writing expert to corroborate their charge."

"13. In order to prove the charge against him it was necessary to establish that Shri Chaturbhuj had filed nomination being Ex. P. 13 complete in all respects. Shri Chaturbhuj is the complainant and his evidence on filing of the nomination paper is not only contradictory but also leads one to believe that he had filed an incomplete nomination form. Shri Chaturbhuj in Ex. EH. P1 (D.E.) stated that his nomination paper was duly filled in by him. This was taken by the Enquiry Officer to mean that the nomination paper was complete in all respects and wrongly rejected. Shri Chaturbhuj on 8th July, 1966 was shown the nomination from Ex. P13 and he admitted that Ex. P13 bears his signatures and that he had submitted it for Sarpanch but he did not say whether he had struck off the word "panch" in the nomination paper so as to convey his proposal for Sarpanch. He also could not say on seeing the nomination paper that the work "Panch" in the nomination paper marked A & B by the Additional Commissioner, Departmental Enquiry, had been struck off or not. He could not say whether any rubbing or erasion of the word "Panch" had taken place or not. Shri Chaturbhuj had stated that he did not remember who had written his nomination paper. There were two person at that time. One was his brother Shri Dhar who was not produced in the Departmental Enquiry and the other was Puran Chand Sharma of Ladnun. This was an ambiguous and misleading statement. On the other hand, in the evidence of Shri Puran Chand, he said that he had filled up one form for Shri Chaturbhuj for Sarpanchship and identified the same to be Ex. P. 13. He stated after a look at Ex. P. 13 that the form was filled up by him in his own hand except the signatures which were done by Shri Chaturbhuj himself in his presence. When

the form was shown to him, he stated in his examination-in-chief that the name of Shri Chaturbhuj in Ex. P 13 marked G to H and I to J was in the hand writing of Shri Chaturbhuj himself and also the signatures K to L were in the handwriting of Shri Chaturbhuj. There were several other contradictions in the said statement of Puran Chand which were mentioned in paragraphs 11 to 13 of the writ petition before the High Court, These were not considered by the High Court."

"14. Quite apart from that fact, it appears to us that the charges were vague and it was difficult to meet the charges fairly by any accused. Evidence adduced was perfunctory and did not at all bring home the guilt of the accused."

"15. Shri B. D. Sharma, learned advocate for the respondent, contended that no allegations have been made before the enquiry officer or before the High Court, that the charges were vague. In fact the appellant had participated in the enquiry. That does not by itself exonerate the department to bring home the charges."

"16. It has been observed by this Court in *Surath Chandra Chakrabarty Vs. State of West Bengal*, that charges involving consequences of . termination of service must be specific, though a departmental enquiry is not like a criminal trial as was noted by this Court in the case of *State of Andhra Pradesh Vs. Sree Rama Rao*, and as such there is no such rule that an offence is not established unless it is proved beyond doubt. But a departmental enquiry entailing consequences like loss of job which now-a-days means loss of livelihood, there must be fair play in action, in respect of an order involving adverse or penal consequences against an employee, there must be investigation to the charges consistent with the requirement of the situation in accordance with the principles of natural justice in so far as these are applicable in a particular situation."

"17. This application of those principles of natural justice must always be in conformity with the scheme of the Act and the subject matter of the case. It is not possible to lay down any rigid rules as to which principle of natural justice is to be applied. There is no such thing as technical natural justice. The requirements of natural justice depend upon the facts and circumstances of the case, the nature of the enquiry, the rules under which the Tribunal is acting, the subject matter to be dealt with and so on. Concept of fair play in action which is the basis of natural justice must depend upon the particular lies between the parties. See *K.L. Tripathi Vs. State Bank of India and Others*, . Rules and practices are constantly developing to ensure fairness in the making of decisions which affect people in their daily lives and livelihood. Without such fairness democratic" governments cannot exist. Beyond all rules and procedures that is the sine qua non."

"18. Having regard to the consequences with which the delinquent officer was charged and having regard to the nature of charge and the evidence of hand-writing expert and the absence of opportunity for cross examining and the conflicting nature of evidence of Chaturbhuj and nature of evidence given by

Jiwan Dass, we are of the opinion that the report of the enquiry officer finding the appellant guilty should not have been sustained and the government should not have acted upon it. The High Court, in our opinion, with great respect, was in error in not bearing in mind these aspects which have been indicated hereinbefore."

(ii) 1996 VII AD 821 (SC) , where it was held as below:

" 4. Since the respondents had avoided to submit reply, he has foregone his rights to submit his reply. Nonetheless the appellant are not absolved of the duty to hold ex-parte inquiry to find out whether or not charge has been proved...."

(E). The finding of the Inquiry Officer in respect to some of the charges is non-speaking and shows non-consideration of defence taken by the petitioner in his reply submitted to the charge-sheet. The law requires that inquiry report must be speaking, recording of finding was to be made after considering the defence evidence produced by the department in the course of inquiry. In this respect on behalf of the petitioner reliance was placed on the following judgements:

(i) S.N. Mukherjee Vs. Union of India, , where the Supreme Court in paragraphs-35, 36, 39 and 40, observed as under:

"35. The decisions of this Court referred to above indicate that with regard to the requirement to record reasons the approach of this Court is more in line with that of American courts. An important consideration which has weighed with the court for holding that an administrative authority exercising quasi-judicial functions must record the reasons for its decision, is that such a decision is subject to the appellate jurisdiction of this Court under Article 136 of the Constitution as well as the supervisory jurisdiction of the High Courts under Article 227 of the Constitution and that the reasons, if recorded, would enable this Court or the High Courts to effectively exercise the appellate or supervisory power. But this is not the sole consideration. The other considerations which have also weighed with the Court in taking this view are that the requirement of recording reasons would (i) guarantee consideration by the authority; (ii) introduce clarity in the decisions; and (iii) minimise chances of arbitrariness in decision-making. In this regard a distinction has been drawn between ordinary courts of law and tribunals and authorities exercising judicial functions on the ground that a Judge is trained to look at things objectively uninfluenced by considerations of policy or expediency whereas an executive officer generally looks at things from the standpoint of policy and expediency."

"36. Reasons, when recorded by an administrative authority in an order passed by it while exercising quasi-judicial functions, would no doubt facilitate the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also weighed with this Court in holding that an administrative authority must record reasons for its decision, are of no less significance. These considerations show that the recording of reasons by an administrative authority serves a salutary purpose, namely it excludes

chances of arbitrariness and ensures a degree of fairness in the process of decision-making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions, which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

"39. The object underlying the rules of natural justice "is to prevent miscarriage of justice" and secure "fair play in action". As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework where under jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U.S.A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case."

"40. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is

required to record the reasons for its decision."

(ii) In JT 1995 (7) 207 (State Bank of Bikaner & Jaipur and Ors. v. Shri Prabhu Dayal Grover) the Supreme Court has held that the disciplinary authority not required to record reasons in respect of the order of punishment excepting where it considers it necessary to direct fresh or further enquiry or disagrees with the findings of the Enquiry Officer. Further in paragraph-12 the Supreme Court has observed as below:-

"...Regulation 68 (3) lays down the procedure the Disciplinary Authority is required to follow after it receives the proceedings of the enquiry including the report of the Enquiry Officer. On careful perusal thereof we find that only in those cases where the Disciplinary Authority considers it necessary to direct fresh or further enquiry or disagrees with the findings of the Enquiry Officer, it has to record the reasons for its such directions, but there is no such obligation if it agrees with the findings of the Enquiry Officer. It can, therefore, be legitimately inferred that when express provisions have been made in the Regulations for recording reasons in only the first two of the three fact situations and not the other- there is no implied obligation also to record the reasons in case of concurrence with the findings of the Enquiry Officer. Even if we proceed on the basis that such an obligation is implicit, still the order of the Disciplinary Authority cannot be held to be bad as, on perusal thereof, we find that before concurring with the findings of the Enquiry Officer it has gone through the entire proceeding and applied its mind thereto. In our considered opinion, when the Disciplinary Authority agrees with the findings of the Enquiry Officer and accepts the reasons given by him in support of such findings, it is not necessary for the punishing authority to re-appraise the evidence to arrive at the same findings. We are, therefore, unable to accept the contention of Mr. Dutta that the order of punishment was liable to be struck down as it was a non-speaking order and did not contain any reason. [Para-12]"

(F). The disciplinary authority while imposing punishment considered the matter which was not the subject matter of the charge-sheet and therefore impugned punishment has been imposed upon the petitioner on alleged conduct in respect whereof no opportunity was afforded to the petitioner.

(G). The entire disciplinary proceeding has been conducted by the Inquiry Officer in flagrant violation of the Rules and the procedure prescribed therein and in violation of Rule 12(11) of Cantonment Government Servant Service Rules 1937. In the circumstances non-compliance of inquiry in accordance with the Rules vitiate the entire proceeding being illegal and contrary to law as it amounts to denial of opportunity to the petitioner.

6. On behalf of the respondents it has been indicated that the charge no. 6 was in respect of the illegal and erroneous claim of T.A. Bill of Rs. 1181/- on 30.12.1987, where the Board Office sent letter No. E-9 dated 30.3.1988 through which the petitioner was asked to submit the original letter to participate in the

J.C.M. meeting and was supposed to produce the movement order of the Board. According to the respondents the T.A. Bill was irregular and forged and as a consequence the payment was not made as the Annexure-3 in support of the T.A. Bill was evident that the petitioner did not stay in the Hotel Paramount in Room No. 206 as in the cash memo contained the consumers name of Sri J. D. Sharma and Sri D. P. Singh and in below part name of Sri PC. Yadav was inserted and in response to the letter dated 2.1.1988 of Chief Executive Officer of the Board the Manager of Hotel Paramount had clarified that only two persons had stayed in the said room and P.C. Yadav had not stayed. Relying on the letter dated 2.1.1988 of the Board and letter of Manager of said hotel it was sufficient to prove that the petitioner's claim about the T.A. Bill was illegal. According to the respondents the petitioner even denying the authority of General Officer, Commanding in Chief and has endeavoured deliberately to avoid to face the inquiry and the petitioner deliberately avoided to receive the letter at his Residence, which were pasted and even information were published through newspaper and the Inquiry officer had arrived at the finding after dealing with the evidences in support of the charges and after considering the reply of the petitioner rendered by him and on analysis of the documentary evidences and records and all possible endeavourance were made on the part of the Inquiry Officer to provide sufficient opportunity of hearing.

7. According to the respondents in view of R.S. Saini Vs. State of Punjab and Others, , the claim of the writ petitioner assailing his removal on the ground of perversity of the inquiry based on no evidence, non-application of mind and mala fide, the Supreme Court did not find any scope of judicial review in the finding of the disciplinary inquiry as the same did not suffer from infirmities. The Supreme Court further observed that the inquiring authority is the sole judge of the fact so long as there is some legal evidence to substantiate its findings and adequacy or reliability, which cannot be permitted to be canvassed in the writ proceedings. If the conclusions have been drawn in a reasonable manner and objectively, such conclusions cannot be termed as perverse or not based on any material. The Supreme Court has also held that the High Court as well as the Supreme Court within limited scope of their jurisdiction could hold that the disciplinary inquiry against the delinquent did not suffer from infirmities.

8. According to the respondents in (2001) 1 SCC 416 (High Court of Judicature at Bombay v. Shashi Kand S. Patil and Anr.) the Supreme Court has observed that the findings of the Inquiry Officer are not binding on the disciplinary authority and final decision rests with the disciplinary authority, which can come to its own conclusions, bearing in mind the views expressed by the Inquiry Officer, and judicial interference is permissible if there is violation of the natural justice and statutory regulations and the decision of the disciplinary authority is also vitiated by considerations extraneous to the evidences and merits of the case or if the conclusion made by the authority on the very face of it is wholly arbitrary or capricious and no reasonable person could have arrived at such a conclusion on similar grounds.

9. According to the respondents in Nagar Palika, Natar Vs. U.P. Public Services Tribunal, Lucknow and Others, the Supreme Court has held that the principle of natural justice could not be said to be violated where opportunity was afforded but not utilised by the delinquent employee, despite repeated reminders reply was not given to the charge-sheet nor appearance was shown by the delinquent employee before the Inquiry Officer, and despite being permitted to inspect the records and opportunities were not availed of to inspect the records. In these circumstances, the conclusion reached by the Inquiry Officer on the basis of available material that the charges were proved can not be said to be violative of principle of natural justice and hence dismissal was upheld.

10. In Union of India and Others Vs. Dinanath Shantaram Karekar and Others, the Supreme Court has observed that in the departmental inquiry in respect of serving charge-sheet and other documents, when the charge-sheet and documents were received back undelivered by registered post with the postal endorsement "not found" was held that a single attempt was not sufficient. It was also observed that an attempt to serve show cause notice by publishing in newspaper without attempting to serve through office peon or by registered post and resorting to newspaper not in wide circulation or sufficiently popular vitiates the wants of factual service of the documents to the charged employee as the requirement of service of legal documents in a disciplinary inquiry is different to that of communication of a termination order.

11. The respondents have further endeavoured to refer and rely on Tara Chand Vyas Vs. Chairman and Disciplinary Authority and Others, , where the Bank Manager charged with releasing of loans without adequately safeguarding in interest of bank and only documentary evidence produced copies of which were supplied to the petitioner, objection of the delinquent officer that no witness for examination was held unsustainable. The Supreme Court observed that the Inquiry Officer without elaborating had reached or had given reasons, which were considered by the disciplinary and appellate authority before coming to the conclusion that the charges were proved, the objection of the delinquent officer on the ground reasons were lacking were held meaningless and unsustainable with an observation that the departmental authorities were not like civil courts, more so, where misconduct of a bank officer or to eradicate the corruption in the interest of public.

12. Learned Counsel for the petitioner has placed reliance on 2003(1) ESC 616 (Chandra Bhan Singh v. State of U.P. and Anr.), where this Court in para 13 observed as below:-

"13. The petitioner placed reliance on the judgment dated 25.5.2001 of this Court (D.B.) (M. Katju and R.H. Misra, JJ.) in Writ Petition No. 7133 of 2001, Radhey Shyam v. Secretary, Minor Irrigation Department and Rural Engineering Service, U.P. and Ors. 2001 (3) ESC, (DB), where the writ petitioner was working as Incharge Executive Engineer in the Rural Engineering Services and Minor Irrigation Department was charge-sheeted for his alleged involvement of

embezzlement, financial irregularities and financial loss, however, was made handicapped to participate in the inquiry for non-payment of subsistence allowance as well as legal dues during his suspension and the request of change of Inquiry Officer was not accepted by the Competent Authority and the ex-parte inquiry was conducted behind his back without adopting proper procedure, no specific date, time and place of inquiry was fixed, oral and documentary evidence against the writ petitioner was not adduced in his presence and he was not given opportunity to cross-examine the witnesses against him and he was not afforded opportunity to produce his own witnesses and evidence. The ex-parte inquiry was found illegal and the order of dismissal of writ petitioner was quashed while allowing the writ petition, however, keeping in view the financial loss and irregularities it was made open to the respondents to hold a fresh inquiry in accordance with law and pass a fresh order. It is pertinent to mention then the SLP No. 15226/2001, State of U.P. v. Radhey Shyam Pandey and Ors., preferred against the above order dated 25.5.2001 was dismissed on 1.2.2002 by the Supreme Court."

13. I have heard learned counsel for the parties, I find that keeping in view the seriousness of the charges though it was not necessary to make any inquiry by the panel of the members and it was also not necessary to provide an assistance of a counsel to the petitioner as the same depends upon facts and circumstances. The documents referred in the charge-sheet for responding were mainly documentary evidences and despite the indication in the charge-sheet that the petitioner was to apprise where he wanted opportunity of personal hearing before the Inquiry Officer and whether he wanted to adduce the witnesses or cross-examine the witnesses, the petitioner failed to indicate anything in that respect. The petitioner in his reply no doubt denied charges but did not indicate what specific documents were necessary, the petitioner neither demanded the specific records nor documents to be inspected details of witnesses to be cross-examined by him. Despite the specific date and time fixed for 18.2.1987 and 19.2.1987 through special messenger and publication in the newspaper, the petitioner for the reasons best known to him did not avail the opportunity desired by him for adducing evidences and cross-examining witnesses. The inquiry report concluded in consonance to the procedure after perusing and considering the available materials and documents and considering the reply of the petitioner given on 27.2.1997 in detail, however, the petitioner unnecessarily asserted again that documents referred and relied were not served to him, whereas, the petitioner did not demand the documents at his sweet will and did not desire inspection. However, in the facts and circumstances, the petitioner avoided rendering cooperation and assistance in ;he inquiry, even then the inquiry officer has carefully made inquiry and submitted report, which too was carefully dealt by disciplinary authority. This Court is not to sit over the finding of disciplinary authority in reference to the verdict of Supreme Court in Union of India and another Vs. G. Ganayutham (Dead) by LRs., State of Punjab and others Vs. Bakhshish Singh, as well as in view of the observations made in U.P. S.R.T.C. and

Others Vs. Har Narain Singh and Others, . Specific denial of not furnishing the relied documents and material in the charge-sheet shall not vitiate the inquiry report, moreso, in absence of demand of particular documents by petitioner, whereas, the records/ documents were open for inspection. The petitioner cannot be said to have been deprived of opportunity of hearing The endeavourance on the part of the Inquiry Officer was made to conclude the hearing and inquiry on the specified date, time and place of hearing and after affording opportunity of hearing, therefore, I do not find any illegality and impropriety in the inquiry report and orders of the disciplinary authority and appellate authority.

In the facts and circumstances, there is no scope of any judicial interference, therefore, this Court is not inclined to invoke its extraordinary discretionary jurisdiction under Article 226 of the Constitution, therefore, the writ petition is dismissed.