

(2019) 07 DEL CK 0028

In the Delhi High Court

Case No : Civil Writ Petition No. 898 Of 2006

R.K. Shivdasani

APPELLANT

Vs

Union Of India And Anr

RESPONDENT

Date of Decision : 01-07-2019

Acts Referred:

Export Inspection Agency Employees (Classification, Control And Appeal) Rules, 1978
— Rule 11, 11(11), 11(12), 11(13), 11(14), 11(15), 11(16), 11(17), 11(18), 11(19),
19

Central Civil Services (Conduct) Rules, 1964 — Rule 3(1), 3(1)(i), 3(1)(ii), 3(1)(iii), 3C

Central Civil Services (Pension) Rules, 1972 — Rule 9, 9(1)

Citation : (2019) 07 DEL CK 0028

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : S.K. Gupta, Ripu Daman Bhardwaj, T. P. Singh, L.R. Khatana

Final Decision : Disposed Off

Judgement

S. No., Documents, Custodian, Relevancy

1., "CVC circular Memo No. 1/15/65 â?

coord dt. 20.7.1965", CVC/ Vigilance Cell EIA, "T o apprise about the
conduct of the inquiry

2., "MHA Circular regarding procedure to

be followed after the recording of

statement of the witness GICS Dept

Of Personnel & AROM No

134/775/AVD 1 dt. 1.6.1976", "Ministry of Home Affairs

(DOPT)

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.", "To apprise regarding
procedure to be followed
w.r.t statement of
witnesses.

3., "Supreme Court's order duly attested by
Registry of Supreme Court as referred
by Mr. N.K Premi, Prosecution witness", "Registry of Supreme
Court of India", "To apprise about the
orders of Honâ??ble
Supreme Court w.r.t.
present inquiry
proceedings

4., "Compliance Report of the orders as
referred to at Sr. No. 3 above.", "EIA Delhi/ Addl. Director
EIA Delhi", "To establish and prove
that the orders, if any, as
referred to Sr. No. 3,
whether were complied
with or not.

5., "EIA D(Q/C) conf/99/7426 dt. 5.2.99
regarding action taken / follow up action
on my report w.r.t. complaint of Mr.
P.K Chawla, clerk grade 1 and Mr. Ja
Bhagwan, Lab assistant grade 1 against
Mr. S.K Saxena Asst. Director i
connection with processing of their
medical bills", "EIA Delhi/EIA Delhi
i

n", "To establish that present

DRA is outcome of the
conspiracy, as I had
proposed action against
certain EIA, Delh
officials in my report
6., "GSP ledger in particular page 31 for the
month of Sep-Oct 98 for deposit holders
of GSP Certificate seekers", GSP Section EIA Delhi, "To establish that present
DRA is revengeful act as
I had pointed out gross
negligence on the part of
certain EIA employees
7., "RICE ledger in particular page no. 55
onwards for the month of April??98
onwards for deposit holders of Rice
Exporters", "Inspection Wing EIA
Delhi", "To establish that present
DRA is revengeful act in
collision with Ms. Bimla
Sharma by certain
employees of EIA Delh
as I had pointed out gross
negligence on the part of
certain EIA employees
8., "DD (RKS) correspondence w.r.t. GSP
& Rice ledger with DD (RKS) & Add
Director KJS", "E I A Delhi/Mr.K.J.
IS.rivastava Addl. Director,
EIA Delhi / Mr. Raji
Kudesia the then DD

GSP and Rice Sectio

from Janâ??99 onwards", "To establish that present
DRA is revengeful act as
vhad pointed out gross
, negligence on the part of
ncertain EIA employees
involving revenue loss to
the department.

9., "M y notes dt. 6.3.96, 8.3.96, 16.3.96,
27.3.96 regarding refusal to attend
official work by Ms. Bimla Sharma as
part of her official duties", "EIA Delhi/ Addl. Director
EIA Delhi / DD (RKS
for his personal copy", "To establish that present
c)ompliant by Ms. Bimla
Sharma, stenographer is
revengeful Act to teach
DD (RKS) a lesson fo
making complaint against
her

10., "D elhi Region Export Inspection
Employee Association letter dt 12.2.99
addressed to Mr. R. P. Aggarwal Joint
Secretary M/o Commerce by Mr. R.N
Prasad, DREIEA", "G e n e r a l Secretary
DREIEA/ DREIE
office", "T o apprise about the
Acontents of the letter in
connection with present
DRA

11., "Minutes of meeting DREIEA member had with Mr. R.P Aggarwal, Joint Secretary M/o Commerce on 5.2.99 as referred in their letter dt. 12.2.99 at Sr. no. 10 above", "sDREIEAO ffice /JS (RPA) M/o Commerce", "T o apprise about the deliberations of the meeting by the executive members with JS (RPA)

12., EIA C.C.A Rules, EIA Delhi, "T o apprise about the latest EIA CCA Rules |a applicable to me

13., "Correspondence file w.r.t. complaint of Ms. Simla Sharma between EIAEI and Delhi Police by EIA Delhi", "D e l h i Police/ EIA A Delhi/EIA Delh", "T o apprise about the nature of the complaint and outcome thereof

14., "VITNL report 47 dt. 17.6.99 and dt. 2.7.99 on status and working of telephone number 5729835 available on adjacent table of Ms. Bimla Sharma", "D ivisional engineer, MTNL Karol Bag Exchange/ Delhi Police DD (RKS)", "T o establish that the hstatement given by Ms. /Bimla Sharma to police is false and mischievous as far as working status of telephone number of

5729835 is concerned as
on 2.2.99
15., "Counter affidavit on behalf of the
respondents (EIA Delhi) and Mr. K.
Srivastava, Addl. Director (EIA Delhi
to H'able High Court filed by
respondents in WP 1238/99 and reed by
the petitioner (DD RKS) on 16.8.99", "E I A Delhi/ Mr. K.J
JSrivastava Addl. Director,
)DD (RKS)", "T o establish that the
respondents have tried to
mislead the H'able court
on the subject matter
16., "Copies of Ms. Bimla Sharma's
complaints to EIA Delhi reed on 4.2.99
at diary no. 1682, dt. 24.4.99, dt. 6.9.99
and to Delhi Police dt. 10.5.99 along
with it's enclosure", "Director I & Q/C / EIA
Delhi / MOC/ NCW
Delhi and Central Distric
Delhi Police", "T o establish that Ms.
Bimla Sharma is habitua
tIn making false,
fabricated, mischievous
complaints out of
revengeful attitude
towards DD (RKS)
17., "Copy of H'able Supreme Cour
judgement dt. 6.4.99 in the matter of
Capt. M. Paul Anthony Vs. Bhara

Cold Mines Ltd. Delivered by H'abl
 bench of Mr. Justice S. Saghr Ahmad
 and Mr. Justice V.N Khare", "tPublisher Judgements
 Today, D-1/ G.F1, Virat
 tBhawan, Commercia
 eComplex, Dr. Mukherj
 Nagar, Delhi â?" 110009/
 Registry of Supreme
 Court of India/ DD
 (RKS) for copy of
 publication
 â??Judgement Todayâ??" "To apprise H'able inquiry
 officer on the
 lcontinuation/ otherwise of
 ithe present inquiry
 proceedings
 18a., "Copy of H'able Supreme Cour
 judgment in the matter of Tarak Nath
 Ghosh Vs. State of Bihar on Police
 Investigation for complaints processed /
 likely to be processed by Police.", "tAIR 1968 SC 372/1968
 SCR/224 Registry o
 Supreme Court of India", "To apprise and establish
 fthe fact about
 continuation of the
 present DRA
 proceedings, as this
 judgment is having direct
 bearing on the present
 proceedings

18b., "Copy of Hâ??able Supreme Cour
judgement in the matter of Jagannath
Prasad Vs. State of UP on Police
Investigation for complaints processed /
likely to be processed, by Police.", "tAIR 1961 SC 1245/ ILR
1961 ALL 167/1961 2
LLJ 116/ Registry o
Supreme Court of India", "To apprise and establish
the fact about
fcontinuation of the
present DRA
proceedings, as this
judgment is having direct
bearing on the present
proceedings

19., "Medical prescription of DD (RKS) dt
4.9.99 and X Ray reports thereof dt.
4.9.99 of Safdurjang Hospital", .IDD (RKS), "T o establish that Ms.
Bimla Sharma has made
false and mischievous
complaint dt. 6.9.99
against DD (RKS)

20., "EIA/EIAE mployees Service, appea
and control rules", IEIA/ EIA, "T o apprise about the
service, appeal and
control rules

21., "National Commission for women Act
1990 and guidelines/ instructions issued
by National Commission for Women on
sexual harassment", "National Commission for

Women, Deen Dayal

Upadhyay Marg, Delh

/Govt. Publication

Division", "T o apprise about the

provision of the rules,

iapplicability, compliance

by the complaint by the

complainant and

department

22., "Protection of Human Rights

Commission Act 1993", "National Commission for

Women, Deen Dayal

Upadhyay Marg, Delh

/Govt. Publication

Division", "T o apprise about the

provision of the rules

i

23., "M H A notification No. 108/54

Establishment (A) dt. 20.11.54

regarding interpretation of Rule 23", "Ministry of Home Affairs

DOPT", "To apprise for avoiding

hardship to charged

officer

24., "D.G P&T circular 105/26/81 Vigilance

III dt. 30.3.1981 regarding that 2

penalties cannot be imposed for same

offence", "D.G P&T", "To apprise whether the

present proceedings are

in order or not

25., "Letter dt. 21.12.99 of Ms. Bimla

Sharma addressed to chairperson EIA
& Addl. Secretary M/o Commerce
regarding change of present inquiry
officer", "Addl. Secretary M/o
Commerce/Chairperson
EIA/ Director/ Addl
Director EIA", "To establish that Ms.
Bimla Sharma is
.interfering with
proceedings and or in
appointment of Inquiry
officer which is against
the conduct rules
26., "Daily attendance record of all those
employees in particular of Ms. Bimla
Sharma, stenographer grade 1, working
/ having their seat in administration
section during the month of Feb 99", "EIA Delhi/ Addl. Director
EIA Delhi, DD Admi
EIA Delhi", "To establish absence
n/presence of the
employees in particular of
Ms. Bimla Sharma
stenographer grade 1 on
2.2.99
27., "Daily proceeding page no. 11 in the
matter of departmental inquiry
conducted against Mr. M.L Gupta", "Inquiry officer/ Director 1
& Q/C/ DD (RKS) a
PO", "To establish that threats

swere reed during
 proceedings by DD
 (RKS) that it will not be
 good for him if he does
 not take up JD (MLG)'

DRA casually

28., "DREIEAI etter dt. 2.2.99 from Mr.
 Praveen Sakhuja Vice President to the
 then DD (Vigilance) along with its
 enclosure", "Praveen Sakhuja Vice
 President DEEIEA / D
 (RKS) (the then DD
 Vigilance)", "To establish that present
 DDRA is revengeful act as
 DD (RKS) wa
 requested by Mr.
 Praveen Sakhuja to
 investigate certain gross
 negligence on the part of
 certain EIA employees in
 connection with loss of
 DD/ cheques worth more
 than one lakh of rupees

29., "Blank EIA Delhi receipts bearing no
 003 and 004 of book number 17183
 seized during official round to GSP
 section by DD (RKS) as DD vigilance", ".DD (RKS), "T o establish that the
 present complaint by Ms.
 Bimla Sharma is a
 revengeful act to prevent

DD (RKS) from initiating
any action against the
supporters of Ms. Bimla
Sharma against whom
DD (RKS) was about to
initiate action as DD
Vigilance

30., "DD (RKS) letter dt. 15.2.99 addressed
to General Secretary DREIEA and his
reply dt. 20.2.99 in connection with
complaint of Ms. Simla Sharma", "D D (RKS)/ General
Secretary DREIEA", "To establish that 9
members of the Secretary
executive committee of
DREIEA were not aware
about the letter dt. 3.2.99
and 12.2.99 of Mr. R.N
Prasad President of the
association and to
establish that Mr. R.N
Prasad has written these
letters out of revengeful
act against DD (RKS)
31., "Recorded audio conversation between
DD RKS and various employees of
EIA Delhi", "DD RKS
f", "To establish that Ms.
Bimla Sharma, has made
the complaint out of
revengeful act, in

conspiracy and on
instigation of certain
individuals

inspected by the petitioner on 29th May, 2000, and a certificate, to the said effect had also been obtained by the then PO. Apropos the request for",,,
additional documents, for his defense, as submitted by the IO vide letter dated 24th July, 2000, the PO contended that the said letter had been taken on",,,
record by the IO, but no instructions were given, thereon, by the IO to the PO. The written brief filed by the PO further sought to point out that Smt.",,,
Bimla Sharma had identified her complaint and confirmed the details therein, during the proceedings held on 27th March, 2001. Further evidence, in",,,
favour of the Management, it was pointed out, had been led by the examinations-in-chief of Sh. N. K. Premi and Sh. R. N. Prasad, testifying as PW-2",,,
and PW-3 respectively. The brief of the PO further sought to point out that, even on 3rd July, 2001, the petitioner again requested for providing of the",,,
documents required for his defense, and refused the opportunity to examine the prosecution witnesses. Averring that all documents, which were",,,
available to the PO, had been provided to the petitioner, the written brief of the PO argued that the allegation of Smt. Bimla Sharma was borne out by",,,
the testimonies of Sh. N. K. Premi and Sh. R. N. Prasad and that, in view of the fact that these two witnesses were eyewitnesses to the incident, no",,,
further evidence was required to be produced by the prosecution. Inasmuch as the petitioner, despite having been given an opportunity, by the IO, to",,,
examine the prosecution witnesses, chose not to do so, the brief of the PO urged that the complaint of Smt. Bimla Sharma stood proved. The PO",,,
further sought to discountenance the submission, of the petitioner, that requisite documents had not been supplied to him, by contending that the",,,
enquiry against the petitioner was based on the complaint of Smt. Bimla Sharma, for sexual harassment, which was confirmed by an eyewitness. It is",,,
contended, in conclusion, that the CO (i.e. the petitioner) could not bring any document or any defence witness during the proceedings of",,,
enquiry.

16. The petitioner submitted, per contra, in his written brief before the IO, that he had been unjustifiably denied the documents, which were required",,,
by him, to defend the allegations against him. He relied on the communication,

dated 27th January, 2000 supra, wherein it was acknowledged that, if",,,
the requisite correspondence file was supplied to the petitioner, it could weaken
the case of the EIA before the Court. The petitioner emphasised the",,,
fact that the Attendance Register of Smt. Bimla Sharma was a document of vital
importance and that withholding the said document, from him,",,
prejudiced his defense. He also complained that he had not been afforded an
opportunity to cross-examine the prosecution witnesses. The delay, he",,,
urged, was on the part of the prosecution in failing to provide the documents
within time, despite their having been allowed by the IO. There had,",,
therefore, he urged, been fundamental violation of the principles of natural
justice. He further contended that the charge against him was mala fide, at",,,
the instance of Mr. S.K. Saxena, the then Assistant Director (Admn.), EIA, and
his juniors. He submitted that, till that date, he had not been provided",,,
the documents sought by him, in particular the letter, dated 3rd February, 1999,
of Smt. Bimla Sharma, which constituted a complaint against the",,,
petitioner. In such circumstances, the petitioner submitted that no allegation of
sexual harassment of Smt. Bimla Sharma could be fastened on him. In",,,
fact, he submitted, Smt. Bimla Sharma was absent from duty on 2nd February,
1999, on which date the incident of sexual harassment was alleged to",,,
have taken place. It was for this reason, submitted the petitioner that Smt. Bimla
Sharma did not choose to apprise the superior officers, who were",,,
available in the office, merely a phone call away. Equally, he submitted, it was
inexplicable as to why Mr. Premi, allegedly a witness to the incident,",,
did not report the incident to the superior officers. He pointed out that the
complaint of Smt. Bimla Sharma had also been investigated by the Vigilance,,,
Cell of the Delhi Police, who examined and interrogated the petitioner. He
submitted that, in the course of the said investigation, the statements, of Mr.",,,
K. K. Kharbanda, Section Officer as well as Mr J. P. Maikhuri, an outside and
independent eyewitness, who were present in the petitionerâ??s",,,
cabin at that time, had been recorded, and that both the said witnesses had
confirmed that no such incident had occurred in the petitionerâ??s cabin",,,
at 3:30 p.m. on 2nd February, 1999, as alleged by Smt. Bimla Sharma. He
pointed out that, as the Investigating Officer of the Delhi Police found no",,,
truth in the complaint of Smt. Bimla Sharma, the complaint was closed on 19th
July, 1999. He submitted that the matter was also referred to the Police",,,

Commissioner by the Director [I & Q/C], through the Disciplinary Authority, i.e. the Additional Director, vide letter dated 3rd June, 1999, and that,",,,

consequent thereupon, the SHO, Karol Bagh PS, had also thoroughly investigated the matter, but found no prima facie case against the petitioner. It",,,

was, apparently, for this reason, contended the petitioner that the EIA was withholding, from the petitioner, the correspondence file between the EIA",,,

and the Delhi Police. The petitioner further pointed out that the alleged deposition of Smt. Bimla Sharma, as PW-1, before the IO, was unsigned by",,,

her, and bore the signatures only of the IO and the PO. It did not, therefore, have any evidentiary value and could not be relied upon or taken on",,,

record. Apropos the evidence of Mr. Premi, the petitioner submitted that he had not elaborated as to the unparliamentary words allegedly uttered by",,,

the petitioner, or explain why, even after the petitioner so behaved, Smt. Bimla Sharma continued to remain in his cabin, without complaining to any",,,

higher authority. With respect to PW-3 Mr. R.N. Prasad, the petitioner submitted that he had deposed regarding forwarding of the complaint of Smt.",,,

Bimla Sharma, and questioned as to how Mr. Prasad could at all testify to the correctness thereof, especially as he was posted in an entirely different",,,

office, located in a different building. The petitioner also provided a tabular response to the brief of the PO. He reiterated that Smt. Bimla Sharma was",,,

absent from office on 2nd February, 1999. With respect to the submission, of the PO, that no direction was issued, by the IO, for providing documents",,,

to the petitioner, the petitioner pointed out that, in fact, the said direction was issued on more than one occasion. The petitioner also complained against",,,

non-compliance, by the EIA, with the guidelines for dealing with such cases, as set out in the well-known judgment of the Supreme Court in Vishaka",,,

(supra).,,,

17. The IO issued his Inquiry Report, which was furnished to the petitioner, by the EIA, under cover of Memorandum dated 11th March, 2002,",,,

affording the petitioner an opportunity to represent against the findings of the Inquiry Report. It was noted, in the Inquiry Report, that the documents",,,

listed with the chargesheet were handed over to the PO on 11th May, 2000 and were inspected by the petitioner on 29th May, 2000. Though the",,,

Inquiry Report notes the fact that, according to the petitioner, the original complaint, dated 3rd February, 1999, of Smt. Bimla Sharma had not been",,,

provided to him, the IO also finds that, deposing as PW-1, Smt. Bimla Sharma stated that the contents of the letter, dated 3rd February, 1999 were",,,
correctly written and bore her signatures. Moreover, he finds, the said complaint was authenticated by PW-2 and PW-3. Dismissing the submissions",,,
of the petitioner as "extraneous", and "not subject matter of enquiry", the IO notes that the petitioner did not cross examine the prosecution",,,
witnesses, nor "introduced his witnesses in the proceedings", and limited himself to questioning the prosecution documents. The objection, of the",,,
petitioner, that the statement, allegedly made by Smt. Bimla Sharma during inquiry proceedings, deposing as PW-1, did not bear her signatures, the IO",,,
chose, instead, to fault the petitioner for not raising this issue on 3.7.2001 the last date of hearing", and also for not intimating, in writing, to the IO, of",,,
the said fact. On the ground that the enquiry was based on the complaint of Smt. Bimla Sharma, which was confirmed, by her, deposing as PW-1, as",,,
genuine, and had also been authenticated by PW-2 and PW-3, none of whom the petitioner chose to cross-examine, the IO held that the petitioner had",,,
contravened the provisions of Rule 3(1) (i), (ii) and (iii) of the CCS (Conduct) Rules.",,,

18. Vide his letter dated 30th March, 2002, the petitioner responded to the aforesaid Inquiry Report of the IO, contending as under:",,,

(i) Sexual harassment of women at the workplace being specifically covered by Rule 3C of the CCS (Conduct) Rules, the invocation, against the",,,

petitioner, of Rule 3(1) of the said Rules was unjustified and illegal.",,,

(ii) The chargesheet, issued to the petitioner, was "in total violation of Rule 3C of the CCS (Conduct) Rules.",,,

(iii) The petitioner was deemed to have retired w.e.f. 17th February, 2001, on which date he sought voluntary retirement.",,,

He was, therefore, covered by the CCS (Pension) Rules, 1972.",,,

(iv) The petitioner had disputed the veracity of the copy of the complaint, dated 3rd February, 1999, of Smt. Bimla Sharma, as provided to him. The",,,

original of the said document was, however, never made available.",,,

(v) The Inquiry Report did not deal with the submissions advanced by the petitioner in his defense statement dated 4th August, 2001, and expressed no",,,
disagreement with the said submissions.,,,

(vi) The inquiry had, therefore, been held in the absence of the original

prosecution documents. This was, admittedly, because, if the said documents",,,
were provided to the petitioner, the case of the EIA, against the petitioner,
pending before this Court would get weakened, as was confirmed vide the",,,
letter dated 27th January, 2000, of the EIA supra.",,,

(vii) In the absence of the original prosecution documents, and the documents
sought by the petitioner for his defence, it was not possible for the",,,
petitioner to cross-examine any of the prosecution witnesses.,,,

(viii) In such circumstances, the IO was not justified in closing the inquiry on 3rd
July, 2001, denying, in the process, to the petitioner, his right to",,,
produce defence witnesses and cross-examine the prosecution witnesses.,,,

(ix) There was no explanation for how Mr. R. N. Prasad, who was posted in
another building, came to know about the correctness of the complaint of",,,

Smt. Bimla Sharma, qua an incident alleged to have taken place in the
petitioner's cabin at 3:30 p.m. on 2nd February, 1999.",,,

(x) There was wilful denial, to the petitioner, of the attendance register of Smt.
Bimla Sharma for the month of February, 1999. This was a vital",,,
document and, in holding against the petitioner without providing the said
documents to him, the IO infringed the principles of natural justice.",,,

(xi) The deposition of Smt. Bimla Sharma, during the course of the inquiry
proceedings, being unsigned by her (on the 2nd page), could not be read in",,,
evidence. This submission, of the petitioner, which went to the root of the matter,
was dismissed, by the IO, on the tenuous ground that it had not been",,,
raised prior to the last date of hearing.,,,

(xii) Investigations, conducted by the Vigilance Cell of the Delhi Police, into the
complaint of Smt. Bimla Sharma, at the instance of Smt. Bimla",,,
Sharma, resulted in the petitioner being found entirely innocent of the allegations
levelled against him.",,,

(xiii) The petitioner had been denied an opportunity to produce eyewitnesses,
who could testify that the alleged incident of sexual harassment had",,,
never taken place, i.e. Mr. K. K. Kharbanda and Mr. J. P. Maikhuri. The request for
producing the said witnesses was rejected, by the IO, as not",,,

relevant, without any reasons for so holding. These witnesses and clearly
deposed, before the Vigilance Cell of the Delhi Police, on 5th July, 1999, 8th",,,

July, 1999 and 1st July, 1999, to the effect that the alleged incident of sexual
harassment had never taken place. These depositions had been placed, by",,,

the petitioner, on the record of the inquiry, through his defense statement, but had been ignored by the IO.",,,

(xiv) The opportunity of producing other defense witnesses, too, had been denied.",,,

(xv) The petitioner had been denied access to the documents relating to the investigations conducted by the Delhi Police, which completely exculpated",,,

him. This was clear infraction of the principles of natural justice, for which purpose the petitioner placed reliance on State of M.P. v. Chintaman",,,

Sadashiva Waishampayan, AIR 1961 SC 1623, State of U.P. v. Shatrughan Lal, AIR 1998 SC 3038 and State of Punjab v. Bhagat Ram, AIR 1974",,,

SC 2335.,,,,

In the circumstances, the petitioner pleaded that he be exonerated of the charge against him.",,,

19. On 12th June, 2002, the request, of the petitioner, to be permitted to voluntarily retire from the services of the EIA, was accepted.",,,

20. Vide order, dated 26th September, 2005, purportedly issued under Rule 9 of the CCS (Pension) Rules, by the Honâ??ble President of India, the",,,

petitioner has been penalised with 50% cut in pension without cumulative effect for a period of two years from the date of his retirement.,,,,

21. Following thereupon, vide office order dated 29th October, 2005, issued by the EIA, the pension of the petitioner has been reworked.",,,

22. Aggrieved thereby, the petitioner is before this Court in the present writ proceedings.",,,

Rival Submissions.,,,,

23. Mr. Gupta has advanced arguments on behalf of the petitioner, and Mr. L. R. Khatana has advanced arguments on behalf of the EIA.",,,

24. Mr. Gupta advances the following submissions:,,,

(i) The impugned order of punishment applied retrospectively. This was impermissible, as the petitioner already stood retired on 23rd February, 2001.",,,

(ii) There was no finding, against the petitioner, of grave misconduct. In the absence of such a finding, punishment could not be imposed under Rule 9",,,

of the CCS (Pension) Rules, as held by this Court in U.O.I. v. Dr. V. T. Prabhakaran, 2010 SCC Online Del 2478.",,,

(iii) The impugned order of punishment was passed without consulting the Union Public Service Commission, as required by the proviso to Rule 9(1) of",,,

the CCS (Pension) Rules.,,,

(iv) The PO was never asked, by the IO, to produce the documents which were allowed, by him, vide his decision dated 7th December, 1999 supra.",,,

(In this connection, it may be noted that, vide letter dated 6th January, 2000, the IO directed the Deputy Director In-charge to make arrangements to",,,

produce the documents, sought by the petitioner, before him on 13th January, 2000. However, it appears that the said documents were not produced.)",,,

(v) In this context, Mr. Gupta drew my attention to sub- rules (11) to (13) of Rule 11 of the CCA Rules, which read thus:",,,

â??(11) The inquiring authority shall, if the Agency employee fails to appear within the specified time or refuses or omits to plead, require the",,,

Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not",,,

exceeding thirty days, after recording an order that the Agency employee may, for the purpose of preparing his defence:",,,

(i) Inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents",,,

specified in the list referred to in sub-rule (3);,,,

(ii) Submit a list of witnesses to be examined on his behalf;,,,

NOTE: - If the Agency employee applies orally or in writing for the supply of copies of statements of witnesses mentioned in the list referred to in",,,

sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the",,,

commencement of the examination of the witnesses on behalf of the disciplinary authority.,,,

(iii) Give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow for the discovery",,,

or production of any documents which are in the possession of Agency but not mentioned in the list referred to in sub-rule (3).,,,

NOTE: - The Agency employee shall indicate the relevance of the documents required by him to be discovered or produced by the Agency.,,,

(12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward, the same or copies thereof to the",,,

authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be",,,

specified in such requisition:,,,

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion,",,,

not relevant to the case.,",,

(13) On receipt of the requisition referred to in such-rule (12), every authority having the custody or possession of the requisitioned documents shall",,,,

produce the same before the inquiring authority:,,,

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recoded by it in writing that,",,

the production of all or any of such documents would be against the Agency's interest or public interest or security of the state, it shall inform the",,,,

inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the Agency employee and",,,,

withdraw the requisition made by it for the production or discovery of such documents.,",,

(vi) There was total contravention of the procedure prescribed in sub- rules (16) to (19) of Rule 11 of the CCA Rules, too. In fact, the IO has",,,,

completely jettisoned the procedure prescribed in sub- rules (16) to (18), and straightaway proceeded to sub-rule (19) of Rule 11. For ready reference,",,,

sub- rules (16) to (19) of Rule 11 of the CCA Rules:,,,

,"(16) When the case for the disciplinary authority is closed the Agency employee shall be required to state his defence, orally or in writing, as he",,,,

may prefer. If the defence is made orally, it shall be recorded and the Agency employee shall be required to sign the record. In either case, a copy of",,,,

the statement of defence shall be given to the Presenting Officer, if any, appointed.",,,

(17) The evidence on behalf of the Agency employee shall then be produced. The agency employee may examine himself in his own behalf if he so",,,,

prefers. The witnesses produced by the Agency employee shall then be examined and shall be liable to cross-examination, re-examination and",,,,

examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.,",,

(18) The inquiring authority may, after the Agency employee closes his case, and shall, if the Agency employee has not examined himself, generally",,,,

question him on the circumstances appearing against him in the evidence for the purpose of enabling the Agency employee to explain any,,,

circumstances appearing in the evidence against him.,,,

(19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed and the Agency",,,

employee, or permit them to file written briefs of their respective case, if they so desire.â???" ,,,

(vii) The Inquiry Report held the charge, against the petitioner, to be proved merely on the basis of the testimony of the prosecution witnesses. There",,,

was no discussion, even cursory, of the defense put forward by the petitioner, far less any analysis thereof." ,,,

(viii) The finding that the petitioner had defaulted in producing his defense witnesses was obviously unsustainable, as no opportunity, to produce",,,

defense witnesses, was accorded to the petitioner." ,,,

25. Mr. Khatana, appearing for the respondent, candidly acknowledged, the very outset, that strict compliance with the letter of Rule 11 of the CCA",,,

Rules may not be forthcoming in the present case; he, however, sought to submit that the spirit of the said Rule had been followed, and that violation",,,

thereof, if any, was essentially procedural in nature. He sought to place reliance on the judgment of the Supreme Court in Pandit D. Aher v. State of",,,

Maharashtra, (2007) 1 SCC 445, to contend that copies, only of documents on which the department sought to place reliance, were required to be",,,

furnished to the charge officer. In any case, he submitted, the documents which were allowed by the IO were in the public domain. He sought to point",,,

out that the petitioner attended the inquiry on all days except dates on which the prosecution witnesses had been called. He also acknowledged that,,,

the abrupt conclusion of the inquiry proceedings appeared to be irregular, but sought to contend that the petitioner accepted it without protest. By",,,

granting an opportunity to the petitioner to submit his defense brief, Mr. Khatana would seek to urge, the IO acted in accordance with the procedure",,,

prescribed. The principles enunciated in S. K. Kapoor (supra), on which Mr. Gupta placed reliance, Mr. Khatana would seek to urge, were only",,,

directory in nature. Mr. Khatana seeks, per contra, to rely on the judgment of the Supreme Court in Apparel Export Promotion Council v. A. K.",,,

Chopra, (1999) 1 SCC 759. In fact, Mr. Khatana submits that the punishment

imposed on the petitioner did not operate retrospectively, as he had been",,,
sanctioned only provisional pension. For all these reasons, Mr. Khatana would
urge, the writ petition deserves to be dismissed.",,,

Analysis,,,

26. Having heard learned counsel at length and consider the material on record,
I am of the opinion that the impugned order of punishment of the",,,
petitioner cannot sustain.,,,

27. There is a litany of precedents, starting from Taylor v. Taylor, (1875) 1 Ch. D.
476, and travelling through the celebrated decision in Nazir Ahmed",,,

v. King Emperor, AIR 1936 PC 253, through a catena of judgments of the
Supreme Court, till as late as Dharani Sugars & Chemicals v. Union of",,,

India, (2019) 5 SCC 480, enunciating the proposition that, where the law
requires a thing to be done in a particular manner, it has to be done in that",,,

manner alone or not done at all. This rule has especial application in the case of
actions governed by statutory prescriptions and proscriptions, whether",,,

they are to be found in plenary, or in subordinate, legislation. To wit, in the
present case, the action against the petitioner having been, avowedly, taken",,,

under Rule 11 of the CCA Rules, the detailed and exhaustive procedure,
prescribed in the various sub-rules of the said Rule, was necessarily required",,,

to be adhered to, while proceeding against the petitioner. Action taken in
violation of the said procedure becomes necessarily pregnable, in law, even",,,

on that sole ground. Of course, if the violation is only of some minor procedural
stipulation, and the violation does not result in any noticeable prejudice",,,

to the charged officer, it may be open to the management to argue that the
decision to punish the charged officer cannot be set-aside solely on that",,,

score. In the present case, however, there is stark and abject violation of the
procedure prescribed in sub-rules (11) to (17) of Rule 11, and the case",,,

clearly, is not one in which it is possible to accept the argument, of Mr. Khatana,
that the "spirit of the Rule" has been followed, though the form",,,

thereof has not.,,,

28. The stipulations and prescriptions contained in Rule 11 of the CCA Rules are
clear and unequivocal, and may be set out thus [insofar as it involves",,,

sub-rules (11) to (19)]:,,,

"(11) The inquiring authority shall, if the Agency employee fails to appear
within the specified time or refuses or omits to plead, require the",,,

Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not",,,

exceeding thirty days, after recording an order that the Agency employee may, for the purpose of preparing his defence:",,,

(i) Inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents",,,

specified in the list referred to in sub-rule (3);,,,

(ii) Submit a list of witnesses to be examined on his behalf;,,,

NOTE: - If the Agency employee applies orally or in writing for the supply of copies of statements of witnesses mentioned in the list referred to in,,,

sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the",,,

commencement of the examination of the witnesses on behalf of the disciplinary authority.,,,

(iii) Give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow for the discovery,,,

or production of any documents which are in the possession of Agency but not mentioned in the list referred to in sub-rule (3).,,,

NOTE: - The Agency employee shall indicate the relevance of the documents required by him to be discovered or produced by the Agency.,,,

(12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward, the same or copies thereof to the",,,

authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be",,,

specified in such requisition:,,,

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion,",,

not relevant to the case.,,,

(13) On receipt of the requisition referred to in such-rule (12), every authority having the custody or possession of the requisitioned documents shall",,,

produce the same before the inquiring authority:,,,

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing,,,

that the production of all or any of such documents would be against the Agency's interest or public interest or security of the state, it shall inform",,,

the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the Agency employee and",,,

withdraw the requisition made by it for the production or discovery of such documents.â???,,,

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced",,,

by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by",,,

or on behalf of the Agency employee. The Presenting Officer shall be entitled to re-examine the witness on any points on which they have been",,,

cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the",,,

witnesses as it think fit.,,,

(15) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow",,,

the Presenting Officer to produce evidence not included in the list given to the Agency employee or may itself call for new evidence or recall and re-,,,

examine any witness and in such case the Agency employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed",,,

to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of",,,

adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Agency employee an opportunity of inspecting such",,,

documents before they are taken on the record. The inquiring authority may also allow the Agency employee to produce new evidence, if it is of the",,,

opinion that the production of such evidence is necessary in the interest of justice.,,,

NOTE: - New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may",,,

be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.,,,

16) When the case for the disciplinary authority is closed the Agency employee shall be required to state his defence, orally or in writing, as he may",,,

prefer. If the defence is made orally, it shall be recorded and the Agency employee shall be required to sign the record. In either case, a copy of the",,,

statement of defence shall be given to the Presenting Officer, if any, appointed.",,,

(17) The evidence on behalf of the Agency employee shall then be produced. The agency employee may examine himself in his own behalf if he so,,,

prefers. The witnesses produced by the Agency employee shall then be examined and shall be liable to cross-examination, re-examination and",,,,

examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.,,,,

(18) The inquiring authority may, after the Agency employee closes his case, and shall, if the Agency employee has not examined himself, generally",,,,

question him on the circumstances appearing against him in the evidence for the purpose of enabling the Agency employee to explain any,,,

circumstances appearing in the evidence against him.,,,,

(19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed and the Agency",,,,

employee, or permit them to file written briefs of their respective case, if they so desire.â??",,,,

29. The requirements of sub-rules (11) to (19) of Rule 11 of the CCA Rules may be paraphrased thus:,,,

(i) The charged officer may apply for discovery or production of any document, which is in the possession of the EIA, but not mentioned in the list of",,,,

documents enclosed with the chargesheet. He is, however, required to provide the relevance of the said documents. On receipt of such notice, by the",,,,

charged employee, seeking discovery or production of documents, the IO shall forward the said request to the authority, in whose custody or",,,,

possession the documents are kept, with a requisition for production of the documents by a specified date. The IO has, however, the right to refuse",,,,

production of documents which, according to it, are not relevant to the case.",,,,

(ii) On receipt of the requisition from the IO, the authority having the custody or possession of the requisitioned documents shall produce the same",,,,

before the IO, provided that, if such production is against the interests of the EIA or against public interests or the security of the State, the authority",,,,

having custody or possession of the documents shall inform the IO accordingly, and such information shall be communicated, by the IO, to the charged",,,,

employee. In such an event, the IO can withdraw the requisition for production or discovery of such documents.",,,

(iii) On the date fixed for the inquiry, the disciplinary authority shall produce the oral and documentary evidence, by which the article/articles of charge",,,

is/are proposed to be proved. The PO shall examine the witness, who may be cross-examined by, or on behalf of the charged officer. The PO shall",,,

have a right of re-examination. The PO has the right to produce additional evidence, subject to the condition that, the list of such additional evidence",,,

shall be made available to the charged officer at least three days prior to the production of the evidence. The charged officer shall be allowed to",,,

inspect such documents, before they are taken on record. Similarly, an opportunity to produce new evidence shall also be extended to the charged",,,

officer.,,,

(iv) Consequent to closure of the case for the disciplinary authority, the charged officer shall be required to state his defence, orally or in writing. A",,,

copy of the statement of defense shall be given to the PO.,,,

(v) It is only thereafter, that the evidence, on behalf of the charged officer, shall be produced. The charged officer may examine himself if he so",,,

prefers. The witnesses produced by the charged officer shall then be examined, and shall be liable to cross-examination, re-examination and",,,

examination by the IO.,,,

(vi) After the charged officer closes his case, the IO may generally question the charged officer on the circumstances appearing against him in the",,,

evidence, for the purpose of enabling the charged officer to explain any such circumstance. This requirement is mandatory, where the charged officer",,,

has not examined himself.,,,

(vii) After the completion of production of evidence in the manner aforesaid, the IO may hear the PO and the charged officer, or permit them to file",,,

written briefs.,,,

30. A glance at the above procedure, as exhaustively prescribed in Rule 11 of the CCA Rules, vis-À-vis, the procedure followed in the present case",,,

makes it more than apparent that there has been scant regard for the former. The scheme of the rule is categorical. The petitioner was entitled to",,,

seek discovery or production of documents, in the possession of the EIA, but not mentioned in the list annexed to the chargesheet. Subject to his",,,

providing the relevance of such documents, the IO was bound to forward the said request to the authority, in whose custody or possession the",,,

documents were kept, with a requisition for production thereof. This, in fact, was done in the present case.",,,

31. On receipt of such requisition, the authority having possession of the documents was equally bound to produce the same before the IO. Refusal to",,,

do so could only be for one of the reasons contemplated by the proviso to sub-rule (13) of Rule 11, i.e., where such production would be (i) against the",,,

interests of the EIA, or (ii) against public interest, or (iii) against the security of the state. Needless to say, the "interests of the EIA" could not",,,

include the consideration that production of the documents may weaken the case of EIA, against the petitioner, being contested before this Court.",,,

Such a construction would be absurd and preposterous, in equal measure.",,,

32. Despite no such exigency existing, the documents which were allowed, by the IO, vide letter dated 7th December, 1999, were never made",,,

available to the petitioner. This, even by itself, was sufficient to vitiate the proceedings in their entirety.",,,

33. That apart, there is considerable force, in the submission of the petitioner, that the non-providing of the attendance register of Smt. Bimla Sharma",,,

for the month of February, 1999, was starkly violative of the principles of natural justice and fair play. The allegation, against the petitioner, was of",,,

having sexually harassed Smt. Bimla Sharma on 2nd February, 1999. The petitioner had specifically taken a stand that Smt. Bimla Sharma was not",,,

present in office on the said date. It was essential, therefore, for the petitioner to be provided a copy of the attendance register of Smt. Bimla Sharma",,,

for 2nd February, 1999. The comment, contained in the EIA note dated 30th December, 1999 to the effect that the attendance register for the Admn.",,,

Section of the EIA, for the month of February, 1999 was not available, obviously cannot be accepted, and necessary invites an inference that the said",,,

attendance register was either deliberately destroyed, or was being suppressed, so as to prejudice the defense of the petitioner.",,,

34. It is only once the above exercise, of production and providing of documents was over, that the stage of recording of evidence would reach. A",,,

reading of the record of proceedings dated 4th June, 2001 reveals that, on the said date, the IO specifically recorded that the representation dated 5th",,,

May, 2001, of the petitioner, was still under consideration. On the next date of hearing, i.e., 3rd July, 2001, the IO abruptly rejected the said",,,

representation dated 5th May, 2001, on the sole ground that the documents available with the IO had been provided to the petitioner, completely",,,
ignoring " whether inadvertently or otherwise " the fact that the documents, sought by the petitioner, and the supply whereof had been allowed by",,,
the IO, had yet to be supplied to petitioner. He proceeded, after requiring the petitioner to cross-examine the witnesses of the prosecution, to abruptly",,,
close the inquiry. Needless to say, this decision of the IO is totally unsustainable in law and was blatantly violative of principles of natural justice and",,,
fair play.,,,

35. Mr. Gupta is right in his submission that, in doing so, the right of the petitioner, to lead defense evidence, was rudely emasculated. Sub-rule (16) of",,,
Rule 11 stipulates that, when the case of the disciplinary authority is closed, the charged officer would be required to state his defense, a copy",,,
whereof would be provided to the PO. In the present case, the IO preferred never to close the case of the disciplinary authority at all, but to close the",,,
inquiry itself on 3rd July, 2001. As a result, the procedure prescribed in Sub-rule (16) to (18) of Rule 11 was conveniently jettisoned. Neither was the",,,
case of the disciplinary authority closed, nor, thereafter, was an opportunity extended, to the petitioner, to state his defense, nor, needless to say, was",,,
any opportunity was given to the petitioner, thereafter, to lead his defence. Sub-rules (17) and (18) of Rule 11 requires the IO to, if the charged officer",,,
chooses not to examine himself in the inquiry proceedings, generally question the charged officer on the circumstances appearing against him in the",,,
evidence, so as to enable him to explain the circumstances. As no opportunity was extended, to the petitioner, to lead his defense evidence at all, this",,,
procedure was also done away with.,,,

36. Mr. Gupta is right, therefore, in contending that the IO acted as though Sub-rules (16) to (18) of Rule 11 of the CCA Rules were not in existence",,,
at all, and straightway proceeded to apply Rule 19 thereof. These infirmities are fatal. They completely negated the right of the petitioner to a fair",,,
defense, to the charge against him. They have resulted in blatant prejudice to the petitioner, and disclose unholy haste, on the part of the IO, to",,,
complete the proceedings, any which way, sacrificing, in the process, the procedure specifically set out in Rule 11 of the CCA Rules, whereunder the",,,
proceedings had been initiated.,,,

37. The entire proceedings against the petitioner, in my view, would be liable to be set-aside even on this ground.",,,

38. The petitioner has also objected to the fact that he was provided only photocopies of the documents relied upon by the EIA. The copy of the,,,

complaint, dated 3rd February, 1999, of Smt. Bimla Sharma as provided, to him, was also a photocopy. The IO has, in his inquiry report, noted the fact",,,,

that the petitioner was entitled to the original of the said document. However, a reading of the inquiry report discloses that, despite the efforts of the",,,,

IO, the said original complaint of Smt. Bimla Sharma was never made available.",,,

39. Though the IO has chosen to rely, in this context, on the deposition of Smt. Bimla Sharma, before him, vouchsafing the contents of the copy of the",,,,

complaint dated 3rd February, 1999 supra, there is substance in the objection of Mr. Gupta, that the said statement was also, conspicuously, unsigned",,,,

on the page where she had deposed to the said effect. There is no explanation, forthcoming, for this lacuna. The finding, of the IO, on this aspect, is",,,,

obviously a finding in terrorem, for want of any better explanation. The IO has sought to wish away this contention of the petitioner by stating that he",,,,

ought to have raised it at least on the last date of hearing. Needless to say, such a finding need only to be rejected to be discarded. This, in my view, is",,,,

a serious infirmity in the proceedings.,,,,

40. As already noted hereinabove, the documents requisitioned by the petitioner to enable him to defend the charge against him, the supply of which",,,,

was allowed by the IO vide letter dated 7th December, 1999 were never provided to the petitioner.",,,

41. To this, too, there is no explanation, whatsoever, either in the inquiry report, or in the impugned order of the disciplinary authority, or even by",,,,

learned counsel appearing for EIA before this Court.,,,,

42. The finding of the IO, to the effect that the petitioner had not introduced his defense witnesses, is also, obviously, preposterous, as no opportunity",,,,

to introduce defense witnesses was ever extended to the petitioner, as also noted hereinabove. The petitioner had also pointed out that the Smt. Bimla",,,,

Sharma had moved the Vigilance Cell of Delhi Police alleging sexual harassment, of her, by the petitioner, on 3rd February, 1999. This allegation was",,,,

investigated by the Vigilance Cell of Delhi Police and found to be without

substance. The petitioner points out that during the said proceedings, Mr. K.K. Kharbanda and Mr. J.P. Maikhuri, who were present in the office on the date of alleged incident, had come on record stating that no such incident had taken place. These statements were, therefore, pivotal to the defence of the petitioner. Even at the stage of considering the petitioner's request for leading the defense witnesses, the IO, without any justifiable reason, denied the right to lead the defense of Mr. J.P. Maikhuri, and allowed the petitioner only to lead the evidence of Mr. K.K. Kharbanda. Having done so, it was incumbent on the IO to direct the EIA to make the said defense witnesses, as they were officers of the EIA.

43. The IO never even allowed the stage of defence evidence to reach, as he closed the evidence prior thereto.

44. The impugned order dated 29th October, 2005 of the disciplinary authority is totally non-speaking in nature and does not consider any of the submissions made by the petitioner in his representation dated 5th May, 2001 against the inquiry report. The inquiry report of the IO, too, does not consider the submissions of the petitioner, choosing to confirm the allegations against him solely on the basis of the statement of the three prosecution witnesses, whose testimonies were never allowed to be tested by cross-examination, except on 3rd July, 2001, on which date, as per the order passed on the previous date of hearing i.e., 4th June, 2001, the representation dated 5th May, 2001, of the petitioner, ought to have been taken up and decided.

The petitioner was, therefore, clearly taken by surprise on 3rd July, 2001, when he was asked to cross-examine the PWs and even if he was not in a position to do so on the said date, the IO acted in a clearly arbitrary manner in choosing to close the inquiry thereupon.

45. In any event, the stage of recording the evidence could not be said to have reached at all, as the documents sought by the petitioner, as allowed by the IO, including the attendance register of Smt. Bimla Sharma for the month of February, 1999, were yet to be made available to him.

46. Clearly, the manner in which the inquiry against the petitioner has proceeded is a mere mockery of the principles of natural justice and fair play. It is obvious that the EIA acted with a view to confirm the charge, against the petitioner, at all costs, in violation of the most basic canons and tenets of principles of natural justice.

Conclusion,,,

47. In view of the above findings, I am of the view of that the impugned order dated 29th October, 2005 imposing, on the petitioner, a penalty of 50%,,,

reduction in pension, cannot sustain, and has necessarily to be set aside. Accordingly, the impugned order dated 29th October, 2005 is quashed and set",,, aside.,,,

48. The petitioner would be entitled to all consequential reliefs, including arrears of pension, if they have been withheld in accordance with the",,,,

impugned order.,,,

49. As the petitioner has, unfortunately, expired as far back as in 2006 itself, these benefits would necessarily have to be paid to the surviving legal",,,,

heirs of the petitioner, who already stand substituted.",,,

50. The EIA is directed to comply with this order within a period of four weeks from the date of pronouncement thereof. Failure to do so, shall invite",,,,

interest at the rate of 12% per annum from the date of expiry of the said period of four weeks, till the date of payment of the said amount.",,,

51. Thought the facts of the case would warrant imposition of costs on the respondent, as the petitioner has expired in 2006, I refrain from doing so.",,,

52. The writ petition is disposed of accordingly with the above terms.,,,