BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN

Present: Hon'ble Mr. Ram Singh

------Vice Chairman (J)

Hon'ble Mr. A.S.Nayal

------Member (A)

CLAIM PETITION NO. 03/T/DB/2013

R.K.Bhardwaj, S/o Shri Chandra Gopal Bhardwaj, Removed Assistant Storekeeper in Electricity Garhwal Division, Srinagar, Garhwal, R/o Village & Post Khubhanpur, District Haridwar.

………Petitioner

VERSUS

1. State of U.P. through Secretary, Energy, Govt. of U.P., Lucknow.
2. U.P. Power Transmission Corporation Ltd., Shakti Bhawan, 14 Ashok Marg, Lucknow, U.P.
3. Chief Engineer, Electricity Civil Transmission, U.P. Power Transmission Corporation Ltd. 8/10, Indira Nagar, Lucknow, U.P.
4. State of Uttarakhand through Principal Secretary/Secretary, Energy, Government of Uttarakhand, Dehradun.
5. Uttarakhand Power Corporation Ltd. through its Managing Director, Urja Bhawan, Dehradun.
6. Director (H.R.), Uttarakhand Power Corporation Ltd., Urja Bhawan, Dehradun.
7. Deputy General Manager, Industrial Relation & Office Management, Uttarakhand Power Corporation Ltd. State of Uttarakhand, Urja Bhawan, Dehradun.
8. Executive Engineer, Uttarakhand Power Transmission Corporation Ltd. Civil Construction Division, Roorkee.

…………Respondents

Present: Sri M.C.Pant & Sri L.K.Maithani, Ld. Counsel for the petitioner.
Sri V.P.Devrani, Ld. A.P.O. for the Respondent No. 4
Sri Rohit Dhyani, Ld. Counsel for the Respondents No. 2 & 3
Sri S.M.Jain, Ld. Counsel for the Respondents No. 5, 6 & 7
Sri Prashant Chamoli, Ld. Counsel for the Respondent No. 8

JUDGMENT

DATED: JULY 31, 2019

HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)

1. The petitioner has sought quashing of the punishment order of removal from service dated 24.06.1994, appellate order dated 01.11.1994 along with its effect and operation, and to direct the respondents to treat the petitioner in service with all arrears and salary, and other benefits and to award damages and compensation with other relief, which the court deem fit.

2. Briefly stated, after joining the services of U.P. State Electricity Board in 1974, as Assistant Store Keeper at Kanpur, the petitioner was transferred to Srinagar, Garhwal (the then State of U.P.) and worked there from 1974 to 1978. He was placed under suspension in the year 1981, without conducting any preliminary inquiry. On the basis of the charges, related to the years 1974 to 1978, the petitioner was served a charge sheet on 09.08.1982, followed by another charge sheet dated 13.09.1985, but no documents mentioned in support of the charges, were supplied to the petitioner at the time of serving the charge sheet and the petitioner was forced to reply the same, without having copies of such documents.

3. After completion of inquiry, the petitioner was served a show cause notice dated 30.11.1993, along with the copy of inquiry report dated 23.06.1992, to which reply was submitted by him on 16.05.1994. As per the contention of petitioner, respondent No. 2, without applying its mind to the submissions made by the petitioner, passed an order of removal of petitioner from services on 24.06.1994. Aggrieved by the order

of removal, petitioner preferred an appeal on 07.08.1994 before respondent No. 4 but the same was dismissed on 01.11.1994, without giving any cogent reason.

4. The petitioner filed a writ petition No. 37168 of 1994, R.K.Bhardwaj vs. U.P. State Electricity Board and others, in the Hon'ble High Court of Allahabad, which was dismissed vide order dated 09.11.1995 on the ground of alternative remedy before the Tribunal.

5. The petitioner challenged the order of removal and of appeal, on the grounds that the respondents took 13 years to complete the inquiry and the petitioner was harassed in every possible manner; the inquiry report does not contain any explanation to the illegalities pointed out by the petitioner; the punishment order is perverse and was passed in a mechanical manner, without application of mind and none of the defense, submitted by the petitioner in his reply to show cause notice, was considered and discussed in the order of punishment. There were grave illegality and irregularity in respect of initiation of disciplinary proceedings, appointment of inquiry committee, issuance of charge sheet, conducting of inquiry and perversity in the inquiry report. Apart from this, the charge sheet was issued by the inquiry committee and not by the disciplinary authority and reply to it, was not considered by the disciplinary authority.

6. It has also been contended that the inquiry officer itself dropped the inquiry and subsequently in 1998, it was started by the inquiry committee, which adopted alien procedure and itself assumed the role of adjudicator and prosecutor both. The inquiry committee shifted the burden upon the petitioner and totally failed to prove the alleged documents, which were made basis to the charges against the petitioner. Petitioner was not given adequate opportunity of hearing during the inquiry and also the material evidence was not supplied to him. The inquiry committee after finding him guilty also proposed the punishment, and the show cause notice as well as the procedure adopted by the

disciplinary authority is void *ab-initio* and contrary to the law. The disciplinary authority blindly signed the inquiry report and failed to appreciate that none of the charges were proved and the same were only presumed to be proved. The so called witnesses, who were said to be present at the spot, pertaining to the fact of breaking the lock, Sri Nanak Chand and Gulam Hassan, clearly stated that their signatures were obtained later on and they were not present at the spot, when the lock was broken. The inquiry report is perverse and based on conjecture and surmises with a pre-mindset condition to hold the petitioner guilty. Neither the reply to the charge sheet nor reply to show cause notice were considered with a judicious mind and the order of the disciplinary authority and the appeal was also decided by a stereo type order.

7. The respondents also lodged a criminal case on the same and identical charges, based on the similar sets of evidences. The petitioner was subjected to double jeopardy. In the criminal proceedings, the petitioner was acquitted by the court of law and the appeal filed by the department before the Hon'ble High Court, was also dismissed. The respondents were bound to reconsider the dismissal order, after acquittal from the court, the finding of which, is binding upon the respondents and applying the doctrine of relate back, the disciplinary proceedings, which was based on the fact of criminal case itself, is liable to be declared as void *ab-initio,* because on the basis of the same charges and same evidence, the department passed the order of removal from service on 24.06.1994 whereas, criminal court, on the same sets of charges and evidence, acquitted the petitioner vide its order dated 27.05.1998, and the appeal of the government before the Hon'ble High Court was also dismissed vide order dated 15.09.2011, confirming the judgment of the criminal court. There was no evidence to hold the petitioner guilty or delinquent for the charges framed against him in the departmental inquiry, therefore, dismissal order is bad in the eye of law, hence, prayer for the relief, in the claim petition were made accordingly.

8. The respondents contended that, irregularities and lapses were committed by the petitioner while posted at Civil Division, Srinagar, Garhwal and the original records of the stock and measurement books, which were the property of the Board, were in the custody of the petitioner. These records were not submitted by the petitioner despite persistent request and reminders because of his mal-intention. The petitioner had no right to keep them with him after his relieving order was passed on transfer from Srinagar Division to Moradabad Division on 04.10.1978. For charge sheet dated 09.08.1982, the records mentioned in the Special Audit Report, as evidence in support of the charge sheet, were shown to the petitioner as and when demanded. The petitioner inspected some of the records and he himself left the rest records uninspected. The petitioner submitted his requisition dated 19.01.1986 for inspection of certain records and he demanded for log books of 3 numbers, vehicles at sl. No. 1 to 11, which were also shown to him on 28.06.1983. Petitioner in his statement dated 17.10.1988, before the inquiry committee, admitted that he required no more records to be inspected and no more witness he has to produce. Therefore, the allegation of the petitioner that none of the document mentioned in support of the charges were supplied to him, is wrong, false and are completely denied.

9. The respondents have also contended that preliminary investigation was made before issuing the charge sheet to the petitioner. On examination of the stock material in the store by the officers of the Division, it was found that there was shortage of material and consequently an inquiry was initiated against the petitioner and a charge sheet was issued to him in 1982. The petitioner submitted his reply to the charge sheet on 30.03.1988, hence, he himself delayed the inquiry. The detailed report of the inquiry committee was made available to the petitioner along with the show cause notice. He was afforded full opportunity of defending himself. A notice alongwith a copy of the inquiry report was furnished to him to show cause, why the punishment of removal and recovery of damages be not passed against him. The

Chairman was competent to pass orders in this case. The detailed and speaking order of removal, against the petitioner was accordingly passed, after full application of mind by the punishing authority.

10. The departmental appeal of the petitioner was considered by the Board and was rejected vide order dated 01.11.1994 by a detailed order. The petitioner himself is responsible for delay, in conclusion of the inquiry against him. There has been no violation of principles of natural justice and all the proceedings against him were conducted in accordance with law. It is wrong to say that the petitioner never absented himself from duty, during April 1976 to July 1977. He remained absent without any application and permission. As many as 13 communications were issued to him about his absence. After transfer on 30.06.1977, the Executive Engineer ordered him on 08.09.1977 to handover the charge to Sri S.S. Gupta, J.E. but he did not comply with it. An order was again passed to handover the charge to Sri S.C. Dabriyal, Store Munsi, but this too, was not complied with by him and he submitted an application for Leave and without getting it sanctioned, he left the station, on so many false grounds and Leave extension was requested. He was required to join his duty on 21.05.1978, but he did not turn-up nor sent any application for extension, hence, telegraphic order was sent to him to join his duty immediately, but he did not turn up and only reported in August 1978, then he was ordered to handover the charge within seven days. Petitioner handed over only a small part of goods in his charge.

11. The petitioner joined his duty at Moradabad after 23 days on 27.10.1978 without handing over his charge, so the lock of the store was broken open as per law and the committee informed him in advance to open the lock. Till 30.12.1979, the petitioner did not handover the charge, inspite of sufficient opportunity given to him for this purpose. Shortage of material was found, to which the petitioner did not submit any explanation despite several letters. The petitioner's explanation was called, for unjustified expenditure, but he did not reply to that. The

petitioner did not reconcile the matter despite repeated orders, then the lock was broken open in the absence of the petitioner, by the committee, constituted and consequently, the petitioner was also informed about opening of lock in the presence of witnesses, Gulam Hussain and Nanak Chand.

12. The ground of prejudice by delay, raised by the petitioner is baseless, as he himself was responsible for the same. This point was also not raised before the inquiry committee in his explanation to the charge sheet. The punishment order is a detailed and speaking order. Inquiry report was supplied to the petitioner; reply of the petitioner to the charge sheet, show cause notice and other records were duly considered and thereafter, findings were recorded. The explanation of the petitioner was fully considered by the authority. The petition has no merit and deserves to be dismissed.

13. Respondents No. 2 & 3 also raised a preliminary objection that the petitioner was removed from the service, as he was found guilty of misappropriation of money and property and also in dereliction of duties in utter disregard of the financial interest during his posting in Srinagar, Garhwal. His claim petition was dismissed in default on 03.05.2006 before Public Services Tribunal in U.P. and he approached this Tribunal after a long delay of six years hence, he himself is responsible for the delay. Objections were also raised by the respondents that this Tribunal has no jurisdiction to decide the petition on the ground that petitioner was removed from service before creation of State of Uttarakhand.

14. It is to be mentioned that this petition was decided by this Tribunal vide order dated 09.09.2015 with the observation that this Tribunal has no jurisdiction to decide the issue of termination of the petitioner on 24.06.1994, before creation of the State of Utarakhand. Then the petition was returned to the petitioner for presentation before the appropriate authority, against which, the petitioner approached the Hon’ble High Court of Uttarakhand in WPSB No. 436. Hon’ble court vide

its order dated 25.09.2018, by interpreting Section 91 of the U.P. Reorganization Act, 2000, ordered that the matter should be heard and decided on merit by this Tribunal. Hence, in view of the order passed by the Hon'ble High Court dated 25.09.2018, the contention of the respondents about jurisdiction has no meaning now.

15. Respondents No. 5 to 7 also filed their written statement and submitted that the orders of punishment and of appeal were passed by Uttar Pradesh State Electricity Board and the answering respondents have nothing to do in it. According to them, from the documents, attached to the petition, it appears that the petitioner was dismissed from service after holding an inquiry and petitioner had also filed an appeal against the order of punishment, hence, orders have become final and cannot be challenged in this petition.

16. Respondents have also contended that the alleged acquittal order of the petitioner does not *ipso facto* nullify the removal order dated 24.06.1994. The petitioner has no cause of action to present the petition, as the order dated 01.11.1994 has become final and the judgment dated 25.05.1998 passed by the then Judicial Magistrate, Pauri Garhwal and the judgment dated 15.09.2011 are wholly irrelevant to the present case and they do not give any cause of action to the petitioner. No representation or appeal is provided against the order passed in appeal, hence, there is no question of computing the period of limitation for the present petition, and the petition deserves to be dismissed.

17. Respondent No. 8 also filed a separate Counter Affidavit and has submitted that the petitioner was never ever under the employment of the Power Transmission Corporation of Uttarakhand. There is no master and servant relationship between the petitioner and the answering respondent. The answering respondent also contended that the petitioner after his suspension, requested to the department to attach him with the office of the department in Roorkee, as it was near to his hometown. The answering respondent has nothing to do with the case of

the petitioner, as he was terminated from the service by the U.P. State Electricity Board and the aforesaid fact was very well communicated to the defendant no. 4 and to the petitioner, by them. The answering respondent has no service record of the petitioner with them and the petitioner was simply attached with their office at his own request, during his suspension. The claim petition is not tenable and is liable to be dismissed.

18. The petitioner filed Rejoinder Affidavit against the contesting respondents No. 2 & 3 and contended that the charges levelled against the petitioner were found untrue and false in the judicial proceedings. The UPSEB lost his existence and in place of UPSEB in both the States, present respondents succeeded to the same. At the time of removal of the petitioner from service, he was posted in the office of Executive Engineer, Construction Division, Roorkee, which was under the control of Electricity Transmission Circle, Mazhola, Moradabad, U.P. The State of Uttarakhand is the successor state of U.P., hence, after acquittal from the judicial court, the charges levelled against the petitioner in departmental proceedings, also proved false and untrue hence, petitioner is entitled to get reinstatement in service after the judgment of the judicial court upto the level of Hon'ble High Court. The petition is legally maintainable before this Tribunal and petitioner is entitled for the relief as sought above.

19. We have heard both the sides and perused the record.

20. Learned counsel for the petitioner has challenged the order on several points as mentioned below:

21. It has been argued that the consecutive charge sheet was issued to the petitioner in the year 1981, then supplementary charge sheet in 1982 and 1985, it was concerning to the period of 1971 to 1978. The inquiry was completed in 1993 and the punishment order was passed in 1994 hence, it took a long period in concluding the inquiry and awarding the punishment, so, the whole proceedings are vitiated.

22. The respondents replied to the same that the delay was on account of the conduct of the petitioner himself, because the reply to the charge sheet sought from him was delayed and it was in 1988 after a period of three years, the reply was submitted by the petitioner, hence, he himself was responsible for the delay. He did not cooperate in conclusion of inquiry timely hence, he cannot claim the benefit of his own fault now.

23. The court finds that the version placed by the respondents is supported by the facts. The petitioner was given sufficient opportunity; he himself submitted his reply after a long delay and the inquiry could not be completed because of his non-cooperation. As the charges against the petitioner were of serious nature regarding misappropriation of public money and a detailed inquiry was conducted, hence, the delay, if any, does not vitiate the proceeding and petitioner cannot claim any benefit of delay, in his favour.

24. The petitioner has also submitted that initially, an inquiry was started by the inquiry officer. Thereafter, it was entrusted to a board, which issued the charge sheet and also considered his reply; the whole proceedings were completed in the year 1988. The petitioner has now argued that in view of the order of the Hon'ble High Court of Uttarakhand in Writ Petition No. 118(SB) 2008, Lalita Verma Vs. State of Uttarakhand & others, the disciplinary proceedings started, without considering his reply through an inquiry board, are vitiated.

25. Respondents have argued that the judgment of the Hon'ble High Court was passed in 2008, which was finally decided in 2013, whereas, in the present case, the matter was finally and substantially decided in 1993 and the judgment did not apply retrospectively.

26. The court agrees with the argument of the respondents. The requirement of the natural justice was that whether the reply submitted by the petitioner was considered and whether he was given opportunity

of hearing. In this matter, the reply submitted by the petitioner was duly considered and a preliminary inquiry was also done before the start of final inquiry; the petitioner was given all the necessary documents as per his demand; he was given opportunity of hearing during the inquiry; the petitioner examined some documents and he himself mentioned that he did not require to examine further hence, as per the principles of natural justice, during the inquiry, he was given sufficient opportunity. The petitioner did not submit his answer even after giving sufficient time to submit his reply to the show cause hence, the argument of the petitioner in this respect cannot be accepted.

27. The court finds that the points raised by the petitioner and the points of charges were duly considered and after giving opportunity, the inquiry was legally concluded.

28. The petitioner has also argued that the findings of the inquiry committee were perverse to the record, as the lock breaking witnesses were not the eye witnesses as shown by the department because those witnesses denied the fact of lock breaking in their absence. Respondents have argued that if there are sufficient evidences otherwise, this court cannot substitute its own finding and this court cannot be a court of fact finding as an appellate court and the scope of this proceeding is very limited. In this respect, the respondents have referred to the law laid down by the Hon'ble Apex Court in **S.R. Tewari vs. Union of India, (2013) 6 SCC 602**, wherein, it was held that the court has no expertise to correct administrative decisions. It can exercise power of judicial review, if there is manifest error in exercise of power or exercise of power is manifestly arbitrary, if power is exercised on basis of facts which do not exist. It was held that the power of the court of judicial review is not akin to adjudication on merit by re-appreciating evidence as an appellate authority and the scope of judicial review is limited to review of decision making process and is not a review of decision itself and the court has precluded from arriving on its own independent finding.

29. Hence, this court finds that the procedure adopted by the inquiry board was not perverse, it followed the principles of natural justice and due opportunity of hearing was afforded to the petitioner.

30. The petitioner mainly based his case on the ground that on the same fact, which were made basis of his dismissal, a criminal case was also registered against him under section 409 IPC and in the said criminal case, the petitioner was acquitted. The appeal filed by the respondents against acquittal was also dismissed by the Hon'ble High Court, hence, the petitioner claimed that he is entitled for his reinstatement with all back wages.

31. It is also an admitted fact that the departmental inquiry was regarding the misappropriation of public money and the material for which the criminal case was also registered. After inquiry, the petitioner was dismissed by the order of the Chairman dated 24.06.1994 (Annexure: 1) and by this order, the appointing authority decided and drawn its own conclusion on the charges. On the basis of inquiry report as well as reply of the petitioner, Disciplinary Authority has drawn his own conclusion and the punishment of dismissal from service and recovery of the money on account of loss and order about payment of subsistence allowance were made.

32. The departmental appeal was preferred, which was considered by the Board point-wise and finding no substance, his appeal was decided vide order dated 01.11.1994 (Annexure: 2).

33. Learned counsel for the petitioner has claimed his right of reinstatement in the service on account of acquittal in the criminal case. But this was opposed by the respondents on the ground that there is no such express provision in the service rules for giving effect to the automatic reinstatement as a result of acquittal in a criminal case. The respondents have argued that in a recent judgment, the Hon'ble High Court has held that acquittal in a criminal case, does not automatically

entitle an employee for the reinstatement. The respondents have referred to the case law in **The Deputy Inspector General of Police and Ors vs. S. Samuthiram, (2013)1 SCC 598**, wherein, it was held by the Hon'ble Apex Court that the mere acquittal of an employee by a criminal court has no impact on the disciplinary proceedings initiated by the department. It was also held that in the absence of any provision in the service rule for reinstatement, if an employee is honourably acquitted by a Criminal Court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent and it is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient.

34. We are of view that mere acquittal in a criminal case does not automatically entitle the petitioner for reinstatement into the service and specifically when there was a detailed inquiry report and the petitioner was found guilty of the charges, against which he was unable to submit the reasonable excuse before the disciplinary authority and in this respect, the decision of the disciplinary authority cannot be interfered by this court as this court is not an appellate court.

35. This court can only see the procedural irregularity and to see whether it caused undue injustice to the employee or whether principles of natural justice were not followed and whether the opportunity of hearing was given. In this case, opportunity of hearing was sufficiently given, the principles of natural justice were followed, the petitioner was given full opportunity of defending himself and he himself remained absent and did not cooperate in the inquiry and delayed it to the maximum. So, he is not entitled for any such benefit on this count.

36. The petitioner has also argued that in the inquiry report, the inquiry officer also suggested the punishment, which was blindly followed by the disciplinary authority hence, this illegality is unequable. Respondents have argued that mere suggestion of penalty cannot vitiate the inquiry, specifically when the inquiry report, charges against the accused, reply of the petitioner were broadly discussed in the punishment order and the punishing authority specifically drawn its own conclusion independently. Then, this does not vitiate the inquiry proceedings or the punishment order.

37. We have gone through the punishment order (Annexure: 1), passed by the disciplinary authority and find that on every charges, the reply of the petitioner was considered by the disciplinary authority and the disciplinary authority after considering his reply, drawn his own conclusion, obviously on the basis of the inquiry report and in the matter of punishment, the disciplinary authority specifically made up his mind independently with its self decision and the punishment order was passed. Last paragraph of the punishment order is reproduced below:

> "मैने जॉच समिति की आख्यां तथा सभी अभिलेखों का गहन अध्ययन किया तथा मैं जॉच समिति की आख्या से पूर्णतः सहमत हूँ और स्वविवेक से इस निष्कर्ष पर पहुँचा हूँ कि जॉच समिति की आख्या व संस्तुति पूर्णरूप से उचित है। अतः श्री आर0 के0 भारद्वाज, सहायक भंडारी (निलम्बित) के विरूद्ध सिद्ध पाये गये आरोपों की गम्भीरता को दृष्टिगत करते हुए उन्हे कठोर दण्ड दिये जाने की आवश्यकता है। तद्नुसार, मै गजेन्द्र पाल सिंह, अयक्ष्य, उत्तर प्रदेश विद्युत परिषत (अधिकारियों एवं कर्मचारियों सेवा शर्ते) विनियम 1975 यथा संशोधित के नियम 4(4) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए, एतद्द्वारा श्री आर0के0 भारद्वाज, सहायक भंडारी (निलम्भित) को निम्न दण्ड देता हूँः–
>
> (1) उन्हें परिषदीय सेवा से तात्कालिक प्रभाव से पदच्युत(रिमूव) किया जाता है,
>
> (2)उनके द्वारा परिषद को पहुँचाई गई वित्तीय क्षति रू0 2,41,652=82 (रूपये दो लाख इक्तालीस हजार छः सौ बावन तथा पैसे बयासी) मात्र की उनसे वसूली की जाय,
>
> (3) उन्हें, निलम्बन काल में आहरित जीवन निर्वाह भत्ते के अतिरिक्त, निलम्बनकाल के अवशेष वेतन एवं भत्तों का भुगतान उन्हें नहीं किया जायेगा और निलम्बन अवधि को कर्त्तव्यार्थ व्यतीत की गई अवधि नहीं मानी जायेगी।"

38. This shows that the disciplinary authority has made up his mind about the punishment at its own, after considering all the facts and the evidence and also considering the gravity of the offence, the punishment order was passed. Hence, recommending the punishment in the inquiry report, was not blindly followed by the disciplinary authority, rather disciplinary authority made up his mind independently and awarded such punishment, looking into the gravity of the offence.

39. Learned counsel for the petitioner has also argued that the punishment passed by the disciplinary authority was very severe and disproportionate.

40. Learned counsel for the respondents also referred to the judgment of the Hon'ble Apex Court in **Government of India and Ors. Vs. George Philip, AIR 2007, SC 705** wherein, it was held that the Tribunal or the High Court exercising jurisdiction in this respect, are not hearing an appeal against the decision of the disciplinary authority imposing punishment upon the delinquent employee. The jurisdiction exercised by the Tribunal or High Court is a limited one and while exercising the power of judicial review, they cannot set aside the punishment altogether or impose some other penalty, unless they find that there has been a substantial noncompliance of the rules of procedure or a gross violation of rules of natural justice has caused prejudice to the employee and has resulted in miscarriage of justice or the punishment is shockingly disproportionate to the gravity of the charge.

41. Similarly, in **Mithilesh Singh vs. Union of India (UOI) and ors (2003) 3SCC, 309**, it has been held that an employee on the charges of absence from duty, without proper intimation was removed from service and the Hon'ble Apex Court has held that it cannot be characterized as disproportionate or shocking if disciplinary authority has a right to pass such punishment looking into the gravity of punishment, such punishment cannot be interfered.

42. In our view, the petitioner being the Storekeeper, was responsible for maintaining the stocks, goods and public money, was found guilty for the loss and misappropriation and the said charges were of serious nature hence, the punishment awarded in this respect cannot be said to be disproportionate to the charges. In this respect too, it needs no interference.

43. Hence, on the basis of the material available before court, this court finds that the petition has no merit and it deserves to be dismissed.

ORDER

The claim petition is hereby dismissed. No order as to costs.

(A.S.NAYAL)
MEMBER (A)

(RAM SINGH)
VICE CHAIRMAN (J)

DATED: JULY 31, 2019
DEHRADUN
KNP