BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL AT DEHRADUN

Present: Hon'ble Mr. Justice U.C.Dhyani

------ Chairman

Hon'ble Mr. Rajeev Gupta

-------Vice Chairman (A)

CLAIM PETITION NO. 22/DB/2022

Smt. Santosh Kumari w/o Sri Naresh Chandra r/o 586 Block 1st Dharampur, Haridwar Road, Dehradun, Assistant Teacher, government Primary School, Kairaa, Block-Chakrata, District Dehradun.

……Petitioner

vs.

1. The State of Uttarakhand through Secretary, Education.
2. Director General, School Education, Uttarakhand, Dehradun.
3. Director, Basic Education, Uttarakhand, Dehradun
4. Additional Director, Primary Education, Garhwal Mandal, Pauri.
5. District Education Officer (Basic Education), Dehradun.

..……Respondents

Present: Dr. N.K.Pant, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for respondents.

JUDGMENT

DATED: SEPTEMBER 07, 2022

Justice U.C.Dhyani (Oral)

By means of present claim petition, petitioner seeks the following reliefs:

> "(i). Issue an order or direction to set aside/ quash the impugned order dated 30.06.2021 passed by the Additional Director, Primary Education, Garhwal Mandal, Pauri.
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> (ii) Issue an order or direction to set aside/ quash the order dated 29.10.2020 passed by the respondent no.5 (District Education Officer, Basic Education, Dehradun), which has again been made a basis for passing the impugned order dated 30.06.2021.
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> (iii) Award the cost of claim petition in favour of the petitioner. "

2. Facts necessary for adjudication of present claim petition are as follows:

2.1 The petitioner completed the basic teacher course from the *Bhartiya Shiksha Parishad*, U.P., through correspondence in the year 2000, which is an autonomous body registered with the U.P. Government for conducting various courses including teachers training progremme *i.e*. BTC/D.Ed./B.Ed./M.Ed. etc. The BTC certificate issued by the *Bhartiya Shiksha Parishad*, U.P., is equivalent to the BTC certificate issued by the regular Govt. Institution.

2.2 The petitioner was appointed as Assistant Teacher, Govt. Primary School *vide* order dated 26.07.2007, after facing interview and after due scrutiny of her certificates. After eight years of joining the service as Assistant Teacher, the petitioner was served letter dated 27.08.2015 from the office of respondent no.5, asking the petitioner to submit her educational certificate for verification. Petitioner, on 02.09.2015, submitted her entire educational certificates including certificate of BTC training before respondent no.5, in compliance of order dated 27.08.2015.

2.3 Services of the petitioner were terminated by respondent no.5 *vide* order dated 19.11.2015 (Copy-Annexure: 13) without issuing any show cause notice to her or without affording an opportunity of being heard. Petitioner's services were terminated on the ground that her BTC certificate is not valid according to National Council of Training Education (for short, NCTE) for appointment as Assistant Teacher in Uttarakhand.

2.4 Petitioner approached the Hon'ble High Court of Uttarakhand by way of WPSS No. 2567 of 2015, which writ petition was allowed by the Hon'ble Court *vide* judgment and order dated 17.05.2017. State of

Uttarakhand preferred Special Appeal No. 967 of 2017 against order dated 17.05.2017. Hon'ble High Court dismissed the Special Appeal on 14.12.2019, as below:

> "……
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> 7. We find no error, much less any patent illegality, in the order under appeal. Suffice it, while dismissing the writ petition, to observe that neither the order passed by the learned Single Judge nor the order now passed by us shall disable the appellant-respondent from initiating disciplinary proceedings, against the respondent-writ petitioner in accordance with law; and, thereafter, to take action including imposition of appropriate punishment on the respondent-writ petitioner. Needless to state that the respondent-writ petitioner's entitlement for back wages shall be subject to the outcome of the enquiry, which the appellant-respondent shall initiate and complete within a period of six months from the date of production of a copy of this order.
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> 8. Subject to aforesaid observations, the special appeal fails and is, accordingly, dismissed. No costs."

2.5 Petitioner preferred an appeal to the Secretary, Education, Govt. of Uttarakhand on 25.01.2021. The Secretary, Education *vide* order dated 18.02.2021 disposed of the said appeal by directing the Director, Primary Education to decide the appeal of the petitioner dated 25.01.2021.

2.6 The Director, Education, in compliance of order dated 18.02.2021 of Secretary, Education, Govt. of Uttarakhand, directed the Addl. Director, Primary Education, Garhwal Mandal, Pauri. The Addl. Director, in view of the order of Hon'ble Court dated 14.12.2019, initiated disciplinary proceedings against the petitioner and concluded the same by passing impugned order dated 30.06.2021. Hence, present claim petition.

3. Sri Sudarshan Singh Bisht, District Education Officer (Basic Education), Dehradun, has filed Counter Affidavit on behalf of Respondents. Each and every material averment in the claim petition has been denied, save and except as specifically admitted. The following has been mentioned in the C.A./W.S.:

3.1 On the basis of declaration made by the petitioner, she was appointed as Assistant Teacher, Govt. Primary School Alshi Khera, Block Chakrata, Dehrdun and subsequently her posting was amended and she was posted in the Basic Primary School, Kairad, Chakrata, Dehradun. Pursuant to the direction of respondent no.3, on the special enquiry conducted for the

purpose of verification of the documents like educational certificates and training certificates, produced by the Assistant Teachers serving in the Basic Education Department of Uttarakhand, the certificate of BTC from Bhartiya Shiksha Parishad, Lucknow, U.P., produced by the petitioner , was not found valid as the institution was not recognized by the NCTE, as such services of the petitioner were terminated.

3.2 In compliance of Hon'ble Court's order dated 14.12.2019, petitioner was reinstated into service on 28.12.2019 in Govt. Primary School. Respondent No. 5, pursuant to Hon'ble Courts direction, initiated the departmental enquiry and in accordance with Rule 7 (i) (ii) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in the year 2010), issued and served a memorandum of charge dated 27.02.2020, containing two charges. Petitioner submitted her reply to the charges levelled against her but the respondent was not convinced with the reply of the petitioner. The respondent vide letter dated 08.06.2020 gave the petitioner an opportunity to submit documentary or oral evidence on her behalf . Petitioner on 08.06.2020 submitted the reply but did not file the cogent evidence [Copy: Annexure- CA-R-3 (i) (ii)]. Charges levelled against the petitioner were proved and her services were terminated. Therefore, the claim petition has no force and is liable to be dismissed.

4. Rejoinder Affidavit has also been filed by the petitioner, reiterating the same averments as were mentioned in the petition.

5. One of the grounds taken up by the petitioner in her claim petition that her services were dispensed with without giving 2nd show cause notice. Ld. Counsel for the petitioner submitted that petitioner's services were dispensed with without affording an opportunity of being heard and, therefore, order impugned, whereby her services were terminated, should be set aside. Petitioner was serving as Assistant Teacher, Government Primary School, before her services were terminated.

6. In reply, Ld. A.P.O. submitted that the respondent *vide* letter dated 08.06.2020 gave an opportunity to the petitioner to file documentary or oral evidence. The petitioner replied to such letter on the selfsame date. Copy of letter dated 08.06.2020 has been enclosed with Annexure: CA-R 3 (i) (ii).

7. A perusal of Annexure: CA-R 3 (i) will indicate that letter dated 08.06.2020 is hardly a 2nd show cause notice.

8. Procedure prescribed for imposing major punishment in the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010), is as follows:

> "7. **Procedure for imposing major penalties**.- Before imposing any major punishment on a government servant, an inquiry shall be conducted in the following manner:-
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> (1) Whenever the Disciplinary Authority is of the opinion that there are grounds to inquire into the charge of misconduct or misbehavior against the government servant, he may conduct an inquiry.
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> (2) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge sheet. The charge sheet shall be approved by the Disciplinary Authority.
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> Provided that where the appointing authority is Governor, the charge sheet may be signed by the Principal Secretary or Secretary, as the case may be, of the concerned department.
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> (3) The charges framed shall be so precise and clear as to give sufficient indication to the charged government servant of the facts and circumstances against him. The proposed documentary evidences and the names of the witnesses proposed to prove the same along with oral evidences, if any, shall be mentioned in the charge sheet. (4) The charge sheet along with the documentary evidences mentioned therein and list of witnesses and their statements, if any, shall be served on the charged government servant personally or by registered post at the address mentioned in the official records. In case the charge sheet could not be served in aforesaid manner, the charge sheet shall be served by publication in a daily newspaper having wide circulation:
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> Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge sheet, the charged government servant shall be permitted to inspect the same.
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> (5) The charged government servant shall be required to put in written statement in his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge sheet and to clearly inform whether he admits or not all or any of the charges mentioned in the charge sheet. The charged government servant shall also be required to state whether he desires to cross-examine any witness mentioned in the charge sheet, whether he desires to give or produce any written or oral evidence in his defence. He shall also be informed that in case he does not appear or file the written statement on the specified date, it will be presumed that he has none to furnish and ex-parte inquiry shall be initiated against him.
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> (6) Where on receipt of the written defence statement and the government servant has admitted all the charges mentioned in the charge sheet in his written statement, the Disciplinary Authority in view of such acceptance shall record his findings relating to each charge after taking such evidence he deems fit if he considers such evidence necessary and <u>if the Disciplinary Authority having regard to its findings is of the opinion that any penalty specified in Rule 3 should be imposed on the charged government servant, he shall give a copy of the recorded findings to the charged government servant and require him to submit his representation, if he so desires within a reasonable specified time. The</u>

Disciplinary Authority shall, having regard to all the relevant records relating to the findings recorded related to every charge and representation of charged government servant, if any, and subject to the provisions of Rule 16 of these rules, pass a reasoned order imposing one or more penalties mentioned in Rule 3 of these rules and communicate the same to the charged government servant.

(7) If the government servant has not submitted any written statement in his defence, the Disciplinary Authority may, himself inquire into the charges or if he considers necessary he may appoint an Inquiry Officer for the purpose under sub-rule (8).

(8) The Disciplinary Authority may himself inquire into those charges not admitted by the government servant or he may appoint any authority subordinate to him at least two stages above the rank of the charged government servant who shall be Inquiry Officer for the purpose.

(9) Where the Disciplinary Authority has appointed Inquiry Officer under sub-rule (8), he will forward the following to the Inquiry Officer, namely:

(a) A copy of the charge sheet and details of misconduct or misbehavior;

(b) A copy of written defence statement, if any submitted by the government servant;

(c) Evidence as a proof of the delivery of the documents referred to in the charge sheet to the government servant;

(d) A copy of statements of evidence referred to in the charge sheet.

(10) The Disciplinary Authority or the Inquiry Officer, whosoever is conducting the inquiry shall proceed to call the witnesses proposed in the charge sheet and record their oral evidence in presence of the charged government servant who shall be given opportunity to cross-examine such witnesses after recording the aforesaid evidences. After recording the aforesaid evidences, the Inquiry Officer shall call and record the oral evidence which the charged government servant desired in his written statement to the produced in his defence.

Provided that the Inquiry Officer may, for reasons to be recorded in writing, refuse to call a witness.

(11) The Disciplinary Authority or the Inquiry Officer whosoever is conducting the inquiry may summon any witness to give evidence before him or require any person to produce any documents in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witness and Production of Documents) Act, 1976 which is enforced in the State of Uttarakhand under the provisions of Section 86 of the Uttar Pradesh Reorganization Act, 2000.

(12) The Disciplinary Authority or the Inquiry Officer whosoever is conducting the inquiry may ask any question, he pleases, at any time from any witness or person charged with a view to find out the truth or to obtain proper proof of facts relevant to the charges.

(13) Where the charged government servant does not appear on the date fixed in the enquiry or at any stage of the proceeding in spite of the service of the notice on him or having knowledge of the date, the Disciplinary Authority or the Inquiry Officer whosoever is conducting the inquiry shall record the statements of witnesses mentioned in the charge sheet in absence of the charged government servant.

(14) The Disciplinary Authority, if it considers necessary to do so, may, by an order, appoint a government servant or a legal practitioner, to be known as "Presenting Officer" to present on his behalf the case in support of the charge.

(15) The charged government servant may take the assistance of any other government servant to present the case on his behalf but not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the

Disciplinary Authority is a legal practitioner of the Disciplinary Authority, having regard to the circumstances of the case, so permits.

(16) Whenever after hearing and recording all the evidences or any part of the inquiry jurisdiction of the Inquiry Officer ceases and any such Inquiry Authority having such jurisdiction takes over in his place and exercises such jurisdiction and such successor conducts the inquiry such succeeding Inquiry Authority shall proceed further, on the basis of evidence or part thereof recorded by his predecessor or evidence or part thereof recorded by him:

Provided that if in the opinion of the succeeding Inquiry Officer if any of the evidences already recorded further examination of any evidence is necessary in the interest of justice, he may summon again any of such evidence, as provided earlier, and may examine, cross examine and re-examine him.

(17) This rule shall not apply in following case; *i.e.* there is no necessity to conduct an inquiry in such case:-

(a) Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or

(b) Where the Disciplinary Authority is satisfied, that for reasons, to be recorded by it in writing, it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or

(c) Where the Governor is satisfied that in the interest of the security of the State it is not expedient to hold an inquiry in the manner provided in these rules."

[Emphasis supplied]

9. It will also be appropriate to reproduce Rule 9(4) of the aforesaid Rules of 2003 as below, for convenience,:

9. Action on Inquiry Report-.....(4) If the Disciplinary Authority, having regard to its findings on all or any of charges, is of the opinion that any penalty specified in rule-3 should be imposed on the charged Government Servant, he shall give a copy of the inquiry report and his findings recorded under sub-rule (2) to the charged Government Servant and require him to submit his representation if he so desires, within a reasonable specified time. The Disciplinary Authority shall, having regard to all the relevant records relating to the inquiry and representation of the charged Government Servant, if any, and subject to the provisions of Rule-16 of these rules, pass a reasoned order imposing one or more penalties mentioned in rule-3 of these rules and communicate the same to charged Government Servant."

[Emphasis supplied]

10. Annexure: CA-R 3 (i) nowhere suggests that copy of the enquiry report was supplied to the delinquent petitioner. Annexure: CA-R 3 (i) also nowhere suggests that the delinquent petitioner was found guilty of the charges levelled against her. *Vide* letter dated 08.06.2020, Annexure: CA-R 3 (ii), the delinquent petitioner stated that the reply has already been given on 18.05.2020. Even if the delinquent petitioner stated that she has nothing to say further, except what she has already stated on 18.05.2020, the fact remains, as the Tribunal has observed earlier, that Annexure: CA-R 3 (i) cannot be said to be a 2nd show cause notice, inasmuch as, (i) it is not

indicated in it that the charges have been proved against the petitioner and (ii) it nowhere indicates that copy of enquiry report is enclosed with it.

11. Hon'ble Apex in the judgment rendered in *Union of India and others vs. Mohd. Ramzan Khan, (1991) 1 SCC 588* has observed as follows:

> "13. Several pronouncements of this Court dealing with Article 311(2) of the Constitution have laid down the test of natural justice in the matter of meeting the charges. This Court on one occasion has stated that two phases of the inquiry contemplated under Article 311(2) prior to the Forty-second Amendment were judicial. That perhaps was a little stretching the position. Even if it does not become a judicial proceeding, there can be no dispute that it is a quasi-judicial one. There is a charge and a denial followed by an inquiry at which evidence is led and assessment of the material before conclusion is reached. These facets do make the matter quasi-judicial and attract the principles of natural justice. As this Court rightly pointed out in the Gujarat case, the disciplinary authority is very often influenced by the conclusions of the Inquiry Officer and even by the recommendations relating to the nature of punishment to be inflicted. With the Forty-second Amendment, the delinquent officer is not associated with the disciplinary inquiry beyond the recording of evidence and the submissions made on the basis of the material to assist the Inquiry Officer to come to his conclusions. In case his conclusions are kept away from the delinquent officer and the Inquiry Officer submits his conclusions with or without recommendation as to punishment, the delinquent is precluded from knowing the contents thereof although such material is used against him by the disciplinary authority. The report is an adverse material if the Inquiry Officer records a finding of guilt and proposes a punishment so far as the delinquent is concerned. In a quasi-judicial matter, if the delinquent is being deprived of knowledge of the material against him though the same is made available to the punishing authority in the matter of reaching his conclusion, rules of natural justice would be affected. Prof. Wade has pointed out:
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> > The concept of natural justice has existed for many centuries and it has crystallised into two rules: that no man should be judge in his own cause; and that no man should suffer without first being given a fair hearing…. They (the courts) have been developing and extending the principles of natural justice so as to build up a kind of code of fair administrative procedure, to be obeyed by authorities of all kinds. They have done this once again, by assuming that Parliament always intends powers to be exercised fairly.
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> 15. Deletion of the second opportunity from the scheme of Article 311(2) of the Constitution has nothing to do with providing of a copy of the report to the delinquent in the matter of making his representation. Even though the second stage of the inquiry in Article 311(2) has been abolished by amendment, the delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done here which could be taken as keeping natural justice out of the proceedings and the series of pronouncements of this Court making rules of natural justice applicable to such an inquiry are not affected by the Forty-second Amendment. We, therefore, come to the conclusion that supply of a copy of the inquiry report along with recommendation, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of a copy thereof. The Forty-second Amendment has not brought about any change in this position.

> 17. There have been several decisions in different High Courts which, following the Forty-second Amendment, have taken the view that it is no longer necessary to furnish a copy of the inquiry report to delinquent officers. Even on some occasions this Court has taken that view. Since we have reached a different conclusion the judgments in the different High Courts taking the contrary view must be taken to be no longer laying down good law. We have not been shown any decision of a coordinate or a larger bench of this Court taking this view. Therefore, the conclusion to the contrary reached by any two-Judge bench in this Court will also no longer be taken to be laying down good law, but this shall have prospective application and no punishment imposed shall be open to challenge on this ground.
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> 18. We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."
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> [*Emphasis supplied*]

12. In Managing Director, ECIL, Hyderabad and others vs. B. Karunakar and others, (1993) 4 SCC 727, Hon'ble Supreme Court has observed as below:

> "25. While the right to represent against the findings in the report is part of the reasonable opportunity available during the first stage of the inquiry viz., before the disciplinary authority takes into consideration the findings in the report. the right to show cause against the penalty proposed belongs to the second stage when the disciplinary authority has considered the findings in the report and has come to the conclusion with regard to the guilt of the employee and proposes to award penalty on the basis of its conclusions. The first right is the right to prove innocence. The second right is to plead for either no penalty or a lesser penalty although the conclusion regarding the guilt is accepted. It is the second right exercisable at the second stage which was taken away by the 42nd Amendment.
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> 26. The reason why the right to receive the report of the Inquiry Officer is considered an essential part of the reasonable opportunity it the first stage and also a principle of natural justice is that the findings recorded by the Inquiry Officer form an important material before the disciplinary authority which along with the evidence is taken into consideration by it to come to its conclusions. It is difficult to say in advance, to what extent the said findings including the punishment, if any, recommended in the report would influence the disciplinary authority while drawing its conclusions. The findings further might have been recorded without considering the relevant evidence on record, or by misconstruing it or unsupported by it. If such a finding is to be one of the documents to be considered by the disciplinary authority, the principles of natural justice require that the employee should have a fair opportunity to meet, explain and controvert it before he is condemned. It is the negation of the tenets of justice and a denial of fair opportunity to the employee to consider the findings recorded by a third party like the Inquiry Officer without giving the employee an opportunity to reply to it. Although it is true that the disciplinary authority is supposed to arrive at its own findings on the basis of the evidence recorded in the inquiry, it is also equally true that the disciplinary authority takes into consideration the findings recorded by the Inquiry Officer along with the evidence on record. In the circumstances, the findings of the Inquiry Officer do constitute an important material before the disciplinary authority which is likely to influence its conclusions. If the Inquiry Officer were only to record the evidence and forward the same to the disciplinary authority, that would not constitute any additional material before the disciplinary authority of which the delinquent employee has no knowledge. However, when the Inquiry Officer goes further and records his findings, as stated above, which may or may not be based on the evidence on record or are contrary to the same or in ignorance of it, such findings are an additional material unknown to the employee but are taken into

consideration by the disciplinary, authority while arriving at its conclusion. Both the dictates of the reasonable opportunity as well as the principles of natural justice, therefore, require that before the disciplinary, authority comes to its own conclusions, the delinquent employee should have an opportunity to reply to the Inquiry Officer's findings. The disciplinary authority is then required to consider the evidence, the report of the Inquiry Officer and the representation of the employee against it.

27. It will thus be seen that where the Inquiry Officer is other than the disciplinary authority, the disciplinary proceedings break into two stages. The first stage ends when the disciplinary authority arrives at its conclusions on the basis of the evidence, Inquiry Officer's report and the delinquent employee's reply to it. The second stage begins when the disciplinary authority decides to impose penalty on the basis of its conclusions. If the disciplinary authority decides to drop the disciplinary proceedings, the second stage is not even reached. The employee's right to receive the report is thus, a part of the reasonable opportunity of defending himself in the first stage of the inquiry. If this right is denied to him, he is in effect denied the right to defend himself and to prove his innocence in the disciplinary proceedings.

28. The position in law can also be looked at from a slightly different angle. Article 311(2) says that the employee shall be given a "reasonable opportunity of being heard in respect of the charges against him". The findings on the charges given by a third person like the enquiry Officer, particularly when they are not borne out by the evidence or are arrived at by overlooking the evidence or misconstruing it, could themselves constitute new unwarranted imputations. What is further, when the proviso to the said Article states that "where it is proposed after such inquiry to impose upon him any such penalty such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed", it in effect accepts two successive stages of differing scope. Since the penalty is to be proposed after the inquiry, which inquiry in effect is to be carried out by the disciplinary authority (the Inquiry Officer being only his delegate appointed to hold the inquiry and to assist him), the employee's reply to the Inquiry Officer's report and consideration of such reply by the disciplinary authority also constitute an integral part of such inquiry. The second stage follows the inquiry so carried out and it consists of the issuance of the notice to show cause against the proposed penalty and of considering the reply to the notice and deciding upon the penalty. What is dispensed with is the opportunity of making representation on the penalty proposed and not of opportunity of making representation on the report of the Inquiry Officer. The latter right was always there. But before the 42nd Amendment of the Constitution, the point of time at which it was to be exercised had stood deferred till the second stage viz., the stage of considering the penalty. Till that time, the conclusions that the disciplinary authority might have arrived at both with regard to the guilt of the employee and the penalty to be imposed were only tentative. All that has happened after the 42nd Amendment of the Constitution is to advance the point of time at which the representation of the employee against the enquiry Officer's report would be considered. Now, the disciplinary authority has to consider the representation of the employee against the report before it arrives at its conclusion with regard to his guilt or innocence of the charges.

29. Hence it has to be held that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has right to receive a copy of the inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice."

[*Emphasis supplied*]

13. In view of the above observations of Hon'ble Supreme Court, this Tribunal is of the opinion that the impugned punishment order and consequently the appellate order also are liable to be set aside and are, accordingly, set aside, leaving it open to the disciplinary Authority to proceed afresh, if he is so advised, against the delinquent petitioner, in accordance with law. No order as to costs.

14. It is made clear that the Tribunal has not gone into other aspects of the claim petition.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 07, 2022
DEHRADUN

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