MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 763 of 2018 (SB)

Balkrishna S/o Nagorao Sarap,
aged 45 years, Occ : Service,
R/o Kaneri Sarap, Taluka Barshi Takli,
District Amravati.

Applicant.

Versus

1) The State of Maharashtra
through its Secretary,
Finance Department, Mantralaya,
Madam Cama Marg, Hutatma Chowk, Mumbai-400 032.

2) The Honourable Minister,
Water Resources,
Mantralaya, Mumbai-400 032.

Respondents.

Shri R.A. Haque, Advocate for the applicants.

Shri A.M. Ghogre, P.O. for the respondents.

Coram :- **Hon'ble Shri M.A. Lovekar,**
Member (J).

Date of Reserving for Judgment : 13th October,2022.

Date of Pronouncement of Judgment : 19th October,2022.

JUDGMENT

(Delivered on this 19th day of October, 2022)

Heard Shri R.A. Haque, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for respondents.

2. Facts pleading to this O.A. are as follows –

In 2005-2006 the applicant was working as Junior Clerk in Treasury Office, Amravati. Between 05/02/2005 and 31/10/2006 funds were misappropriated in District General Hospital and District Hospital for Women at Amravati to the tune of Rs.3.81 Crores and Rs.4.70 Crores, respectively. To nail the wrongdoers / fix responsibility judicial and departmental action was contemplated and taken against the applicant and others. By order dated 19/12/2006 (Annex-A-1) the applicant was placed under suspension. By order dated 29/08/2008 (Annex-A-2) respondent no.1 directed joint inquiry. Charge sheet dated 29/08/2008 (Annex-A-3) was issued to the applicant. Following charge was laid against the applicant -

‘‘श्री.बी.एन.सरप (निलंबित) हे दिनांक ५/२/२००५ ते ३१/१०/२००६ या कालावधीत कोषागार कार्यालय, अमरावती येथे कनिष्ठ लिपिक म्हणून कार्यरत होते. आरोग्य विभागाच्या नियंत्रणाखालील प्रशासकीय अधिकारी, जिल्हा स्त्री रुग्णालय, अमरावती व जिल्हा सामान्य रुग्णालय, अमरावती या कार्यालयातील आहरण व संवितरण अधिका-यांच्या त्रुटीपूर्ण देयकांव्दारे रु.३ कोटी ८९ लाख व ४ कोटी ७० लाख इतक्या रकमेचा अपहार झालेला आहे. श्री.सरप यांनी नमुना २६ अ मधील पारगमन नोंदवहीतील नोंदीची व्यवस्थित पडताळणी केली नाही व कामात कर्तव्यपरायणता राखली नाही, त्यामुळे अपहार होण्यास वाव मिळाला आहे. देयक स्विकृत खिडकीवर देयके स्विकारतांना संचालनालयाचे परिपत्रक क्रमांक कोष-१४-२००३/४१/३/कोषागार दिनांक २/१/२००४ मध्ये दिलेल्या सूचनेनुसार अधिकृत देयक स्विकृत होण्याच्या दृष्टीने खबरदारी न घेतल्याने नियमाप्रमाणे देयकावर नोंदी घेतलेल्या नाहीत.

अशाप्रकारे, श्री. सरप यांनी वरील नियमांनुसार कर्तव्य चोखपणे न बजावल्यामुळे कर्तव्यपरायणता राखली गेली नाही. त्यामुळे, महाराष्ट्र नागरी सेवा (वर्तणूक) नियम १९७९ च्या नियम ३ (१) (दोन) चा भंग झाला आहे.’’

To the aforesaid charge the applicant submitted reply dated 10/11/2008 (Annex-A-4). By order dated 31/10/2008 Enquiry Officer was appointed. Three persons who were cited as witnesses

communicated their unwillingness to give statement during the enquiry (Annex-A-5 collectively). Enquiry Officer submitted a report dated 30/04/2009 (Annex-A-6) exonerating the applicant by holding as **follows –**

‘‘ अमरावती कोषागाराचे बाबतीत प्राथमिक चौकशी अधिका-याने स्वतंत्र चौकशी केल्याचे अहवालावरुन दिसून येत नाही. मा. उपसंचालक, लेखा व कोषागारे अमरावती हयांनी संचालकांना सादर केलेल्या अहवालाच्या आधारेच अमरावती कोषागाराबाबत निष्कर्ष काढल्याचे दिसून येते. हे निष्कर्ष काढण्यापूर्वी त्यांनी स्वतंत्रपणे चौकशी केल्याचे आढळून येत नाही. कारण या अहवालापूर्वी अपचारी हयांना कारणे दाखवा नोटीसा देऊन खुलासा मागवून त्यांना बचावाची संधी दिल्याचे स्पष्ट होत नाही. त्यामूळे नैसर्गिक न्यायतत्वाचे उल्लंघन झाल्याने निदर्शनास येते. निष्कर्ष काढतांना नियमांचा, शासन परिपत्रकांचा उल्लेख आढळत नाही.

वरील सर्व विचेचनांवरुन दोषारोपात नमूद केलेलेआक्षेप निराधार असून नियमाला धरुन नाहीत त्यामुळे अपचारी हयांचेवरील आरोप सिध्द होऊ शकत नाही.’’

The Disciplinary Authority, the respondent no.1 then issued a show cause notice dated 04/08/2010 (at page 81) stating therein as follows –

‘‘ (३) प्रस्तुत प्रकरणी श्री.सरप यांनी नमुना २६ अ मधील पारगमन नोंदवहीमध्ये देयकांच्या नोंदीची अनुक्रमाने नोंद असल्याची व त्यांचा क्रमांक देयकावर नमूद केला असल्याबाबत व्यवस्थित तपासणी न करता देयके स्वीकृत केली आहेत. त्याचप्रमाणे, देयके स्वीकृत करताना दिलेल्या पितळी बिल्ल्यांचा क्रमांक (टोकन क्रमांक) सदर देयकाच्या नोंदीसमोर नोंदवून एकूण किती देयके स्विकारली याची नोंद करुन स्वाक्षरी करणे आवश्यक आहे. तथापि, यासंदर्भात, श्री.सरप यांनी यासंदर्भातील लेखा व कोषागारे संचालनालयाच्या दिनांक २/१/२००४ च्या परिपत्रकातील सूचनांचे योग्य ते पालन केले नसल्यामुळे, या प्रकरणी अपहार होण्यास काही अंशी श्री.सरप जबाबदार आहेत. त्यामुळे, श्री.सरप यांनी कर्तव्यपरायणता न राखल्यामुळे या प्रकरणी अपहारास वाव मिळाला आहे.

४. उपरोक्त वस्तुस्थिती विचारात घेता, श्री.सरप यांचे प्रकरणी चौकशी अधिका-याच्या निष्कर्षाशी शासन असहमत असून, त्यांचेवरील **एकमेव दोषारोप सिध्द होत असल्याचा** निष्कर्ष शासनाने काढला आहे.

५. शासनाच्या वरील परिच्छेद-४ मध्ये काढलेल्या निष्कर्षाबाबत श्री.सरप यांनी हे ज्ञापन मिळाल्यापासून १० दिवसांचे आंत लेखी स्वरुपात शासनाकडे अभिवेदन सादर करावे. विहीत मुदतीत

अभिवेदन प्राप्त न झाल्यास त्यांना काही म्हणावयाचे नाही असे गृहीत धरुन पुढील कार्यवाही करण्यात येईल''

To this show cause notice the applicant gave a reply dated 26/08/2010 (Annex-A-7) as follows –

'' (१) प्रस्तुत प्रकरणी मी नमुना २६ अ मधील पारगमन नोंदवहीमध्ये देयकांच्या नोंदीची अनुक्रमाने नोंद करुन नंतर टोकन संबंधीतास दिलेले आहे. देयक प्राप्त झाल्यावर त्यांची नियमानुसार स्कोल काढून तो लेखापरिक्षण विभागाकडे पुढील कार्यवाहीकरिता सपूर्द केले आहे.

(२) दिनांक २/१/२००४ च्या संचालनालयाच्या परिपत्रकांमध्ये आहरण व संवितरण अधिका-यांनी १ ते ८ सुचनानुसार रकाना ७ मध्ये नोंदी घेणे हे आहरण व संवितरण अधिकारी यांची जबाबदारी आहे. यामध्ये कोषागाराला काहीही करावयाचे नाही. कारण नमुना २६ अ हा आहरण व संवितरण अधिका-यांचे रजिस्टर असून त्यांनीच ते परिपूर्ण ठेवावयाचे आहे.

(३) मी Rules of Procedure for the Guidance of the District Treasury on introduction of the system of payment of cheques मधील २ (१) नुसार नोंदी घेतल्या आहेत.

(४) कोषागारात दैनंदीन २५०-३५० देयकांची आवक असते. ते काम ३ ते ३.५ तासात करावयाचे आहे. त्या हिशोबाने एक देयक स्विकारुन त्यास टोकन देणे, सर्व नोंदी घेणे, संगणकावर त्यांचा स्कोल काढणे इत्यादी करण्याकरिता फक्त ३० ते ४० सेकंद मिळतात. हे काम मी प्रामाणिकपणे केलेले आहे. त्यामुळे याबाबत मला दोषी धरणे पुर्णत: अन्यायकारक ठरते.

तेव्हा आपणास विनंती की, सर्व बाबींचा सहानुभूतीपुर्वक विचार करुन मला दोषमुक्त करण्याची कृपा करावी.''

According to the applicant without considering his reply respondent no.1 proceeded to pass the order dated **28/06/2011** (Annex-A-8) relevant part of which reads as under –

'' (१) सदर कारणे दाखवा नोटीशीस अनुसरुन श्री. सरप यांनी संदर्भाधीन दिनांक २६/८/२०१० रोजीच्या अभिवेदनान्वये उत्तर दिले असून, त्याअन्वये त्यांनी खालील मुददे उपस्थित केले -

१. देयक प्राप्त झाल्यावर त्यांची अनुक्रमाने नोंद करुन नंतर टोकन संबंधितास दिले आहे व नियमानुसार स्क्रोल काढून लेखा परिक्षण विभागाकडे पुढील कार्यवाहीकरिता सूपुर्द केला आहे.

२. नमुना २६ अ प्रमाणे नोंदवही आहरण व संवितरण अधिका-यांनी ठेवावयाची असून, संचालनालयाच्या दिनांक २/१/२००४ च्या परिपत्रकानूसार रकाना ७ मध्ये नोंदी घेणे ही आहरण व संवितरण अधिका-यांची जबाबदारी आहे.

३. श्री. सरप यांनी Rules of Procedure for the Guidance of the District Treasury on introduction of the system of payment of cheques मधील २ (१) नुसार नोंदी घेतल्या आहेत.

४. कोषागारात दैनंदिन २५०-३५० देयकांची आवक होत असून सदर काम तीन-साडेतीन तासात करावयाचे असते. त्या हिशेबाने प्रत्येक देयकास केवळ ३० ते ४० सेकंद मिळतात.

५. अपहारीत रकमांची सर्व देयके श्री. सरप यांनी स्वीकृत केली आहेत. त्यांनी सदर निवेदनात कोणतेही वेगळे मुददे उपस्थित केलेले नाहीत. रकाना ७ मध्ये नोंदी घेणे ही आहरण व संवितरण अधिका-यांची जबाबदारी असली तरी, कोषागारात देयके स्वीकृत करताना, नमुना २६-अ मध्ये नमुद केलेल्या नोंदी पूर्ण असल्याशिवाय देयके स्वीकृत करण्यात येवू नयेत अशा स्पष्ट सूचना लेखा व कोषागारे संचालनालयाच्या दिनांक २/१/२००४ च्या परिपत्रकान्वये देण्यात आलेल्या आहेत. श्री. सरप यांचे म्हणणे वस्तुस्थितीवर आधारित नसल्याचे आढळून येत असून, श्री. सरप यांच्या निष्काळजीपणामुळे ते देखील या प्रकरणी झालेल्या शासकीय रकमेच्या मोठया प्रमाणावरील अपहारास, काही प्रमाणात जबाबदार असल्याचे स्पष्ट झाले आहे.

६. उपरोक्त वस्तुस्थिती विचारात घेवून श्री. सरप यांच्या प्रस्तुत विभागीय चौकशीअंती खालीलप्रमाणे आदेश देण्यात येत आहे.

आदेश

श्री. बा.ना. सरप (निलंबित), तत्कालीन कनिष्ठ लिपिक, कोषागार कार्यालय, अमरावती यांच्या प्रस्तुत विभागीय चौकशीअंती, त्यांची पुढील वेतनवाढ दोन वर्षासाठी कायमस्वरुपी परिणाम करुन रोखण्यात यावी.

Against the order dated 28/06/2011 the applicant preferred appeal (Annex-A-9) under Rule 17 of the Maharashtra Civil Services (Discipline and Appeal) Rules,1979 (hereinafter referred to as "the Rules") it was dismissed by order dated 21/07/2012 (Annex-A-10). Hence, this O.A. impugning the orders dated 28/06/2011 (Annex-A-8) and 21/07/2012 (Annex-A-10).

3. The applicant has raised following contentions –

(i) In departmental communication dated 20/08/2010 (Annex-A-11) it was clearly stated that misappropriation was committed in Health Department and not in Treasury.

(ii) Communication dated 08/08/2011 (Annex-A-12) issued by the Joint Secretary, Finance Department to MPSC also reiterated that there was no misappropriation in Treasury.

(iii) The Audit report forwarded with covering letter dated 07/05/2008 (Annex-A-13) to the Finance Department of Government of Maharashtra had also ruled out complicity of staff of Treasury.

(iv) The Appellate Authority failed to consider Annexs-A-12 and A-13.

(v) Punishment imposed and confirmed was shockingly disproportionate to the charge which was held to be proved.

(vi) There were no cogent grounds to differ from the findings recorded by the Enquiry Officer exonerating the applicant.

(vii) The order (Annex-A-8) passed by the Disciplinary Authority was contrary to Rule 9 (2) of the Rules which reads as under –

"9 (2) The disciplinary authority shall, if it is not the inquiring authority, consider the record of the inquiry and record its findings on each charge. If it disagrees with the findings of the inquiring authority on any article of charge, it shall record its reasons for such disagreement."

(viii)

The bare perusal of the show cause notice dated 4th August,2010 would reveal that the respondent no.2 the State has not applied its mind and recorded the reasons for disagreement with the report submitted by the Inquiry Officer. The non-applicant no.2 the Honourable Minister has failed to consider the abovementioned aspect and passed the order in a mechanical manner without considering the mandate of the Rule 9 (2) of the Rules of 1979.

(ix)

It is settled law of service jurisprudence that the "right to be heard", would be available to the delinquent upto the final stage of the inquiry proceedings. The right of hearing being Constitutional right of the employee it cannot be taken away by the Disciplinary Authority on the ground that it is not provided by the service rules. The order dated 28th of June, 2011 is contrary to the settled position of law and cannot withstand the scrutiny of law.

4. Reply of respondent no.1 is at pages 69 to 79. According to respondent no.1 there was no procedural lapse or lacuna in the enquiry and findings of facts were based on evidence.

5. In this proceeding this Tribunal is called upon to judicially review the impugned orders at Annexs-A-8 and A-10. Legal position is settled that scope of judicial review is limited. In ***B.C. Chaturvedi Vs. Union of India and Ors. AIR 1986 SC 484*** it is held –

"The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co- extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be

permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel [(1964) 4 SCR 781], this Court held at page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.

In Union of India & Ors. v. S.L. Abbas [(1993) 4 SCC 357], when the order of transfer was interfered by the Tribunal, this Court held that the Tribunal was not an appellate authority which could substitute its own judgment to that bona fide order of transfer. The Tribunal could not, in such circumstances, interfere with orders of transfer of a Government servant. In Administrator of Dadra & Nagar Haveli v. H.P. Vora [(1993) Supp. 1 SCC 551], it was held that the Administrative Tribunal was not an appellate authority and it could not substitute the role of authorities to clear the efficiency bar of a public servant. Recently, in State bank of India & Ors. v. Samarendra Kishore Endow & Anr. [J] (1994) 1 SC 217], a Bench of this Court to which two of us (B.P. Jeevan Reddy & B.L. Hansaria, JJ.) were members, considered the order of the Tribunal, which quashed the charges as based on no evidence, went in detail into the question as to whether the Tribunal had power to appreciate the evidence while exercising power of judicial review and held that a Tribunal could not appreciate the evidence and substitute its own conclusion to that of the disciplinary authority. It would, therefore, be clear that the Tribunal cannot embark upon appreciation of evidence to substitute its own findings of fact to that of a disciplinary/appellate authority."

Keeping in view this legal position the only ground that is required to be considered is whether there was due compliance of Rule 9 (2) of the Rules. Rest of the grounds assail adequacy of evidence or the manner in which evidence was assessed. While exercising powers of judicial review such exercise cannot be undertaken. It is apparent on record that this is not a case of "no evidence" and the findings recorded by the respondents are not perverse.

6. To support the contention that Rule 9 (2) of the Rules was not followed and thereby the enquiry stood vitiated, learned Advocate for the applicant has relied on ***Yoginath D. Bagade Vs. State of***

Maharashtra & Ano. AIR 1999 SC 3734. In this case after considering inter alia Rule 9 (2) of the Rules it is held –

"28. In view of the provisions contained in the statutory Rule extracted above, it is open to the Disciplinary Authority either to agree with the findings recorded by the Inquiring Authority or disagree with those findings. If it does not agree with the findings of the Inquiring Authority, it may record its own findings. Where the Inquiring Authority has found the delinquent officer guilty of the charges framed against him and the Disciplinary Authority agrees with those findings, there would arise no difficulty. So also, if the Inquiring Authority has held the charges proved, but the Disciplinary Authority disagrees and records a finding that the charges were not established, there would arise no difficulty. Difficulties have arisen in all those cases in which the Inquiring Authority has recorded a positive finding that the charges were not established and the delinquent officer was recommended to be exonerated, but the Disciplinary Authority disagreed with those findings and recorded its own findings that the charges were established and the delinquent officer was liable to be punished. This difficulty relates to the question of giving an opportunity of hearing to the delinquent officer at that stage. Such an opportunity may either be provided specifically by the Rules made under Article 309 of the Constitution or the Disciplinary Authority may, of its own, provide such an opportunity. Where the Rules are in this regard silent and the Disciplinary Authority also does not give an opportunity of hearing to the delinquent officer and records findings, different from those of the Inquiring Authority that the charges were established, "an opportunity of hearing" may have to be read into the Rule by which the procedure for dealing with the Inquiring Authority's report is provided principally because it would be contrary to the principles of natural

justice if a delinquent officer, who has already been held to be `not guilty' by the Inquiring Authority, is found `guilty' without being afforded an opportunity of hearing on the basis of the same evidence and material on which a finding of "not guilty" has already been recorded.

29. We have already extracted Rule 9(2) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 which enables the Disciplinary Authority to disagree with the findings of the Inquiring Authority on any article of charge. The only requirement is that it shall record its reasoning for such disagreement. The Rule does not specifically provide that before recording its own findings, the Disciplinary Authority will give an opportunity of hearing to a delinquent officer. But the requirement of "hearing" in consonance with the principles of natural justice even at that stage has to be read into Rule 9(2) and it has to be held that before Disciplinary Authority finally disagrees with the findings of the Inquiring Authority, it would give an opportunity of hearing to the delinquent officer so that he may have the opportunity to indicate that the findings recorded by the Inquiring Authority do not suffer from any error and that there was no occasion to take a different view. The Disciplinary Authority, at the same time, has to communicate to the delinquent officer the "TENTATIVE" reasons for disagreeing with the findings of the Inquiring Authority so that the delinquent officer may further indicate that the reasons on the basis of which the Disciplinary Authority proposes to disagree with the findings recorded by the Inquiring Authority are not germane and the finding of "not guilty" already recorded by the Inquiring Authority was not liable to be interfered with.

30. Recently, a three-Judge Bench of this Court in Punjab National Bank & Ors. vs. Kunj Behari Mishra (1998) 7 SCC 84 = AIR 1998 SC 2713, relying upon the earlier decisions of this Court in State of Assam vs. Bimal Kumar Pandit

(1964) 2 SCR 1 = AIR 1963 SC 1612; Institute of Chartered Acountants of India vs. L.K. Ratna & Ors. (1986) 4 SCC 537 as also the Constitution Bench decision in Managing Director, ECIL, Hyderabad & Ors. vs. B. Karunakar & Ors. (1993) 4 SCC 727 and the decision in Ram Kishan vs. Union of India (1995) 6 SCC 157, has held that :

"It will not stand to reason that when the finding in favour of the delinquent officers is proposed to be overturned by the disciplinary authority then no opportunity should be granted. The first stage of the enquiry is not completed till the disciplinary authority has recorded its findings. The principles of natural justice would demand that the authority which proposes to decide against the delinquent officer must give him a hearing. When the enquiring officer holds the charges to be proved, then that report has to be given to the delinquent officer who can make a representation before the disciplinary authority takes further action which may be prejudicial to the delinquent officer. When, like in the present case, the enquiry report is in favour of the delinquent officer but the disciplinary authority proposes to differ with such conclusions, then that authority which is deciding against the delinquent officer must give him an opportunity of being heard for otherwise he would be condemned unheard. In departmental proceedings, what is of ultimate importance is the finding of the disciplinary authority."

31. The Court further observed as under : (AIR 1998 SC 2713 : 1998 AIR SCW 2762 : 1998 Lab IC 3012 : 1998 All LJ 2009, para 18) :

"When the enquiry is conducted by the enquiry officer, his report is not final or conclusive and the disciplinary proceedings do not stand concluded. The disciplinary proceedings stand concluded with the decision of the disciplinary authority. It is the disciplinary authority which can impose the penalty and

not the enquiry officer. Where the disciplinary authority itself holds an enquiry, an opportunity of hearing has to be granted by him. When the disciplinary authority differs with the view of the enquiry officer and proposes to come to a different conclusion, there is no reason as to why an opportunity of hearing should not be granted. It will be most unfair and iniquitous that where the charged officers succeed before the enquiry officer, they are deprived of representing to the disciplinary authority before that authority differs with the enquiry officer's report and, while recording a finding of guilt, imposes punishment on the officer. In our opinion, in any such situation, the charged officer must have an opportunity to represent before the disciplinary authority before final findings on the charges are recorded and punishment imposed."

32. The Court further held that the contrary view expressed by this Court in State Bank of India vs. S.S. Koshal 1994 Supp.(2) SCC 468 and State of Rajasthan vs. M.C. Saxena (1998) 3 SCC 385 was not correct."

On facts, it was further held –

"36. Along with the show-cause notice, a copy of the findings recorded by the Enquiry Officer as also the reasons recorded by the Disciplinary Committee for disagreeing with those findings were communicated to the appellant but it was immaterial as he was required to show-cause only against the punishment proposed by the Disciplinary Committee which had already taken a final decision that the charges against the appellant were proved. It was not indicated to him that the Disciplinary Committee had come only to a "tentative" decision and that he could show cause against that too. It was for this reason that the reply submitted by the appellant failed to find favour with the Disciplinary Committee.

37. Since the Disciplinary Committee did not give any opportunity of hearing to the appellant before taking a final decision in the matter relating to findings on the two charges framed against him, the principles of natural justice, as laid down by a Three-Judge Bench of this Court in Punjab National Bank & Ors. vs. Kunj Behari Mishra, (1998) 7 SCC 84 = AIR 1998 SC 2713, referred to above, were violated. "

7. In the instant case facts are required to be scrutinised to find out whether the mandate of Rule 9 (2) of the Rules was scrupulously followed. From record following facts become manifest-

(i) The Disciplinary Authority, contrary to what was held by the Enquiry Officer, came to the conclusion that the solitary charge against the applicant was proved.

(ii) In para-3 of the show cause notice (at Page 81) reasons for disagreement with the Enquiry Officer were recorded.

(iii) The conclusion arrived at which was communicated by the show cause notice was clearly "tentative". This becomes clear from contents of para-5 of the show cause notice whereby an opportunity was given to the applicant to furnish grounds to assail this tentative conclusion.

(iv) By issuing this show cause notice the Disciplinary Authority afforded an opportunity of hearing to the applicant before taking a final decision in the matter.

(v) This opportunity was duly availed by the applicant by filing reply dated 26/08/2010 (Annex-A-7).

8. From the aforestated facts conclusion will follow that in this case there was due compliance of Rule 9 (2) of the Rules.

9. It was submitted, in the alternative by the Advocate for the applicant Shri R.A. Haque that the punishment imposed was shockingly disproportionate to the charge held to have been proved. On facts which have been discussed hereinabove this submission cannot be accepted.

10. For the reasons discussed hereinabove, the O.A. is dismissed with no order as to costs.

Dated :- 19/10/2022.

(M.A. Lovekar)
Member (J).

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 19/10/2022.

Uploaded on : 19/10/2022.

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