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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8504/2024**
UNION OF INDIA & ORS.

..... Petitioners

Through: Mr. Balendu Shekhar, CGSC with
Mr. Krishna Chaikanya and Mr. Raj Kumar
Maurya, Advs.

versus

SHRI ABHIJIT BANIK

..... Respondent

Through: Mr. Sachin Chauhan with Ms. Ridhi
Dua and Mr. Abhimanyu Baliyan, Advs.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
31.05.2024

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CM APPL. 34970-71/2024 –Ex.

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

CM APPL. 34972/2024 –Addl. Doc.

3. This is an application filed by the petitioner seeking permission to file some additional document.
4. The application is allowed, subject to all just exceptions.
5. The application stands disposed of.

W.P.(C) 8504/2024 & CM APPL. 34969/2024 –Stay.

6. The present writ petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 08.02.2024 passed by the



learned Central Administrative Tribunal (Tribunal) in Original Application (O.A.) No. 1492/2015. Vide the impugned order, the learned Tribunal has set aside the departmental proceedings held against the respondent alongwith all consequential orders after noticing the fact that though the enquiry officer had exonerated the respondent, the disciplinary authority has indicted him on the basis of the documents presented by the petitioner even though the said documents were not tendered in evidence by any prosecution witness.

7. Challenging the aforesaid impugned order, learned counsel for the petitioner submits that since the respondent did not want to lead any defence evidence or produce any documents, a presumption was drawn that the documents presented by the prosecution were deemed admitted by him.
8. We are unable to accept this plea as the respondent's failure to adduce documents in defence cannot be construed as an admission of the documents filed by the management. Taking into account that it is an admitted position that no management witness was produced in the departmental inquiry to tender in evidence the documents of the management, we are of the view that the Disciplinary Authority has erred in relying on those documents produced by the management. Furthermore, this issue raised in the present petition is already covered by a catena of decisions of this Court including the decision in ***"Anil Kumar Dhyani vs. Union of India & Ors."*** 2017 SCC OnLine Del 9911, passed by a co-ordinate bench of this Court in which one of us, namely Rekha Palli, J, was a member. It would, therefore, be apposite to reproduce the relevant extracts of the



decision in “**Anil Kumar Dhyani**” which read as under:

“17. Though it is well settled that in a domestic inquiry, strict rules of evidence do not apply and the inquiry officer is not expected to write a judgment like a Judge of a Court but it is also equally a well settled proposition, that the domestic inquiry is a quasi judicial proceeding and the inquiry officer, while performing this quasi judicial function, has a duty to carefully examine the evidence led before him and he cannot merely rely on the documents filed by the Presenting Officer to hold the delinquent employee guilty. Inference on facts by an inquiry officer must be based on some evidence, which is led before the inquiry officer in compliance of the principles of natural justice and he is expected to ensure that at least the evidence presented by the management, is sufficient to hold that the charge is proved.

18. XXX

19. XXX

20. We are also fortified in our aforesaid view by the pronouncement in State of Uttar Pradesh v. Saroj Kumar Sinha (Supra), relevant paras whereof read as follows:—

“28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been



observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the Respondents.

27. Apart from the above by virtue of Article 311(2) of the Constitution of India the departmental inquiry had to be conducted in accordance with rules of natural justice. It is a basic requirement of rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceeding which may culminate in a punishment being imposed on the employee.

28. When a department enquiry is conducted against the Government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The enquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.”

21. In A.K. Saxena (supra), in paras 36 & 37, this Court has held as under:—

“36. The Supreme Court has consistently held that a departmental inquiry is akin to a quasi judicial proceeding. It has also been held that mere production of documents is not enough, the



contents of the documents have also to be proved by examining the witnesses. This has been held while taking into consideration the fact that though the W.P.(C) 3127/2014 Page 21 of 22 provisions of the Evidence Act may not be applicable in departmental proceedings, but the principles of natural justice would certainly be applicable.

37. Resultantly, we are of the view that the Tribunal was bound by the decision rendered by the coordinate bench of the Tribunal. The Supreme Court in the case of G.S. Grewal (supra) have expressed its deep displeasure when such judicial propriety is not maintained. We reiterate, that in case for any strong reasons the Tribunal was of the view that the decision rendered by the coordinate bench was not in accordance with law, the only option available was to refer the matter to a larger bench which was not done in this case. Even otherwise, we are of the view that the decision rendered by the Tribunal in the case of J.P. Singh (supra) is good law.”

23. In fact, from a perusal of the judgment of the Apex Court in the case of State Bank of India v. Narendra Kumar Pandey (supra), which has been relied upon by the Respondents, it becomes evident that only when the documents are uncontroverted, it is open to the inquiry officer to accept the same, to hold the employee guilty even without examining any witness. In a case where the documents are not admitted by the delinquent employee, the same have to be proved by the management by leading oral



evidence and in the absence of any witness, the same cannot be relied upon by the inquiry officer while arriving at his finding in respect of the charges.”

9. In the light of the aforesaid, when the petitioners themselves failed to examine any witness to prove the documents vide which the charges were sought to be proved against the respondent, we find absolutely no reason to interfere with the impugned order. The writ petition being meritless is, accordingly, dismissed alongwith the accompanying application.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 31, 2024
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