
(2014) 03 DEL CK 0078
In the Delhi High Court
Case No : Writ Petition (C) 7487 of 2004

Sudhanshu Ojha	Vs	APPELLANT
The Director General Crpf and Others		RESPONDENT

Date of Decision : 28-03-2014

Acts Referred:

Citation : (2015) 213 DLT 135

Hon'ble Judges : Pradeep Nandrajog, J; Jayant Nath, J

Bench : Division Bench

Advocate : Santosh Kumar and Mr. Madhurendra Sharma, for the Appellant;
Anjana Gosain, Pradeep Desodhya and Mr. R.N. Partik, for the Respondent

Final Decision : Allowed

Judgement

Pradeep Nandrajog, J.—Pithily stated, the factual matrix of the above captioned writ petition is that the petitioner was appointed to the post of Assistant Commandant in Central Reserve Police Force on December 01, 1994. In the year 1997 the petitioner was posted to the 76th Bn. CRPF and was functioning as the Sector Commander. It is alleged by the respondents that complaints were received against the petitioner that he was actively involved in various illegal and corrupt practices, such as collecting money/extortion from truck drivers of private vehicles when their vehicles passed the Meerapani Check Gate; timber smugglers, hooch peddlers, extorting money from local shopkeepers and civilians who constructed their houses in the Disputed Assam-Nagaland Border (DAB) area.

2. In view of the said complaints, Commandant (Staff) Sh. V.P. Rao and DIGP, CRPF Dr. Mahboob Alam were directed to conduct a preliminary/discreet enquiry. The aforesaid officers submitted report(s) prima-facie opining that the complaints were perhaps true.

3. In view of the preliminary enquiry report(s) submitted by the afore-noted two officers the Disciplinary Authority of the petitioner issued a charge sheet to the

petitioner under Rule 14 of the CCS (CCA) Rules, 1965 as under:-

Article-I

Shri S.K. Ojha, Assistant Commandant, 76 Bn., CRPF (now posted in 12 Bn) while posted and functioning as Sector Commander, Meerapani (Assam) during 1997 committed an act of serious misconduct in that in his capacity as Sector Commander, was actively involved in illegal and corrupt activities like collection of money/extortion from truck drivers, timber smugglers, hooch peddlers and local shop keepers, thereby tarnished the image and reputation of the Force. Thus the said Shri S.K. Ojha failed to absolute maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thereby violated the provisions conducted in Rule 3(1)(i), (ii) and (iii) of CCS (Conduct) Rules, 1964.

Article-II

That the said Shri S.K. Ojha while posted and functioning in the aforesaid Bn. and in the aforesaid capacity during the aforesaid period committed a serious misconduct in that by using his official position and utilizing the services of his subordinates No. 820700371 L/NK Baljinder Singh, C/76 Bn. 8212960088 Ct. Jiva Bhai, C/76 Bn, 903051897 Ct. Mohd. Rafiq Ahmed Shaikh, C/76 Bn, 941175105 Ct. Deepak Biswas, C/76 Bn, and No. 910960015 Ct. Mukesh Kumar, D/76 Bn, CRPF extorted money by detailing them to go to local villages to bring the identified personnel before him to collect/extort money through corrupt practices. Thus, the said Shri S.K. Ojha failed to absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thereby violated the provisions conducted in Rule 3(1)(i), (ii) and (iii) of CCS (Conduct) Rules, 1964.

Article-III

That the said Shri S.K. Ojha while posted and functioning in the aforesaid Bn. and in the aforesaid capacity during the aforesaid period committed a serious misconduct in that he tried to bring influence to bear upon his superior authority to further his interest by making local people/petty politicians submit public representation/petitions against his transfer from his place of duty. Thus, the said Shri S.K. Ojha failed to absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thereby violated the provisions conducted in Rule 3(1)(i), (ii) and (iii) of CCS (Conduct) Rules, 1964.

4. An Inquiry Officer was nominated who, after examining the witnesses of the prosecution and hearing the petitioner, submitted a report on June 08, 1999 exonerating the petitioner of the second and the third article of charge; holding that the first article of charge framed against the petitioner was partially proved. The relevant portion of the report of the Inquiry Officer reads as under:-

6.7 Analysis And Assessment of Evidence. Article-1.

Shri S.K. Ojha, a/c the delinquent, is charged for committing an act of serious misconduct while posted in his capacity as Sector Commander at Meerapani and was actively involved in illegal and corrupt practices of collection of money from truck drivers, timber smugglers, hooch peddlers and local shop keepers etc., thereby tarnishing the image of the Force.

The evidence given by SW-16, SW-17, SW-18, SW-19, SW-20, SW-21 and SW-22 is material and goes to substantiate the article of charge. Exhibits S-1, S-2, S-3, S-4, S-5, S-6 and S-10 are also material as regards this charge.

SW-16 had gone to Meerapani area and video recorded the statements of civilians who later deposed in DE and also gave statements in PE. Both of them have specifically stated that Shri S.K. Ojha, A/C the delinquent while posted at Meerapani was actively involved in corrupt activities like extortion of money. SW-17 has named delinquent in the video statement also. He himself had paid money to Shri S.K. Ojha A/C and this fact has been corroborated by SW-16 has further forwarded a report of activities of Shri S.K. Ojha, A/C, after his visit to Meerapani and after recording video statements of some civilians, to DIGP, CRPF, Guwahati. The contention of the delinquent that SW-16 conducted the whole enquiry with the prejudice mind and tempted to establish the collection of money is not true because Shri V.P. Rao, Commandant (Staff) had only collected the information and forwarded to his higher authorities. The facts regarding collection of money by the delinquent were stated by civilian witnesses without any pressure and pursuance and video recorded by Shri V.P. Rao, Commandant (Staff). The view of the defence that the statement of Shri V.P. Rao, Commandant (Staff) should not be considered at all due to his being prejudice is also not correct because I cannot ignore the statements given before me by any witness in the presence of delinquent if the facts mentioned are not false or fabricated.

Shri P.T. Hazarika (SW-17) has very specifically stated that he has paid money to Shri S.K. Ojha, a/c. The contention of the delinquent that SW-17 did not mention that the name of Shri S.K. Ojha, a/c in PE, but in DE he has specifically taken his name after lapse of more than one year does not refute the charges. The delinquent tried to prove that Shri P.T. Hazarika was a criminal and was engaged in stealing wood also does not appear to be correct as no evidence was produced by defence in this regard. No police record about criminal back ground of Shri P.T. Hazarika was produced in the inquiry. The facts stated by Shri P.T. Hazarika that the delinquent was taking money has further been corroborated by Shri P.B. Gohain, Shri Sato Saikia, Shri Hemu Saikia and Shri Kaliya Saikia in their own statements. The statements of DW-3 and DW-4 created some doubt about credibility of evidence given by SW-20 (S-2) and SW-17 (S-1) but preponderance of probabilities goes to establish that the delinquent was involved. The documents produced by the prosecution gives credence to the fact that the charged officer was fully involved in the illegal activities. No evidence has come in, to prove that Shri Babul Gogai surrendered ULFA extremist and Md. Ali Razak

Khan mechanic used to go with Shri S.K. Ojha, A/C in CRPF uniform and CRPF vehicle for identifying local public in villages from whom money was to be extorted. No evidence has come forward to establish that CRPF men deployed under Shri S.K. Ojha, a/c were ever sent to bring identified men to the camp for extortion of money.

The defence tried to prove that the civilian witnesses (SW-17 to SW-21), whose statements were first recorded in PE (Ex. S-1 to S-6) are criminals and their statements are not admissible and carried no value. The defence failed to marshal any concrete evidence to prove this contention. None of these civilians have any police criminal record. None of them was ever arrested by the delinquent or local police and no FIR etc is produced in the DE. DW-2 has stated that Shri P.T. Hazarika is a thief and not a good person but he also failed to establish this fact with concrete evidence. Similarly Shri T. Lotha (DW-3) has stated that Shri Kalia Saikia is not a good person but there is no record in the police. DW-4 stated that Shri P.T. Hazarika, Shri P.B. Gohain, Shri Kailia Saikia and Shri Surain Gogai are notorious people. In absence of any police record this fact cannot be established and there is no reason for ignoring their statements of PE without sufficient reasons as to why should they speak against delinquent. I do not agree with defence that their evidence is of no value. Even if they are criminals, their statement will carry value so long it contains concrete evidence.

Findings

After going through the statements of prosecution witnesses, defence witnesses, documents on record, defence statement of delinquent, written briefs of defence and production and evidence on record and in view of the reasons mentioned in ongoing paras, I hold that the article of charge-I leveled against Shri S.K. Ojha, Assistant Commandant is partially proved. The articles of charge-II and III are not proved.

(Emphasis Supplied)

5. A perusal of the afore-noted extract of the report of the Inquiry Officer evidences that the Inquiry Officer has held the first article of charge was partially proved on the basis of:-

(i) Statements of civilians viz. P.T. Hazarika PW-17, Hemu Saikia PW-18, Sato Saikia PW-19, Kalia Saikia PW-20 and Kaila Saikia PW-21 recorded at the disciplinary and preliminary enquiries;

(ii) Statements of civilians viz. Jogeshwar Saikia and P.B. Gohain recorded at the preliminary enquiry; and

(iii) Statements of officers V.P. Rao PW-16 and Dr. Mahboob Alam PW-22 who had conducted the preliminary enquiries.

6. The Disciplinary Authority, to whom the report of the inquiry officer was submitted, did not agree with the findings returned by the inquiry officer and

accordingly proceeded to issue a show-cause notice to the petitioner on July 06, 2000 and in the said show-cause notice recorded a note of disagreement. Being relevant, we note the contents of the show-cause notice dated July 06, 2000 containing the note of disagreement:-

A departmental enquiry was conducted against you by Shri H.R. Banga, Commandant, CRPF. The report of the Inquiry Officer is closed. The Inquiry Officer in his report has held Article-I of the charge as partially proved and Article-II and III as not proved. The disciplinary authority does not agree with the findings of the Inquiry Officer with regard to Article-I of the charge and hold Article-I of the charge as fully proved due to the reasons that prosecution witnesses-3, 17, 18, 19, 20 and 21 have categorically brought out about taking illegal gratification by you from, the villagers and truck drivers etc. You have not been able to disprove their statement during the course of enquiry. Further, prosecution exhibits No. 10 also corroborate the fact of taking illegal gratification by you. Your submission that the civilian witnesses are not reliable being bad characters has no substance as during the course of enquiry you have not been able to substantiate the facts. You have even declined to cross examine the PWs. 19 (Shri Hemu Saikia), PW-20 (Shri Sato Saikia), PW-21 (Shri Kalia Saikia) who have categorically stated that they paid illegal gratification to you. Defence exhibits in the form of affidavit in respect of Shri P.T. Hazarika and Shri Prashant Bor Batra Gohain produced by you have no weight as you were given ample opportunity to cross examine the prosecution witnesses and in case they were telling a lie, you should have cross examined them and brought out the factual position rather than obtaining affidavits from others after recording their statement. Further you have obtained certain applications from the villagers and produced them as defence exhibits in your support rather than producing these personnel as your defence witness to establish your innocence. As these persons have not been examined, their applications therefore do not have any credibility or relevance in the proceedings. Therefore, the disciplinary authority holds article-I of the charge leveled against you as fully proved.

2. The disciplinary authority will take suitable decision after considering the report of the Inquiry Officer and reasons for disagreement with findings of the IO as stated above, and your representation if any. If you wish to make a representation or submission, you may do so in writing to the disciplinary authority within 15 days of receipt of this letter.

(Emphasis Supplied)

7. Responding to the show cause notice dated July 06, 2000 containing the note of disagreement, the petitioner submitted a detailed response on August 02, 2000 wherein besides highlighting that the note of disagreement did not justify any departure from the conclusion arrived at by the Inquiry Officer, the petitioner contended that the Inquiry Officer committed a fallacy in even holding first article of charge framed against him as partially proved for the reasons:-

(i) The Inquiry Officer committed an illegality in recording the statements of civilians viz. P.T. Hazarika PW-17, Hemu Saikia PW-18, Sato Saikia PW-19, Kalia Saikia PW-20 and Kaila Saikia PW-21 at the disciplinary enquiry inasmuch as the names of said persons/civilians did not find mention in the list of witnesses annexed to the charge sheet issued to the petitioner, more so when no list of further evidence proposed to be adduced by the prosecution was supplied to the petitioner.

(ii) The statements of civilians viz. P.T. Hazarika PW-17, Hemu Saikia PW-18, Sato Saikia PW-19, Kalia Saikia PW-20 and Kaila Saikia PW-21 recorded at the disciplinary enquiry were contradictory to their earlier statements recorded at the preliminary enquiry.

(iii) The statements of civilians viz. P.T. Hazarika PW-17, Hemu Saikia PW-18, Sato Saikia PW-19, Kalia Saikia PW-20 and Kaila Saikia PW-21 recorded at the disciplinary enquiry were contradictory to each other.

(iv) Defence evidence adduced by the petitioner brought that the civilians viz. P.T. Hazarika PW-17, Hemu Saikia PW-18, Sato Saikia PW-19, Kalia Saikia PW-20 and Kaila Saikia PW-21 were notorious criminals and were involved in various illegal activities. Since the petitioner had attempted to check their illegal activities they i.e. civilians viz. P.T. Hazarika PW-17, Hemu Saikia PW-18, Sato Saikia PW-19, Kalia Saikia PW-20 and Kaila Saikia PW-21 had deposed falsely against the petitioner.

(v) Officers V.P. Rao PW-16 and Dr. Mahboob Alam PW-22 who had conducted the preliminary enquiries in the matter were prejudiced against the petitioner and thus conducted the preliminary enquiries with a view to frame the petitioner as evidenced from the defence evidence adduced by the petitioner.

8. In the meantime, the Disciplinary Authority sought the advice of the UPSC. Vide its advice dated November 02, 2011 the UPSC advised that the Article-I of charge framed against the petitioner has been fully established and recommended imposition of penalty of dismissal from service upon the petitioner.

9. Vide order dated December 06, 2001 the Disciplinary Authority/President opined that the prosecution/department has been able to fully establish the first article of charge framed against the petitioner and imposed the penalty of dismissal from service upon the petitioner. The relevant portion of the order dated December 06, 2001 reads as under:-

5. The President has considered the report of IO, representation of the charged officer dated 2.8.2000, other relevant records of the case and also consulted UPSC. After the said consideration the President, has come to the conclusion that article of charge-I stands substantially proved and article-II and III of the charges as not proved and has accepted the advice of UPSC.

10. Aggrieved by the aforesaid, the petitioner filed a writ petition which as per the then Rules of this Court was listed before a Single Judge of this Court

assailing the legality of the penalty order dated December 06, 2001 passed by the Disciplinary Authority, essentially on the ground that the Disciplinary Authority has returned positive finding of guilt against the petitioner and not tentative reasons for its disagreement in the show cause notice dated July 06, 2000 containing the note of disagreement and as a consequence the Disciplinary Authority took a decision with a closed mind while passing the penalty order dated December 06, 2001. Petitioner's response dated August 02, 2000 was not even considered.

11. Vide judgment dated April 15, 2002, the learned Single Judge dismissed the aforesaid petition filed by the petitioner on the ground that the show cause notice dated July 06, 2000 satisfied the requirements laid down by the Supreme Court in the decisions reported as Punjab National Bank and Others Vs. Sh. Kunj Behari Misra, and Yoginath D. Bagde Vs. State of Maharashtra and Another, with regard to the issuance of the disagreement note, in that, the show cause notice dated July 06, 2000 stated that the Disciplinary Authority had disagreed with the report of the Inquiry Officer; given reasons for the disagreement and called upon the petitioner to make a representation in respect of the aforesaid disagreement.

12. The petitioner filed a Letters Patent Appeal before a Division Bench of this Court challenging the correctness of the afore-noted order dated April 15, 2002 passed by the learned Single Judge. Vide order dated September 21, 2002, allowing the aforesaid appeal and remitting the matter to the disciplinary authority for consideration of the matter afresh in the light of the report of the Enquiry Officer, succinctly stating, the factors which weighed with the Division Bench in ordering so are as under:-

(i) The penalty order dated December 06, 2001 passed by the Disciplinary Authority is not a reasoned order, in that, it had not dealt with the contentions raised by the petitioner in the representation dated August 02, 2000 submitted by him.

(ii) The petitioner was not supplied with a copy of the advice rendered by the UPSC.

(iii) The Disciplinary Authority committed an illegality inasmuch as it sought the advice of the UPSC in the matter before it itself took a decision.

(iv) The Disciplinary Authority has returned a positive finding of guilt against the petitioner and not tentative reasons for its disagreement in the show cause notice dated July 06, 2001 containing the note of disagreement.

(v) The copy of the report of the Inquiry Officer was required to be supplied to the petitioner before the issuance of the show cause notice dated July 06, 2001 containing the note of disagreement.

(vi) In its advice, the UPSC acted as an appellate authority over the report of the Inquiry Officer. Further, there is nothing on record to show that UPSC had given its advice after considering the representation dated August 02, 2000 submitted

by the petitioner.

13. At the remanded stage the Disciplinary Authority passed a fresh order dated February 24, 2003, opining therein that it agreed with the conclusion arrived by the Inquiry Officer that the first article of charge framed against the petitioner stands partially proved and again imposed the penalty of dismissal from service upon the petitioner. The relevant portion of the order dated February 24, 2003 reads as under:-

5. and Whereas, the IO's report in relation to the disciplinary proceedings held against Shri S.K. Ojha, Ex-AC has been considered. On the basis of statements of civilian witnesses without any pressure and in the presence of charged officer during the course of inquiry, the IO held Article-I of the charge partially proved to the extent of facts regarding collection of money by the charged officer. However, there is no evidence to prove that the charged officer utilized some civilians in CRPF uniform and used CRPF vehicle for identifying local public from whom money was to be extorted and no evidence has come to establish that CRPF men deployed under the charged officer were ever sent to bring the identified men to the camp for extortion of money. Thus the basic content of the Article-I of the charge that the officer was actively involved in illegal and corrupt practices of collection of money from truck drivers, timber smugglers, hooch peddlers and local shopkeepers etc., has been accepted as proved by the Inquiry Officer. The proven aspect of Article-I of the charge by the Inquiry Officer is serious enough to establish the corrupt practice adopted by the charged officer involving his integrity warranting stringent major penalty.

6. Now Therefore, after reconsideration of the matter afresh pursuant to the directions of the Hon"ble Division Bench of Delhi High Court vide their order dated 21.9.2002, the President considers that the ends of justice would be met by imposing the penalty of dismissal from service on Shri S.K. Ojha, Ex. AC, CRPF as already awarded which is commensurate with the gravity of the offence committed by the officer. The President hereby orders accordingly.

14. Instant petition challenges the order dated February 24, 2003 passed by the Disciplinary Authority imposing the penalty of dismissal from service upon the petitioner.

15. From the facts noted above it is apparent that three articles of charge were framed against the petitioner. The first article of charge framed against the petitioner had following two parts:-

(i) While functioning as Sector Commander Meerapani, the petitioner was involved in various illegal and corrupt practices such as collection of money/ extortion from civil truck drivers who passed through the Meerapani check gate, timber smugglers, hooch peddlers, local shopkeepers and civilians who constructed their houses in Disputed Assam and Nagaland Border (DAB) area.

(ii) While petitioner was functioning as Sector Commander, Meerapani, one Babul

Gogoi, a surrendered ULFA extremist and one Ali, a motor mechanic, used to accompany the petitioner in CRPF uniform for identifying local persons from whom money could be extorted.

16. Vide his report dated June 08, 1999 the Inquiry Officer held that the first part of the first article of charge was proved and the second part was not proved. The Inquiry Officer has exonerated the petitioner of the second and the third articles of charge framed against him. The Disciplinary Authority disagreed with the report of the Inquiry Officer and issued a show cause notice dated July 06, 2000 containing disagreement note to the petitioner. As per the Disciplinary Authority, both parts of the first article of charge framed against the petitioner were proved. The show cause notice dated July 06, 2000 containing the note of disagreement, the relevant portion whereof have been noted in para 7 above, was most unhappily worded, in that, the disciplinary authority had returned positive finding of guilt in respect of both parts of the first article of charge framed against the petitioner and not tentative reasons. Law laid down in Kunj Bihari Mishra's case and Yoginath D. Bagde's case was obviously violated for the reason if in a show cause notice the Competent Authority takes a final decision it would be apparent that the mind has been closed and thus giving an opportunity to respond to the show cause notice would be reduced to an idle formality. As noted above, the petitioner submitted a response on August 02, 2000 to the show cause notice July 06, 2000, where besides highlighting that the note of disagreement did not justify any departure from the conclusion arrived at by the Inquiry Officer, the petitioner also contended that even the conclusion arrived at by the Inquiry Officer that the first part of the first article of charge framed against the petitioner was proved is faulty for various reasons. Thereafter the Disciplinary Authority passed the order dated December 06, 2001, holding the petitioner guilty of both the parts of the first article of charge framed against him and imposed the penalty of dismissal from service upon him.

17. A bare perusal of the order dated December 06, 2001 passed by the Disciplinary Authority, relevant portion whereof has been noted by us in para 10 above, shows that not a word has been spoken of by the disciplinary authority with respect to the response of the petitioner either to the note of disagreement furnished to him under the show cause notice dated July 06, 2000 nor to the contentions urged by the petitioner pertaining to the report of the inquiry officer holding that first part of the first article of charge was proved.

18. Vide judgment dated September 21, 2002 the Division Bench set aside the penalty order dated December 06, 2001 passed by the Disciplinary Authority and remitted the matter back to the disciplinary authority for consideration of the matter afresh in the light of the report of the Enquiry Officer and the contentions urged by the petitioner not only in response to the show cause notice containing the stated tentative reasons for disagreement with the report of the Inquiry Officer concerning the second part of the first charge, but even the contentions pertaining to said part of the inquiry report where the first part of the first article

of charge was held to be proved. In so concluding, one factor which weighed with the Division Bench was that the penalty order dated December 06, 2001 passed by the Disciplinary Authority was not a reasoned order, in that, it had not dealt with the contentions raised by the petitioner in the representation dated August 02, 2000 submitted by him.

19. Thereafter, the Disciplinary Authority passed a fresh order dated February 24, 2003 ostensibly in terms of the directions contained in the judgment dated September 21, 2002 passed by the Division Bench. This time, the Disciplinary Authority agreed with the conclusion arrived at by the Inquiry Officer that only first part of the first article of charge framed against the petitioner has been proved. Again, the penalty of dismissal from service has been inflicted upon the petitioner.

20. A bare perusal of the order dated February 24, 2003 passed by the Disciplinary Authority, relevant portion whereof has been noted by us in para 14 above, shows that yet again, not a word has been spoken of by the disciplinary authority with respect to the response dated August 02, 2000 of the petitioner to the effect that the conclusion arrived by the Inquiry Officer that the first part of the first article of charge framed against the petitioner is faulty for various reasons.

21. Rule 15 of Central Civil Services (Control, Classification and Appeal) Rules, 1965 deals with the matter of taking action by the disciplinary authority on the report of the inquiry officer, sub-rules 2 and 2A thereof read as under:-

(2) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority together with its own tentative reasons for disagreement, if any, with the findings of inquiring authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within fifteen days, irrespective of whether the report is favorable or not to the Government servant.

(2A) The disciplinary authority shall consider the representation, if any, submitted by the Government servant and record its findings before proceeding further in the matter as specified in sub-rules (3) and (4).

22. Sub-rule 2A of Rule 15 of CCS (CCA) Rules, 1965 casts a duty upon the disciplinary authority to consider the representation/response, if any, submitted by the delinquent employee before passing a final order in the matter.

23. In the decision reported as Ranjit Singh Vs. Union of India (UOI) and Others, the Supreme Court highlighted the importance of dealing with a response submitted by the charged officer to a show-cause post receipt of a report of inquiry.

24. In a nutshell, the decision brings out that to be called a speaking and

reasoned order, the same must show that the authority concerned has come to grips with the issue raised in the response by the charged officer and with reference to the evidence on record proceeds to consider the same and records an application while reaching the conclusion. If the contentions urged by the delinquent have been dealt with by the Inquiry Officer and the disciplinary authority agrees with the same, the disciplinary authority may not give elaborate reasons and may embody the reasons given by the inquiry officer, but where the inquiry officer has not noted a contention urged with respect to the evidence led at the inquiry, it would be the duty of the disciplinary authority to consider the same and deal with it giving reasons. Only then can it be said that the order passed by the disciplinary authority is a reasoned order.

25. The petitioner's response dated August 02, 2000 would show that apart from challenging the conclusions arrived at by the disciplinary authority and reasons stated for not agreeing with the report of the inquiry officer pertaining to the second limb of the first article of charge the petitioner questioned even the first part of the first article of charge being proved. We have pithily noted the same in paragraph 8 above. We do not find that the disciplinary authority has dealt with the same. We note that in his report submitted by the inquiry officer even he has not dealt with said submission.

26. In that view of the matter the order dated February 24, 2004 passed by the Disciplinary Authority is a completely non-reasoned order inasmuch as not a word has been spoken of by the disciplinary authority with respect to the response dated August 2, 2000 of the petitioner. The order dated February 24, 2003 deserves to be set aside.

27. Accordingly, instant petition is allowed setting aside the order dated February 24, 2003 passed by the Disciplinary Authority.

28. We are not permitting the disciplinary authority to pass any further order after dealing with petitioner's response to finding returned by the inquiry officer concerning the first limb of the first article of charge for the reason we find that the charge memo is dated June 08, 1999. Nearly 14 years have gone by. Twice the disciplinary authority has acted with prejudice and a close mind. Petitioner's response is not being accorded the due consideration which it merits. It may be true that a person holding a public post is accountable for his actions, but the process of accountability cannot be indefinitely stretched in a manner that it ceases to be a process to make the holder of the post accountable and becomes a process to test the patience of the holder of the post.

29. The petitioner would be reinstated in service and as regards consequential benefits we leave it open to the Competent Authority to decide the manner in which the period in between petitioner being dismissed from service and reinstated in service would be treated. No costs.