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HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT – A No. - 6218 of 2004

Ramesh Chandra Singh .....Petitioners(s)

Versus

The State of U.P. Through .....Respondents(s)
The Secy Home and 3 Ors.

Counsel for Petitioners(s) : H.G.S. Parihar, Ajai Krishna Yadav, Anil Kumar Maurya, Mansha Shukla, Meenakshi Singh, Meenakshi Singh Parihar, Vivek Mishra
Counsel for Respondent(s) : C.S.C.

Court No. - 34

HON'BLE INDRAJEET SHUKLA, J.

For the convenience of exposition, this judgment is divided into the following parts:-

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1. Heard Sri Ajai Krishna Yadav, learned counsel for the petitioner, Sri Dev Prakash Mishra, learned Additional Chief Standing Counsel representing the State respondents.

2. By means of present writ proceedings, the petitioner has set up challenge to the impugned order dated 14.04.2000 passed by 4th respondent removing the petitioner from service contained as Annexure-1 to this writ petition and impugned order of the same date forfeiting the salary of 160 days for unauthorized absence, from 14.05.1999 to 20.10.1999. The petitioner has further assailed the validity and correctness of order dated 29.09.2000 passed under appeal by 3rd respondent and the revisional order dated 22.05.2004 passed by 2nd respondent contained as Annexure-3 and 4 respectively to the writ petition.

A. FACTUAL MATRIX

3. Brief facts of present writ petition are that, the petitioner, who happened to be constable in disciplined force i.e. Provincial Arms Constabulary (PAC) was posted in 25th Battalion, Police Head Quarter, Raebareli proceeded for casual leave of 2 days on 12.05.1999 and as such he had to report the duties on 15.05.1999, but instead of reporting his duties on 15.05.1999 he became absent till 20.10.1999 i.e. almost 160 days and in this background a preliminary inquiry was directed and conducted, thereafter, regular inquiry was instituted by means of chargesheet dated 05.01.2000, primarily with the charge of unauthorized absenteeism. The relevant part of the chargesheet is extracted as under:-

> *"आपको एतद्द्वारा निम्नानुसार आरोपित किया जाता हैः-*
>
> *यह कि जब आप वर्ष 1999 में "ई" दल में नियुक्त थे, तब दिनांक 12.5.99 से स्वीकृत 02 दिवस आकस्मिक अवकाश पर प्रस्थान किया। बाद समाप्त अवकाश दिनांक 14.5.99 को वापस आना था, परन्तु आप समय से वापस न आकर दिनांक 20.11.99 को 160 दिवस मनमाने तौर पर अनुपस्थित रहकर आमद कराई।*
>
> *इस प्रकार आप कर्तव्य के प्रति लापरवाही, उदासीनता एवं अनुशासनीनता के दोषी पाये गये।*
>
> *साक्ष्य जिन पर आरोप के समर्थन में विचार किये जाने का प्रस्ताव हैः-*

1- श्री महेश प्रसाद दबूे, शिविर पाल- प्रारम्भिक जाँच करना प्रस्तावित करेंगे।

2- पी०सी० श्री शिवराम कुशवाहा, जी दल- दि० 12.5.99 से 02 दिवस आकस्मिक अवकाश स्वीकृत करने की पुष्टि करेंगे।

3- नायक 31997 सरदारअली "ई" दल- अवकाश पर रवानगी करने की पुष्टि करेंगे।

4- आरक्षी 32087 मूलचन्द्र गौतम वाहिनी जी०डी० लेखक- अवकाश अनुपस्थिति से आमद करना प्रमाणित करेंगे।

5- आरक्षी 32168 मु० इसराइल अली "ई" दल- अवकाश से अनुपस्थिति की रपट अंकित करना प्रमाणित करेंगे।

अभिलेखीय साक्ष्य

1- स्वीकृत आकस्मिक अवकाश प्रार्थना पत्र

2- जी०डी० "ई" दल व मुख्यालय शाखा की नकल रपट

3- आवागमन रजिस्टर एल०पी० मेनगेट

इस प्रकार उपरोक्तानुसार आप दिनांक 12.5.99 से स्वीकृत 02 दिवस आकस्मिक अवकाश पर प्रस्थान करने, बाद समाप्त अवकाश दिनांक 14.5.99 को वापस न आकर दिनांक 20.10.99 को 160 दिवस मनमाने तौर पर अनुपस्थित रहकर आमद कराने तथा कर्तव्य के प्रति लापरवाही , उदासीनता एवं अनुशासनहीनता के दोषी हैं।

एतद्द्वारा आपसे आरोप के उत्तर में अपने बचाव का लिखित विवरण दिनांक 13.1.2000 को या उसके पूर्व प्रस्तुत करने की अपेक्षा की जाती है। आपको सचेत किया जाता है कि अधोहस्ताक्षरी द्वारा अनुमन्य समय के भीतर आपसे ऐसा कोई विवरण प्राप्त नहीं होता है तो यह अवधारणा की जायेगी कि आपको कुछ नहीं प्रस्तुत करना है, आपके मामलें में तद्नुसार आदेश पारित कर दिया जाएगा।

साथ ही साथ आपसे अधोहस्ताक्षरी को लिखित रूप से यह सूचित करने की अपेक्षा की जाती है कि क्या आप व्यक्तिगत सुनवाई के लिए इच्छुक है और यदि आप किसी साक्ष्य या परीक्षण प्रति परीक्षा करना चाहते हैं तो अपने लिखित विवरण के साथ उसका नाम और पता और साक्ष्य का जिसे प्रत्येक ऐसे साक्षी से देने की प्रत्याशा की जायेगी, संक्षिप्त विवरण प्रस्तुत करने की अपेक्षा की जाती है।"

4. In the chargesheet as many as five witnesses were proposed to be orally examined and certain documentary evidence exhibiting unauthorized absence was also appended with the chargesheet.

5. After receiving the chargesheet, the petitioner submitted his reply on 17.01.2000 before inquiry officer mentioning therein that petitioner had to report on 15.05.1999 but he could not come back as such he sent

an application for extension of leave. The inquiry officer in order to prove the charges of overstay/unauthorized absence examined the witnesses cited in the calendar of chargesheet and the record transpires that adequate opportunity of cross-examination of witnesses was afforded but same was not availed by the petitioner, as such the oral evidence/testimony of witnesses examined by inquiry officer remained unimpeached.

6. The petitioner, in order to prove his case examined two doctors viz Dr. Firoz Alam. Ansari, Medical Officer, New Primary Health Center, Sahson, District, Allahabad and Dr. Paras Nath Rai, Medical Officer, Primary Health Center, Kotwa, Allahabad. While taking plea of ill health, the petitioner had taken an alternate plea of collapse of his house, which was in dilapidated condition to justify his absence and as such, petitioner claimed that he was busy in construction of his house and the absence cannot be said to be willful, rather due to compelling circumstances. Just to prove aforesaid plea of collapse of house, the petitioner got examined, **Jabar Singh**, the then Gram Pradhan.

7. The inquiry officer examined the defence witnesses viz Jabar Singh (Pradhan of the Village), Dr. Firoz Alam. Ansari and Dr. Paras Nath Rai in extenso.

8. After meticulous examination of the witnesses, the inquiry officer submitted the inquiry report on 21.03.2000, which is contained as Annexure-7 to the writ petition. To demonstrate the charge having been proved, the relevant portion of enquiry report is extracted hereunder:-

> *"अभियोजन पक्ष एवं बचाव पक्ष की कार्यवाही समाप्त हो जाने के बाद मैंने पत्रावली पर उपलब्ध समस्त साक्षियों के बयान, अभिलेखों एवं आरोपित पक्ष द्वारा बचाव पक्ष में प्रेषित स्पष्टीकरण एवं स्पष्टीकरण के साथ प्रेषित ग्राम प्रधान के द्वारा घर बनवाने व दूसरे घर में रहने व घर गिरने का प्रमाण-पत्र, बचाव पक्ष के गवाहानों के बयानों का गहनता से अध्ययन किया।*

उपरोक्त गवाहानों के बयानों से यह प्रमाणित होता है कि आरोपित आरक्षी 32091 रमेश चन्द्र सिंह दिनांक-11-5-99 को 02 दिवस आकस्मिक अवकाश पर 'जिला कारागार लखनऊ ई दल से रवाना हुआ। समय से न आकर दिनांक-20-10-99 को 159 दिवस 11 घंटा 10 मिनट अनुपस्थित रहकर अपनी इच्छानुसार वापस आकर वाहिनी मुख्यालय में आमद कराया जिसको पुष्टि सुबूत पक्ष के साक्षी दलनायक श्री अवधनारायण -तिवारी, पीसी श्री शिवरामकुशवाहा, कम्पनी जीडी लेखक नायक 31997 -सरदार अली, वाहिनी जीडी लेखक आरक्षी 32087 मूलचन्द्र गौतम के बयानों से होती है। आरक्षी के कम्पनी मुख्यालय 'ई'दल जिला कारागार लखनऊ में 02 दिवस अवकाश पर आमद की तिथि से अवगत होकर घर जाना तथा वापसी के दिन दिनांक-14-5-99 को सेनानायक के नाम रजिस्ट्री पत्र. 05-दिवस आकस्मिक अवकाश उसी क्रम में बढ़ाने के लिये यह अंकित कर देना कि उसका मकान दिनांक-12-5-99 को आँधी तूफान में गिर गया है बच्चों के रहने , लायक नहीं है तथा स्पष्टीकरण में दिनांक-12-5-99 से स्वयं को विमार होना अंकित करना दोनों में विरोधाभाष है, जिससे यह सिद्ध होता है कि वह झूठ बोला है विमार नहीं था, वरना वह दिनांक-14-5-99 के मकान गिर-जाने के सम्बन्ध में दिये गये रजिस्ट्री में विमार होना अवश्य अंकित करता। यह मान लिया जाय कि उसका मकान दिनांक-12-5-99 को गिर गया 05 दिवस उसी क्रम में अवकाश बढ़ाने के लिये रजिस्ट्री दिया फिर भी वह 05 दिवस बाद वापस डियूटी पर नहीं आया न ही किसी प्रकार की विमारी या इलाजरत रहने की कोई सूचना ही दिया, न ही वाहिनी मुख्यालय आकर अवकाश ही स्वीकृत कराने का प्रयास किया सिर्फ विमारी का बहाना बनाकर मनमाने तौर पर अनधिकृत रूप से अनुपस्थित रहा व डाक्टर से मिलकर विमारी का प्रमाण -पत्र बनवा कर मेडिकल अवकाश का उपभोग किया। अगर वह विमार था तो उसे नियमतः अपने जिले के पुलिस-अधीक्षक से मिलकर सिकबुक लेकर आमद रवानगी के साथ पुलिस अस्पताल जिला अस्पताल जाता तथा भर्ती होकर अपना विधिवत स्वास्थ्य परीक्षण कराने के उपरान्त इलाज कराता व इस कार्यालय को सूचित करता तथा चिकित्सालय से मुक्त होने के उपरान्त चिकित्सक के द्वारा दिये गये रेस्ट प्रमाण-पत्र के साथ वाहिनी मुख्यालय आकर अवकाश स्वीकृत कराता, तदोपरान्त अवकाश का उपभोग करता परन्तु वह मनमाने तौर पर अपने इच्छित अस्पताल जाकर वाह्य रोगी के रूप में इलाज कराया और एक भी दिन चिकित्सालय में भर्ती नहीं रहा। इतनी लम्बी अवधि तक वाह्य रोगों के रूप में इलाज कराना संदेहास्पद है जो यह प्रमाणित करता है कि वह विमार नहीं था बल्कि अपनी अनुपस्थित अवधि को प्रमाणित करने के लिए चिकित्सकों से व्यक्तिगत रूप से स्वयं द्वारा विमारी बताकर उनसे दवा लिखाया व चिकित्सा प्रमाण-पत्र बनवाया, जो पुलिस रेगुलेशन के प्रस्तर 381 एवं 383 का स्पष्ट उल्लंघन है तथा विना किसी अधिकारी के संज्ञान में

लाये कर्तव्य से विना स्वीकृत्ति अवकाश अनुमति के अनुपस्थित हो जाना उसकी घोर लापरवाही एवं अनुशासनहीनता का परिचायक है।

बचाव पक्ष के साक्षी ग्राम प्रधान श्री जबर सिंह ग्राम बभनकुईयाँ थाना-सरायईनायत, जनपद-इलाहाबाद के वयानों से यह प्रमाणित है कि आरक्षी रमेश चन्द्र सिंह का मकान 2-3 साल पहले गिर गया था नये मकान में 2-3 साल से रह रहे हैं, लेकिन अपने दिनांक-4-2-2000 के मकान बनवाने के प्रमाण-पत्र में मकान गिरना मई सन् -1999 अंकित किये हैं, दोनों में विरोधाभाष है जिससे यह स्पष्ट होता है कि आरक्षी रमेश चन्द्र सिंह ने मकान गिरने का प्रमाण-पत्र ग्राम प्रधान से कहकर अपने मन माफिक बनवाया है। ग्राम प्रधान ने विमारी के बारे में कुछ नहीं बताया। अगर आरोपी आरक्षी रमेश चन्द्र सिंह वास्तव में विमार होता तो ग्राम प्रधान को अवश्य-मालूम होता। मेरे द्वारा उक्त आरोपित आरक्षी के घर जाकर उसके मकान का भौतिक रूप से निरीक्षण भी किया गया। मकान तो गिरा था परन्तु काफी दिन का, दो कमरे का पक्का ईंट का मकान बनवाया है जिसकी सिर्फ दिवाल खड़ी है छत नहीं पड़ा है। जिस मकान में रह रहा है वह मकान कच्चा मिट्टी का बना हुआ है, मजबूत है, रहने की कोई परेशानी नहीं है। वह मकान बनवाने व विमार होने का सिर्फ नाटक किया है उसे ऐसी कोई परेशानी नहीं थी कि वह डियूटी पर नहीं आ सकता था। क्योंकि ग्राम-प्रधान के बयान से यह भी स्पष्ट है कि उसके पिता घर की खेती स्वयं करते हैं और जरूरत पड़ने पर मजदूर भी रख लेते हैं। उसके पिता खेती कर सकते हैं तो मकान भी अपनी देख-रेख में बनवा सकते थे। आरोपी ने मकान बनवाने में 30 दिवस लगना बताया है, ग्राम प्रधान ने चार-पाँच माह, जबकि मेरे द्वारा आरोपी के घर के भौतिक निरीक्षण में पाया गया कि वह जो पक्के ईंट का मकान बनवाया है दो छोटे-छोटे कमरे व एक छोटा बरामदा है सिर्फ दिवाल खड़ी है छत नहीं पड़ा है वैसा ढांचा खड़ा करने में सिर्फ 15 दिवस का समय लग सकता है लेकिन उसने 30 दिवस का समय लगना बताया है। यहाँ यह भी स्पष्ट है कि जब उक्त आरोपित आरक्षी विमार था डियूटी पर नहीं आ सकता था तो घर कैसे बनवाया, विमार होकर जब घर बनवा सकता है तो डियूटी पर वापस भी आ सकता है जिससे स्थिति स्वतः स्पष्ट हो जाती है कि वह विमार नहीं था सिर्फ विमारी का बहाना बनाया है। डा० फिरोज आलम नवीन प्रा० स्वा०-केन्द्र सहसो-इलाहाबाद के बयान से यह प्रमाणित होता है कि उक्त आरक्षी ने बुखार से पीडित होना बताया जिस पर डाक्टर ने उसे कुछ दवा दिया व कुछ बाजार से क्रय करने को कहा व दिनांक-12-5-99 से 10-6-99 तक रेस्ट दिया लेकिन ओ. पी. डी. रजिस्टर में सिर्फ 3 सप्ताह ही अंकित किया था, पूछने पर डाक्टर ने बताया कि 2-4 दिवस और बढ़ा दिया था लिखने को भूल गया था। डाक्टर ने यह भी स्पष्ट किया है कि वह बीच-बीच में आते रहे मगर रजिस्टर में अंकित नहीं किया, जिससे स्पष्ट है कि वह

विमार नहीं था सिर्फ डाक्टर से मिलकर मेडिकल प्रमाण-पत्र प्राप्त किया है क्योंकि अगर वह वास्तव में विमार रहता, बीच-बीच में डाक्टर को दिखाता तो वह ओ. पी. डी. रजिस्टर में अंकित होता मगर दवा लेना या बीच-बीच में दिखाना कहीं ओ. पी. डी. रजिस्टर में अंकित नहीं है जिसकी पष्टि डाक्टर फिरोज आलम ने स्वयं किया है। डाक्टर द्वारा रजिस्टर में 3 सप्ताह का रेस्ट देना तथा मेडिकल प्रमाण-पत्र में 30 दिवस अंकित करना व बयान में 28 दिवस का मेडिकल रेस्ट देना ही यह स्पष्ट करता है कि डाक्टर ने सिर्फ उक्त आरक्षी के कहने पर मेडिकल प्रमाण-पत्र दे दिया है विमार नहीं था। डाक्टर पारस नाथ राय प्रा० स्वा० केन्द्र कोटवा-इलाहाबाद के बयान से यह प्रमाणित होता है कि उसने अपनी अनुपस्थिति अवधि को प्रमाणित करने के लिये पेशाब में जलन व बुखार बताकर चिकित्सा प्रमाण-पत्र प्राप्त किया है। डाक्टर के कथनानुसार उसे अस्पताल से दवा भी नहीं दी गयी है पर्चे पर दवा लिखी गयी तथा अपने अधिकार क्षेत्र में सिर्फ चार सप्ताह का रेस्ट देने का अधिकार बताया है जबकि मेडिकल प्रमाण-पत्र में उसे दिनांक-11-6-99 से 27-7-99 तक 47 दिवस का मेडिकल अवकाश देना अंकित है। डाक्टर के कथनानुसार उसे 47 दिवस में कितने दिन दवा दी गयी या चेकअप कराया गया नहीं पता न' ही कहीं ओ. पी. डी. रजिस्टर में ही अंकित है जिससे स्पष्ट है कि वह विमार नहीं था सिर्फ डाक्टर से मिलकर विमारी का प्रमाण-पत्र प्राप्त किया है फिर भी आरोपित आरक्षी ने दिनांक -12-5-99 से 10-6-99 तक डाक्टर फिरोज आलम अन्सारी नवीन प्राथमिक स्वास्थ्य केन्द्र सहसो-इलाहाबाद के यहाँ वाह्य रोगी के रूप में इलाजरत रहा। अपने स्पष्टीकरण में यह अंकित किया है कि डाक्टर के फिटनेस के बाद वह दिनांक-10-6-99 को फिर रात में विमार हो गया तथा दिनांक-11-6-99 से दूसरे डाक्टर श्री, पारसनाथ राय प्रा० स्वा० केन्द्र-कोटवा-इलाहाबाद को दिखाना अंकित किया तथा दिनांक -27-7-99 तक वाह्य रोगी के रूप में इलाजरत रहना अंकित किया है जो नियमानुकूल नहीं है क्योंकि जब डा०-श्री फिरोज आलम अन्सारी ने दिनांक -10-6-99 को उक्त आरक्षी को फिटनेश दिया वह घर गया उसकी हालत पुनः उसी रात में खराब हो गयी उसने दूसरे डाक्टर श्री पारसनाथ राय प्रा० स्वा० केन्द्र -कोटवा-इलाहाबाद को दिखाया जबकि उसे उसी डॉक्टर के पास जाना चाहिए था जिसने फिटनेश दिया था, परन्तु वह अनुपस्थित व कर्तव्य से दूर रहने के लिए दूसरे डाक्टर का सहारा लिया, उसे चाहिए था कि दिनांक-10-6-99 को डाक्टर फिरोज आलम अन्सारी से फिटनेश मिलने के बाद उसी दिन अपने कर्तव्य पर वापस आता परन्तु ऐसा नहीं किया जो कर्तव्य के प्रति घोर लापरवाहों एवं अनुशासनहीनता का द्योतक है तथा उसके घर से प्राथमिक स्वास्थ्य केन्द्र सहसे-इलाहाबाद लगभग 2-3 किमी. है व प्रा० स्वा० केन्द्र कोटवा-इलाहाबाद लगभग 10-12 किमी. की दूरी पर है वहाँ जाने का औचित्य ही नहीं बनता। फिर भी डाक्टर श्री पारस-नाथ राय प्रा० स्वा० केन्द्र कोटवा-इलाहाबाद द्वारा उक्त आरक्षी-32091 रमेश चन्द्र सिंह को दिनांक-27-7-99 को

फिट घोषित कर दिया, उसको तत्काल वाहिनी मुख्यालय आना चाहिए था परन्तु वापस डियूटी पर न, आकर विना सूचना, विना अवकाश, विना मेडिकल ही मनमाने तौर पर घर ही रहा, जो इसके कर्तव्य के प्रति घोर लापरवाही व उदासीनता तथा अनुशासनहीनता का परिचायक है। आरोपित पक्ष द्वारा आरोप पत्र के उत्तर में प्रस्तुत स्पष्टीकरण एवं बचाव में प्रस्तुत स्पष्टीकरण में ऐसा कोई विन्दू नहीं रखा गया जिसपर विश्वास किया जा सके और जिसके आधार पर उसके विरूद्ध लगाये गये आरोप प्रमाणित न हो। उसके द्वारा दलनायक के नाम दिया गया आकस्मिक अवकाश का प्रार्थना-पत्र को पीसी के द्वारा ही स्वीकृत करके अवकाश छोडे जाने का तर्क भी मान्य नहीं है क्योंकि दलनायक के कम्पनी भार पर न रहने पर कम्पनी के भार पर नियुक्त पीसी को 03 दिवस अवकाश देने का अधिकार है।"

9. After receipt of the inquiry report dated 21.03.2000 a show cause notice was issued to the petitioner on 21.03.2000 itself in relation to the punishment proposed. Thereafter, the reminder notices were also issued on 24.03.2000 and 29.03.2000 but admittedly, the petitioner did not file any reply despite repeated opportunities offered.

10. In place of filing a reply to the show cause notice, against proposed punishment, the petitioner knocked the doors of U.P. Public Service Tribunal, Lucknow by filing Claim Petition No.378 of 2000 and it has been averred in paragraph no.21 of the writ petition that the said claim petition was finally decided on 17.04.2000 directing the authorities to provide reasonable opportunity to submit reply of show cause notice (the order of tribunal has not been brought on record). Thus, before order of Tribunal could be brought to notice of departmental authorities, the impugned order of punishment was passed.

11. The impugned order of punishment removing the petitioner from service was passed on 17.04.2000, which was served upon the petitioner against which the petitioner preferred departmental appeal as contemplated under Rule 20 of U.P. Subordinate Police Officers of the Subordinate Ranks (Punishment & Appeal) Rules, 1991 (in short '1991 Rules') and the appeal so preferred was dismissed vide order dated

29.09.2000 against which revision was preferred by virtue of Rule 23 of 1991 Rules, which too met with same fate, vide impugned order dated 12.03.2004.

B. AVAILABILITY OF ALTERNATIVE REMEDY

12. Before examination of matter on merits, learned counsel for the State opposed the writ petition on the ground of availability of alternative remedy, stating that the efficacious remedy lies before U.P. Public Service Tribunal against the orders impugned under Section 4 (1) of U.P. Public Service Tribunal Act.

13. In response to the said objection, learned counsel for the petitioner submitted that this writ petition was entertained way back on 15.10.2004 and the pleadings are complete, as such the writ petition may not be thrown after lapse of 21 years.

14. Insofar as the plea of alternative remedy is concerned, this Court is of the firm view that throwing a writ petition on the ground of alternative remedy after 21 years, particularly when parties have exchanged their pleadings is not justified, keeping in view the mandate of Hon'ble Supreme Court as propounded in case of **M/s Utkal Highways, Engineering & Contractors v. Chief General Manager and others in SLP (Civil) No.14350 of 2022.** Hence, the Court has proceeded to hear the matter on merits.

C. SUBMISSION ON BEHALF OF PETITIONER

15. The submissions advanced on behalf of the petitioner are precisely to the effect that the impugned order of punishment, appellate order and revisional order are absolutely illegal, arbitrary and without application of mind and all three authorities have failed to examine the material facts and grounds raised in its correct perspective, resulting confirmation of order of removal from service.

16. Further submission of learned counsel for the petitioner is that the inquiry officer failed to consider the medical certificates and the statement of doctors certifying the illness and as such the inquiry so conducted is erroneous.

17. Learned counsel for the petitioner alternatively submitted that in the factual backdrop of the present case the major punishment of removal ought not to have been awarded.

18. The further submission is, the punishment so awarded by disciplinary authority is based on recommendation of inquiry officer and inquiry officer erred in recommending punishment for removal from service and such recommendation is beyond the competence of inquiry officer.

19. Learned counsel for the petitioner also submits that from the date of reinstatement till attaining the age of superannuation nothing adverse was reported against the petitioner as such if this order is examined on the touchstone of reformative theory equally applicable to service jurisprudence then also the petitioner deserves sympathetic consideration of this Court qua the quantum of punishment.

20. Lastly, the petitioner has strenuously urged that the petitioner was permitted to assume his duties in the month of October, 1999 and continued as such till March, 2000 and was paid salary for the said period as such there was no reason and prudence as why on one hand the order of withholding six month salary of the petitioner treating the said period as absence from duty has been passed and for the same conduct he has been removed from service. Thus, the punishment has been inflicted in twin folds for the same charges, which amounts to double jeopardy being violative of Article 20 of the Constitution of India. Thus,

the punishment inflicted does not commensurate with the gravity of the charges and as such the award of major penalty is also disproportionate.

D. SUBMISSION ON BEHALF OF STATE RESPONDENTS

21. Per contra, learned Additional Chief Standing Counsel submitted that every procedural rigour as contemplated, under 1991 Rules have been followed and petitioner could not raise any ground pointing out any procedural flaw with respect to inquiry conducted including conduct of oral inquiry, grant of opportunity of hearing etc.

22. Learned Additional Chief Standing Counsel submitted that habitual absenteeism is the past track record of writ petitioner, and he made himself absent unauthorizedly for 10 times. He further points out that, since the recruitment of the petitioner as a Constable in 1984, he has made himself absent on 10 occasions, that is for a total period of 356 days and took medical leave four times, which is 97 days total till 1995. He was punished with 56 days pay deduction and in 1997-98 he was found guilty of unauthorized absence of 82 and 79 days respectively and he was punished with censure entry along with 8 other minor punishments. Thus, petitioner require no leniency in aforesaid factual background.

23. Learned Counsel for the State has invited the attention of this Court that the petitioner reported to the duties on 16.06.1999 as per G.D. No.21 at 17.00 and as such he was relieved for joining at Company Headquarter, Gonda, but instead of going to Gonda, he again went to his home and he remained unauthorizedly absent. The copy of G.D.No.21 dated 16.06.1999 is contained as Annexure C.A.3 to the counter affidavit. Thereafter, the petitioner reported to the duties on 20.10.1999.

24. It is further submitted, when preliminary inquiry was directed vide order dated 21.11.1999, then the petitioner submitted the medical certificates with respect to which the detailed discussions have been made not only in the inquiry report but here-in-before also.

25. Learned counsel for the State drew attention of this Court towards Annexure No.CA.1 and C.A.2 appended to the counter affidavit, which is application dated 14.05.1999 for extension of leave for 5 days and the reasons mentioned in the said application states that the house of the petitioner being in dilapidated condition collapsed in the storm and in the said application, no plea of 'illness' is mentioned, which is the first opportunity to justify the over-staying/ absenteeism, hence the plea of illness is cock and bull story having been cooked subsequently. The medical certificate relied upon by the petitioner was allegedly issued on 10.06.1999 contained as Annexure C.A.5 demonstrates that the doctors have certified that the petitioner was ill (suffering from typhoid fever) since 12.05.1999 to 10.06.1999. The said certificate appears to be ex-facie incorrect as in the application dated 14.05.1999 (Annexure C.A2) petitioner has not mentioned that he was ill, meaning thereby, the lame excuse of illness has been discovered by the petitioner at some subsequent point of time. Secondly, the medical certificate contained as Annexure C.A.6 to the counter affidavit issued by different medical officers, i.e. Dr. Firoz Alam. Ansari and Dr. Paras Nath Rai demonstrate that they have certified the illness of the petitioner from 11.06.1999 to 27.07.1999 and issued the fitness certificate for resumption of duties on 27.07.1999. These certificates are again in continuation so far, the period of illness is concerned. The petitioner had to explain the over staying/unauthorized absence from 15.05.1999 till 20.10.1999 and petitioner had not submitted any medical certificate after the period of 27.07.1999. In such a background the medical certificates have rightly been discarded by the inquiry officer and in exercise of judicial review under Article 226 of Constitution of India, this Court may not embark

upon the correctness of such certificates, which did not inspire confidence of the inquiry officer.

26. Learned Standing Counsel has further invited attention of this Court towards findings contained in the inquiry report, in which the inquiry officer had categorically found that the plea of illness and collapse of house are contradicting each other as evident from the defence evidence/applications filed by none other than the petitioner.

27. The inquiry officer did not find that the petitioner was admitted in the Hospital even for a single day. The inquiry officer had further taken note of Regulation 381 and 382, which requires that officer and constable, who fell ill during leave must apprise to the Superintendent of Police in writing, but no such compliance of Regulation 381 and 382 has been made, which has been incorporated for the purpose of bonafide illness.

28. Learned counsel for the State lastly invited attention of this Court to the oral statements of the doctors certifying illness and the statements of Gram Pradhan, who had deposed with respect to collapse and reconstruction of the house but the statements of these witnesses did not find favour during inquiry for the detailed reasons recorded in the inquiry report and this Court would not embark on the truthfulness of their statements as this Court cannot function as an appellate authority to the disciplinary proceedings already conducted, except with a limited interference, which is permissible within the four corners of judicial review, that is with respect to procedural lapses but the appreciation of defence evidence by enquiry officer does not seem to be perverse on the basis of material available before this court.

E. RELEVANT RULES

29. It is apt to have glimpse of relevant rules under which disciplinary proceedings have been undertaken i.e. **the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991:-**

"4. Punishment:-(1) The following punishment may, for good and sufficient reasons and as hereinafter provided, be imposed upon a Police Officer, namely-

(a) Major Penalties-
(i) Dismissal from service.
(ii) Removal from service.
(iii) Reduction in rank including reduction to a lower-scale or to a lower stage in a time scale.
(b) Minor Penalties-
(i) Withholding of promotion.
(ii) Fine not exceeding one months' pay.
(iii) Withholding of increment, including stoppage at an efficiency bar.
(iv) Censure.

Sub Rule (1) of Rule 5 of the Rules 1991 provides as under:-

5. Procedure for award of punishment.-(1) The cases in which major punishments enumerated in Clause (a) of sub-rule (1) of Rule 4 may be awarded, shall be dealt with in accordance with the procedure laid down in sub-rule (1) of Rule 14.

Sub-rule (1) of Rule 14 of the Rules 1991 postulates as under:-
14. Procedure for conducting departmental proceedings- (1) Subject to the provisions contained in these Rules the departmental proceedings in the case referred to in sub-rule (1) of Rule 5 against the Police Officers, may be conducted in accordance with the procedure laid down in Appendix I. Appendix I of the Rules 1991 provides as under:-

"PROCEDURE RELATING TO THE CONDUCT OF DEPARTMENTAL PROCEEDINGS AGAINST POLICE OFFICER
[See RULE 14(1)]

Upon institution of a formal enquiry such police officer against whom the enquiry has been instituted shall be informed in writing of the grounds on which it is proposed to take action and shall be afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be used in the form of a definite charge or charges as in Form-1 appended to these Rules which shall be communicated to the charged police officer and which shall be so clear and precise as to give sufficient indication to the charged police officer of the facts and circumstances against him. He shall be required, within a reasonable time, to put in, in a written statement of his defence and to state whether he desires to be heard in person. If he so desires, or if the Inquiry officer so directs an oral enquiry shall be held in respect of such of the allegation as are not admitted. At that enquiry such oral evidence will be recorded as the Inquiry Officer considers necessary. The

charged police officer shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish: Provided that the Inquiry Officer may, for sufficient reasons to be recorded in writing, refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the ground thereof. The Inquiry Officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged police officer."

Sub Rule (2) of Rule 5 of the Rules 1991 provides as under:-

(2) The cases in which minor punishments enumerated in Clause (b) of sub-rule (1) of Rule 4 may be awarded, shall be dealt with in accordance with the procedure laid down in sub-rule (2) of Rule 14.

Sub-rule (2) of Rule 14 of the Rules 1991 postulates as under:-

(2) Notwithstanding anything contained in sub-rule (1) punishments in cases referred to in sub-rule (2) of Rule 5 may be imposed after informing the Police Officer in writing of the action proposed to be taken against him and of the imputations of act or omission on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal."

30. It is a peculiar case where the order of removal was stayed by this Court vide order dated 15.10.2024, which is extracted as under:-

> *"Learned standing counsel prays for and is granted four weeks' time to file a counter affidavit. Thereafter, the petitioner is granted another two week's time to file a rejoinder affidavit.*
>
> *List this case after two months.*
>
> *Till further orders of this Court, the operation of the impugned order dated 17.04.2000 Annexure -1 to the writ petition shall remain stayed."*

31. In compliance of interim order dated 15.10.2024 admittedly the petitioner was reinstated in service since 19.11.2005 and discharged his duties till retirement on 31.07.2024 and as per counsel for the petitioner, the petitioner was promoted to the post of head constable in the year 2016, and also receiving the provisional pension, hence, the validity of impugned orders and its effects are to be examined keeping in view the subsequent developments after order of removal was passed.

F. ANALYSIS AND REASONING

32. The counsel for petitioner in order to buttress his submission that regulation 381 and 382 of UP Police Regulations are not mandatory has

relied upon coordinate bench judgment of this court dated 30.01.2019 rendered in **Writ A No. 16983 of 2001 titled as Vidya Ram vs. Deputy Inspector General of Police, Agra and others** and judgment of this court dated 30.01.2019 rendered in **Writ A No. 16983 of 2001 titled as Vidya Ram vs. Deputy Inspector general of police, Agra and others** and coordinate bench judgement of this Court in **Writ-A No. 17878 of 2013 'Manindar Kumar Singh Versus State of U.P. and others** in which the judgement of **Vidya Ram** (supra) was taken note of. This court in **Vidya Ram** (supra) has observed in para 6 and 7:

> *"6. This Court in Yashwant Singh Vs. State of U.P. and others, 2012 (3) ADJ 108 had an occasion to deal with the provisions of Para-382 of U.P. Police Regulations. This Court, upon a plain reading of Paras 381 and 382 of the police Regulations has observed that a presumption is sought to be drawn by the respondents against the genuineness of medical certificate unless it is obtained from a District Government Hospital. Paras 16 to 19 of the judgment is apposite for the present purposes and is reproduced hereinafter:-*
>
> *"16. Thus, from the findings of enquiry officer it is clear that the medical certificate submitted by the petitioner in respect of his illness during the period of his unauthorised absence from duty was neither doubted nor disputed by the enquiry officer, nevertheless inquiry officer and disciplinary authority have held the petitioner guilty of negligent in discharge of his duty merely on account of fact that while on unauthorized absence from duty he did not observe the provisions contained in para 381 and 382 of the U.P. Police Regulations, which reads as under:-*
>
> *"381. It is incumbent on all applicants for medical leave or extension of leave on medical certificates to apprise the Superintendent of Police in writing of their intention to apply for a medical certificate. Any failure to do so may result in a decision that the medical certificate has been obtained by misrepresentation and may thereby entail serious consequences.*
>
> *382. Under-officers and constables who fall ill when on duty or who are ill when due to return to duty, must apply for admission to the district police hospital or for treatment at the nearest dispensary, if the police hospital is out of easy reach. The fact of their admission or treatment must be reported to the local Superintendent of Police who unless they are his own subordinates will take immediate steps to communicate the fact to the Superintendent of Police whose subordinates they are. Officers of higher rank are not compelled to apply for admission to police hospitals, but are not relieved of the responsibility, while on leave of intimating their intention of obtaining a medical certificate to the Superintendent of Police as prescribed above."*
>
> *17. From a plain reading of para 381 of the U.P. Police Regulations, it is clear that any police personnel, who wants to take medical leave on medical certificate must apprise the Superintendent of Police in writing of his intention to apply for a medical certificate and any failure to do so entails serious consequence and raise presumption that the medical certificate obtained by such police personnel is based on misrepresentation and further para 382 of the said Regulations postulates that under-officers and constables who fall ill while on duty must apply for admission to the district hospital or for treatment at the nearest dispensary, if the district hospital is out of easy reach. The fact of their admission or treatment must be reported to the local Superintendent of Police who unless they are his own subordinates will take steps to communicate the fact to the Superintendent of Police whose subordinates they are. Officers of higher rank are not*

compelled to apply for such admission to police hospital, but they are not relieved of the responsibility of intimating their intention of obtaining a medical certificate to the Superintendent of Police as prescribed under para 381 of the Regulations. These police Regulations are administrative instructions compiled in the U.P. Police Regulations. They have no statutory force. Non-compliance/observance of aforesaid regulations by sub-ordinate police officers entails serious consequence by raising presumption of misrepresentation by them in obtaining medical certificate for grant of medical leave, such presumption appears to have been raised by deeming provisions in the Regulation 381 of Police Regulations.

18. A legal fiction is one which is not an actual reality but which the law requires the court to accept it as a reality, therefore, in case of legal fiction, the court believes something to exist which in reality does not exist. It is nothing but a presumption of the existence of a state of affairs, which in actual reality is non-existent. In this connection, it would be useful to refer statements of law contained in few passage of IV Edition of Legislation and Interpretation (By Late Jagadish Swarup) at page 307 and 308:

"A legal fiction is one which is not an actual reality but which the law requires the Court to accept it as a reality. Therefore, in case of legal fiction, the Court believes something to exist which, in reality, does not exist. In other words, it is nothing but a presumption of the existence of a state of affairs which in actual reality is non-existent. When viewed from this context there is not much difference between a legal fiction and a presumption. However, it cannot be said that legal fiction and a presumption are wholly identical in all respects. A presumption may be conclusive or it may be rebuttable. A presumption gives rise to a legal fiction. It is conclusive, if no evidence can be permitted to be led to deny it. In case of a presumption which is rebuttable, unless the contrary is established, fictitious state of affairs is presumed to exist as if it is an actual reality.

A deeming provision creates a legal fiction. The effect of such a legal fiction is that a position which otherwise would not obtain is deemed to obtain under certain circumstances.

A deeming fiction can not be introduced by construction and it is the exclusive privilege of the legislature to apply a deeming fiction in a given case."

19. Thus from the aforesaid statements of law, it is clear that such deeming provision creates legal fiction through the statute. A legal fiction through deeming provision can not be introduce by the interpretation and it is exclusive privilege of the legislature to apply a deeming fiction in a given case, therefore, such deeming provision, in my view, can not be created through administrative instructions. The aforesaid view also finds support from various decisions of Apex Court including a decision rendered in V.C., Banaras Hindu University Vs. Shree Kant, 2006 (11) S.C.C. 42:AIR 2006 S.C.2304: 2006(4) ALJ 578 wherein it has been held that no legal fiction in law can be created by an administrative order. Thus the aforesaid presumption raised by the Regulation 381 of the Police Regulation is beyond the scope of authority under law, as such can not be sustained, therefore, the aforesaid presumption raised by said regulation is liable to be ignored and a substantial compliance thereof, in my opinion, would be sufficient.

7. I am in respectful agreement with the view taken by this Court that presumption can be drawn only on the basis of a legislative provision and the authorities would not be justified in relying upon administrative circular to draw such presumption."

33. Further, the counsel for the petitioner in order to buttress his submissions placed the reliance on judgment of the Hon'ble Supreme Court, in the case of **Krushna Kant B. Parmar Vs. Union of India and another, (2012) 3 SCC 178,** to contend that 'absence for a reason', cannot be said to be a willful absence.

34. It is also submitted that the absence was the result of compelling circumstances under which it was not possible to report or perform duty and thus his absence could not be held to be wilful. It is contended that the absence of the petitioner was not wilful and he was prevented on account of his health condition, and therefore his case is clearly covered under the exception carved out by the Hon'ble Supreme Court in **Krushna Kant B Parmar** (supra).

35. Reference may be had to the judgment of Hon'ble Supreme Court in **Krushna Kant B Parma**r (supra). The Hon'ble Supreme Court has held as under:

> *"16. In the case of the appellant referring to unauthorised absence the disciplinary authority alleged that he failed to maintain devotion to duty and his behaviour was unbecoming of a government servant. The question whether "unauthorised absence from duty" amounts to failure of devotion to duty or behaviour unbecoming of a government servant cannot be decided without deciding the question whether absence is wilful or because of compelling circumstances.*
>
> *17. If the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence cannot be held to be wilful. Absence from duty without any application or prior permission may amount to unauthorised absence, but it does not always mean willful. There may be different eventualities due to which an employee may abstain from duty, including compelling circumstances beyond his control like illness, accident, hospitalisation, etc., but in such case the employee cannot be held guilty of failure of devotion to duty or behaviour unbecoming of a government servant.*
>
> *18. In a departmental proceeding, if allegation of unauthorised absence from duty is made, the disciplinary authority is required to prove that the absence is wilful, in the absence of such finding, the absence will not amount to misconduct."*

36. In **Krushna Kant B Parmar** (supra), Hon'ble Supreme Court has held that the question whether unauthorised absence from duty amounts

to failure of devotion to duty or behaviour unbecoming of a government servant cannot be decided without deciding the question whether absence is wilful or because of compelling circumstances. If the absence is the result of compelling circumstances, under which it was not possible to report or perform duty, such absence cannot be held to be willful. Absence from duty without any application or prior permission may amount to unauthorised absence, but it does not always mean willful. There may be compelling circumstances beyond his control like illness, accident, hospitalization, etc., and in such cases the employee cannot be held guilty of failure of devotion to duty or behaviour unbecoming of a government servant. If allegation of unauthorised absence from duty is made, the disciplinary authority is required to prove that the absence is willful, in the absence of such finding, the absence will not amount to misconduct.

37. Reference may further be had to the Judgment of Hon'ble Supreme Court of India in **Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108**, wherein Hon'ble Supreme Court has explained **Krushna Kant B Parmar** (supra) and has held as under:

> *"19. In Jagdish Singh (supra) the Court took note of the fact that the appellant therein was a sweeper and had remained absent on four spells totalling to fifteen days in all in two months. In that context, the Court observed thus: -*
>
> *"The instant case is not a case of habitual absenteeism. The appellant seems to have a good track record from the date he joined service as a sweeper. In his long career of service, he remained absent for fifteen days on four occasions in the months of February and March 2004. This was primarily to sort out the problem of his daughter with her in-laws. The filial bondage and the emotional attachment might have come in his way to apply and obtain leave from the employer. The misconduct that is alleged, in our view, would definitely amount to violation of discipline that is expected of an employee to maintain in the establishment, but may not fit into the category of gross violation of discipline. We hasten to add, if it were to be habitual absenteeism, we would not have ventured to entertain this appeal."*
>
> *20. If both the decisions are appositely understood, two aspects clearly emerge. In Shri Bhagwan Lal Arya (supra), the Court took note of the fact, that is, production of proper medical certificate from a Government medical doctor and opined about the nature of misconduct and in Jagdish Singh (supra) the period of absence, status of the employee and his track record and the explanation offered by him. In the case at hand, the factual score being different, to which we shall later on advert, the aforesaid authorities do not really assist the respondent.*
>
> *21. Learned counsel for the respondent has commended us to the decision in Krushnakant B. Parmar v. Union of India and another[10] to highlight that in the*

absence of a finding returned by the Inquiry Officer or determination by the disciplinary authority that the unauthorized absence was willful, the charge could not be treated to have been proved. To appreciate the said submission we have carefully perused the said authority. In the said case, the question arose whether "unauthorized absence from duty" did tantamount to "failure of devotion to duty" or "behavior unbecoming of a Government servant" inasmuch as the appellant therein was charge-sheeted for failure to maintain devotion to duty and his behavior was unbecoming of a Government servant. After adverting to the rule position the two-Judge Bench expressed thus: -

"16. In the case of the appellant referring to unauthorized absence the disciplinary authority alleged that he failed to maintain devotion to duty and his behavior was unbecoming of a government servant. The question whether "unauthorized absence from duty" amounts to failure of devotion to duty or behavior unbecoming of a government servant cannot be decided without deciding the question whether absence is willful or because of compelling circumstances.

17. If the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence cannot be held to be willful. Absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. There may be different eventualities due to which an employee may abstain from duty, including compelling circumstances beyond his control like illness, accident, hospitalization, etc., but in such case the employee cannot be held guilty of failure of devotion to duty or behavior unbecoming of a government servant.

18. In a departmental proceeding, if allegation of unauthorized absence from duty is made, the disciplinary authority is required to prove that the absence is willful, in the absence of such finding, the absence will not amount to misconduct."

22. We have quoted in extenso as we are disposed to think that the Court has, while dealing with the charge of failure of devotion to duty or behavior unbecoming of a Government servant, expressed the aforestated view and further the learned Judges have also opined that there may be compelling circumstances which are beyond the control of an employee. That apart, the facts in the said case were different as the appellant on certain occasions was prevented to sign the attendance register and the absence was intermittent. Quite apart from that, it has been stated therein that it is obligatory on the part of the disciplinary authority to come to a conclusion that the absence is willful. On an apposite understanding of the judgment we are of the opinion that the view expressed in the said case has to be restricted to the facts of the said case regard being had to the rule position, the nature of the charge levelled against the employee and the material that had come on record during the enquiry. It cannot be stated as an absolute proposition in law that whenever there is a long unauthorized absence, it is obligatory on the part of the disciplinary authority to record a finding that the said absence is willful even if the employee fails to show the compelling circumstances to remain absent.

23. We have quoted in extenso as we are disposed to think that the Court in Krushnakant B. Parmar case has, while dealing with the charge of failure of devotion to duty or behaviour unbecoming of a government servant, expressed the afore stated view and further the learned Judges have also opined that there may be compelling circumstances which are beyond the control of an employee. That apart, the facts in the said case were different as the appellant on certain occasions was prevented to sign the attendance register and the absence was intermittent. Quite apart from that, it has been stated therein that it is obligatory on the part of the disciplinary authority to come to a conclusion that the absence is wilful. On an apposite understanding of the judgment Krushnakant B. Parmar case we are of the opinion that the view expressed in the said case has to be restricted to the facts of the said case regard being had to the rule position, the nature of the charge levelled against the employee and the material that had come on record during the enquiry. It cannot be stated as an absolute proposition in law that whenever there is a long

unauthorised absence, it is obligatory on the part of the disciplinary authority to record a finding that the said absence is wilful even if the employee fails to show the compelling circumstances to remain absent.

24. In this context, it is seemly to refer to certain other authorities relating to unauthorised absence and the view expressed by this Court. In State of Punjab v. P.L. Singla , (2008) 8 SCC 469 the Court, dealing with unauthorised absence, has stated thus :

"11. Unauthorised absence (or overstaying leave), is an act of indiscipline. Whenever there is an unauthorised absence by an employee, two courses are open to the employer. The first is to condone the unauthorised absence by accepting the explanation and sanctioning leave for the period of the unauthorised absence in which event the misconduct stood condoned. The second is to treat the unauthorised absence as a misconduct, hold an enquiry and impose a punishment for the misconduct."

25. Again, while dealing with the concept of punishment the Court ruled as follows :

"14. Where the employee who is unauthorisedly absent does not report back to duty and offer any satisfactory explanation, or where the explanation offered by the employee is not satisfactory, the employer will take recourse to disciplinary action in regard to the unauthorised absence. Such disciplinary proceedings may lead to imposition of punishment ranging from a major penalty like dismissal or removal from service to a minor penalty like withholding of increments without cumulative effect. The extent of penalty will depend upon the nature of service, the position held by the employee, the period of absence and the cause/ explanation for the absence."

26. In Tushar D. Bhatt v. State of Gujarat (2009) 11 SCC 678, the appellant therein had remained unauthorisedly absent for a period of six months and further had also written threatening letters and conducted some other acts of misconduct. Eventually, the employee was visited with order of dismissal and the High Court had given the stamp of approval to the same. Commenting on the conduct of the appellant the Court stated that he was not justified in remaining unauthorisedly absent from official duty for more than six months because in the interest of discipline of any institution or organisation such an approach and attitude of the employee cannot be countenanced.

27. Thus, the unauthorised absence by an employee, as a misconduct, cannot be put into a straitjacket formula for imposition of punishment. It will depend upon many a factor as has been laid down in P.L. Singla."

38. The Hon'ble Supreme Court in **Chennai Metropolitan Water Supply & Sewerage Board** (supra) after examining **Krushna Kant B Parmar** (supra) has held that the view expressed in **Krushna Kant B Parmar** (supra), that there may be compelling circumstances which are beyond the control of an employee and that it is obligatory on the part of the disciplinary authority to come to a conclusion that the absence is wilful, has to be restricted to the facts of the said case regard being had to the rule position, the nature of the charge levelled against the employee and the material that had come on record during the enquiry. It cannot be stated as an absolute proposition in law that whenever there is a long unauthorised absence, it is obligatory on the part of the

disciplinary authority to record a finding that the said absence is wilful even if the employee fails to show the compelling circumstances to remain absent.

39. The Hon'ble Supreme Court thereafter referred to the Judgment in **P.L. Singla** (supra) wherein it is held that unauthorised absence (or overstaying leave), is an act of indiscipline and whenever there is an unauthorised absence by an employee, two courses are open to the employer. First is to condone the unauthorised absence by accepting the explanation and sanctioning leave for the period of the unauthorised absence in which event the misconduct stood condoned and the second is to treat the unauthorised absence as a misconduct, hold an enquiry and impose a punishment for the misconduct. Where the explanation offered by the employee is not satisfactory, the employer would take recourse to disciplinary action in regard to the unauthorised absence. Such disciplinary proceedings may lead to imposition of punishment ranging from a major penalty like dismissal or removal from service to a minor penalty like withholding of increments without cumulative effect. The extent of penalty would depend upon the nature of service, the position held by the employee, the period of absence and the cause/explanation for the absence.

40. The Hon'ble Supreme Court held that unauthorised absence by an employee, as a misconduct, cannot be put into a straitjacket formula for imposition of punishment. It will depend upon many factors as has been laid down in **P.L. Singla** (supra).

41. The Hon'ble Supreme Court has laid down the scope, extent and parameters of judicial review in disciplinary action. Hon'ble Supreme Court in **Railways v. Rajendra Kumar Dubey, (2021) 14 SCC 735** has held as under:

> *"21.1. We will first discuss the scope of interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings. It is well settled that the High Court must not act as an appellate authority, and reappreciate the evidence led*

before the enquiry officer. We will advert to some of the decisions of this Court with respect to interference by the High Courts with findings in a departmental enquiry against a public servant.

21.2. In State of A.P. v. S. Sree Rama Rao, AIR 1963 SC 1723] , a three-Judge Bench of this Court held that the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however, interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed themselves to be influenced by irrelevant considerations, or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. If, however, the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition.

21.3. These principles were further reiterated in State of A.P. v. Chitra Venkata Rao, (1975) 2 SCC 557. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The court exercises the power not as an appellate court. The findings of fact reached by an inferior court or tribunal on the appreciation of evidence, are not re-opened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ court, but not an error of fact, however grave it may be. A writ can be issued if it is shown that in recording the finding of fact, the tribunal has erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence. A finding of fact recorded by the tribunal cannot be challenged on the ground that the material evidence adduced before the tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point, and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal.

21.4. In subsequent decisions of this Court, including Union of India v. G. Ganayutham , (1997) 7 SCC 463, RPF v. Sai Babu , (2003) 4 SCC 331, Chennai Metropolitan Water Supply & Sewerage Board v. T.T. MuraliBabu, (2014) 4 SCC 108, Union of India v. Manab Kumar Guha , (2011) 11 SCC 535, these principles have been
consistently followed.

21.5. In a recent judgment delivered by this Court in State of Rajasthan v. Heem Singh , (2021) 12 SCC 569 this Court has summed up the law in following words:

"37. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil

standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy -- deference to the position of the disciplinary authority as a fact- finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognised it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

42. The Hon’ble Supreme Court in **Railways v. Rajendra Kumar Dubey** (supra) after referring to various decisions has laid down principles which can be summarized as follows:

i. the jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction;

ii. the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant;

iii. it is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence;

iv. High Court may interfere with the proceedings:

(a) where principles of natural justice has not been complied with,

(b) where the findings are based on no evidence, which may reasonably support the conclusion of guilt, or

(c) there is violation of the statutory rules prescribing the mode of enquiry, or

(d) the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or

(e) allowed themselves to be influenced by irrelevant considerations, or

(f) where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion.;

v. if, the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the

adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition;

vi. findings of fact reached by an inferior court or tribunal on the appreciation of evidence, are not re-opened or questioned in writ proceedings; and vii. an error of law which is apparent on the face of the record can be corrected by a writ court, but not an error of fact, however grave it may be.

On careful reading of judgement of T.T Murlibabu (supra) Krushna kant B. Parmar (supra) coupled with finding contained in the enquiry report in this case, it comes out that Hon'ble Supreme Court had already taken note of judgement of Krushnakant B. Parmar in the case of T.T. Murlibabu (Supra) and has observed that the "It cannot be stated as an absolute proposition in law that whenever there is a long unauthorised absence, it is obligatory on the part of the disciplinary authority to record a finding that the said absence is wilful even if the employee fails to show the compelling circumstances to remain absent"

43. The contention of counsel for the petitioner so far it relates to medical certificates are not forged or fabricated and even inquiry officer did not held that the medical certificates relied upon by the petitioner are forged documents as such the cause for absence ought to have been considered a genuine one and in order to support such submissions, counsel for the petitioner relied upon the judgement of Hon'ble Supreme Court in the case of **Chhel Singh v. M.G.B. Gramin Bank Pali & others reported (2014) 13 SCC 166**.

44. Even if the medical certificates relied upon by the petitioner are not declared to be forged by inquiry officer, even then the medical certificates are not for entire period of 160 days, for which the unauthorized absence has been sought to be condoned, as such the medical certificates so relied by the petitioner is of hardly any use particularly in backdrop of the analysis and reasoning given by inquiry officer that the petitioner did not appear to be ill on the date when firstly he sought extension of his leave as the only ground was mentioned in the leave application that his house stood collapsed, as such the leave may be extended, hence, the plea of illness for the entire period of illness did not inspire confidence of inquiry officer for which no findings can be substituted by this Court in jurisdiction of judicial review under Article 226 of the Constitution of India as such the judgement of Hon'ble Supreme Court is of hardly any assistance to the case of the petitioner.

45. Learned counsel for the petitioner further relied upon a coordinate bench judgement of this Court rendered in **Writ-A No.17878 of 2013 'Manindar Kumar Singh Versus State of U.P. and others**' and on the strength of said decision has submitted that the medical certificates relied by the delinquent employee should not be ignored only on the ground that the medical practitioner issuing such certificates was stationed at a distant place from the petitioner's place of posting but such is not the reasons/analysis mentioned in the inquiry report for discarding the medical certificates so submitted by the writ petitioner, hence, the said authority of law is of no help for the case of the petitioner.

46. The Regulation 381 as contained in Police Regulations even if are treated to be not mandatory and the explanation in that regard can be offered while submitting reply to the show cause notice even then the same is directory and such regulations needs to be adhered with. Even if Regulation 381 and 382 are not given much credence as non submitting information qua illness can be explained while filing medical certificates and seeking leave, even then in peculiar facts of this case what emerges is inquiry officer had found that even after having fitness certificate dated 27.07.1999, the petitioner did not report to the duties till 20.10.1999, which reflects indiscipline on the part of the petitioner.

47. The Hon'ble Supreme Court in the case of **'State of Punjab Vs. P.L. Singla reported in AIR 2009 SCC 1149** has held that the extent of penalty will depend upon the nature of service, the position held by the employee, the period of absence and the cause/explanation for the absence.

48. It is no more res integra that where the punishment is either dismissal or removal, it may not be necessary to pass any consequential orders relating to the period of unauthorized absence (unless the rules

require otherwise). Where the punishment awarded for the unauthorized absence does not result in severance of employment and the employee continues in service, it will be necessary to pass some consequential order as to how the period of absence should be accounted for and dealt with in the service record. If the unauthorized absence remains unaccounted, it will result in break in service, thereby affecting the seniority, pension, pay etc., of the employee. Any consequential order directing how the period of absence should be accounted for is for an accounting and administrative procedure, which does not affect or supersede the order imposing punishment.

49. In view of the judgement of Hon'ble Supreme Court in the case of **P.L. Singla** (supra), since one of the punishment is removal from service and if that subsists there was absolutely no need for passing separate order qua relating to period of unauthorized absence, which is dated 17.04.2000 contained as Annexure 2 to this Writ Petition as the removal from service would definitely result in severance of employment, thus the order dated 17.04.2000 forfeiting salary of the petitioner was completely uncalled for and it is only if any other punishment except removal or dismissal is passed then the period of absence should be accounted for and dealt with.

50. In the case in hand, since the order of removal was passed as such it was not strictly required to pass the order of forfeiture of salary treating the period as ‘dies non’ but if order of removal is interfered with on a sympathetic consideration treating that petitioner had rendered long service then it would be justified to either maintain the order of forfeiture of salary or to pass a fresh order in relation to same.

51. The counsel for petitioner while assailing the validity of impugned orders of removal from service had strenuously urged that the past conducts of the petitioner had been considered for awarding major penalty but neither in the chargesheet nor in the show cause notice the

past conduct of petitioner was made a charge, therefore the order of punishment stands vitiates on this count too and to buttress his submission he has relied upon the coordinate bench judgement rendered in **W.P. No.1192 (S/S) of 2019 'Sanjay Misra v. Director, Sanjay Gandhi Post Graduate Institute and another'** and the judgement of Hon'ble Supreme Court in the case of **Mohd. Yusuf Khan v. State of Uttar Pradesh and others reported in (2010) 10 SCC 539 33.**

52. It is trite law that the past conduct of the petitioner cannot be sole foundation for awarding the punishment unless such conduct is mentioned either in the chargesheet or in the show cause notice. But in the case in hand, record transpires that the past conduct of the petitioner has been taken into account by the inquiry officer as well as reference of the same has been made in the impugned order of punishment even then the past conduct is not the foundation for awarding the major penalty that is the removal from service, rather that may be one of the background, which has been reflected but independently the inquiry officer had proved the charge of unauthorized absence of 160 days and the disciplinary authority has passed independently the order of removal from service solely on the charge of unauthorized absence of 160 days and the past conduct is not the foundation for passing the impugned order of removal (emphasis supplied). Thus, the judgements of **Mohd. Yusuf Khan** (supra) and **Sanjay Misra** (supra) are hardly of any avail to the petitioner in the facts of this case.

53. The Hon'ble Supreme Court had an occasion to consider whether the reference of past conduct while imposing final punishment is relevant or not particularly when such past conduct has not been referred to in the chargesheet making a distinct charge or any show cause notice has been given. It is apposite and profitable to note paragraph nos.10, 11, 19 and 20 rendered in the judgment in **State of Punjab and Ors. Vs.**

Ex. C. Satpal Singh reported in 2025 AIR SC 4011 for the reference of past conduct and the same are extracted as under :-

> *"10.The learned counsel for the appellants has argued that as a matter of fact, the dismissal order of the respondent was not based on the previous misconduct but was solely based on the misconduct for which the disciplinary enquiry was initiated against him, which was for unauthorised absence of around 37 days from 04.04.1994 to 12.05.1994. The learned counsel for the appellants has submitted that the reference of the previous conduct of the respondent in the dismissal order was only for adding the weight to the decision of imposing the punishment of dismissal.*
>
> *11.It is contended that this Court in K. Manche Gowda's case (supra) had ruled that a dismissal order based on the past conduct must precede a show cause notice detailing out the previous misconduct which is to be considered by the disciplinary authority while imposing the punishment. However, in the present case, the previous misconduct of the respondent was not the basis for imposing the punishment of dismissal and reference of the previous misconduct was only mentioned, apart from the indiscipline for which punishment was imposed. In support of the above argument, learned counsel for appellants has placed reliance on the decision of this Court rendered in India Marine Service Private Ltd. v. Their Workmen and Union of India v. Bishamber Das Dogra.*
>
> *19. This Court, in K. Manche Gowda's case (supra), has held that if the past conduct of an employee is the basis for imposing punishment, the department is obliged to disclose that his past record will also be taken into consideration while inflicting punishment. Now, the question arises for consideration is whether the disciplinary authority had taken into consideration the past conduct of the respondent while passing the dismissal order. From careful reading of the dismissal order reproduced hereinabove, it appears that the disciplinary authority had clearly observed that it had perused the report of enquiry and conclusion thoroughly, whereby the respondent was held guilty for the unauthorized absence and agreed with the conclusion of the enquiry officer. The disciplinary authority had further mentioned regarding the issuance of show cause notice to the respondent and had observed that despite the receipt of the show cause notice, the respondent did not submit his reply, which shows that the respondent accepted the allegation against him. Thereafter, the disciplinary authority had noted that 17 years of service of the respondent were forfeited as a result of his absence for 224 days and for which he was punished accordingly.*
>
> *20. To properly understand the controversy in the light of question framed, it is necessary to examine the relevant judicial precedents, as discussed below. This Court in the case of India Marine Services Private Ltd. (supra), dealt with the case of punishment awarded to an employee in a similar situation, as follows:—*
>
> *"7.It is true that the last sentence suggests that the past record of Bose has also been taken into consideration. But it does not follow from this that that was the effective reason for dismissing him. The Managing Director having arrived at the conclusion that Bose's services must be terminated in the interest of discipline, he added one sentence to give additional weight to the decision already arrived at. Upon this view it would follow that the Tribunal was not competent to go behind the finding of the Managing Director and consider for itself the evidence adduced before him. The order of the Tribunal quashing the dismissal of Bose and directing his re-instatement is, therefore, set aside as being contrary to law."*
>
> *30. In view of the above, it is evident that it is desirable that the delinquent employee may be informed by the disciplinary authority that his past conduct would be taken into consideration while imposing the punishment. But in case of misconduct of grave nature or indiscipline, even in the absence of statutory rules, the authority may take into consideration the indisputable past conduct/service record of the*

employee for adding the weight to the decision of imposing the punishment if the facts of the case so require."

54. The Hon'ble Supreme Court in the case of **Central Industrial Security Force and others Vs. Abrar Ali reported in (2017) 4 SCC 507** has held that order of dismissal from service after considering earlier punishment on account of his act of indiscipline and negligence does not amount to double jeopardy and the past conduct of delinquent employee can be taken into consideration and has further held as under:-

"13. Contrary to findings of the disciplinary authority, the High Court accepted the version of the respondent that he fell ill and was being treated by a local doctor without assigning any reasons. It was held by the disciplinary authority that the unit had better medical facilities which could have been availed by the respondent if he was really suffering from illness. It was further held that the delinquent did not produce any evidence of treatment by a local doctor. The High Court should not have entered into the arena of facts which tantamounts to reappreciation of evidence. It is settled law that reappreciation of" evidence is not permissible in the exercise of jurisdiction under Article 226 of Constitution of India.

55. Thus, it is crystal clear that as in the present case also the disciplinary authority while imposing the penalty had merely referred the previous/past conduct of habitual absenteeism. The order of removal from service is not based on the cumulative effect of charges of continued misconduct to be incorrigibility and complete unfitness for police service, therefore, mere reference of the past conduct would not amount to constitute foundation for removal from service. Thus, the reference of past conduct in the order impugned or in the inquiry report is hardly any relevance.

56. The counsel for the petitioner has invited attention of this Court towards the recommendation contained in the inquiry report to the effect that major penalty of 'removal from service' may be inflicted in view of the charges having been proved and further urged that such recommendation is beyond the competence of inquiry officer, as the same would make the disciplinary authority's mind biased while passing the final order. In order to substantiate the said submission, learned counsel for the petitioner has relied upon the judgement rendered by this

Court in **Service Bench No.6202 of 2016 'State of U.P. Thru Secy. Home Department & Ors. v. State Public Service Tribunal Indira & Ors**.' and on the basis of said authority it has been submitted that the appendix I as referable to Rule 14 (1) of 1991 Rules provides that the inquiry officer can recommend for award of the punishment but such recommendation is not permissible along with inquiry report, rather the inquiry officer may also separately from these proceedings, makes his own recommendation regarding the punishment to be imposed on the charged police officer. Appendix-I as contemplated under Rule 14(1) of the Rules provides as under:

> *"……..The proceedings shall contain a sufficient record of the evidence and statement of the finding and the ground thereof. The Inquiry Officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged Police Officer."*

57. The aforesaid provision itself goes to indicate that the word 'separately' connotes recommendation has to be made **distinctly/ separately,** but in the case in hand, recommendation has not been made separately, and it has been made along with the enquiry report. If the Appendix-1 contemplates making of recommendation separately, then it was incumbent upon the enquiry officer to make the recommendation separately. If the recommendation is composite, then the same is defective and the said recommendation will not fulfill the requirement of Appendix-1. If the law requires to do a particular thing in a particular manner, then it is to be done in that manner only. The Hon'ble Supreme Court in the case of **State of U.P. vs. Singhara Singh and others AIR 1964 SC 358,** has said so. Learned Additional Standing Counsel neither could point out nor put up a convincing argument that the punishment would be recommended by the enquiry officer in a composite manner. Thus, the argument of counsel for petitioner that there should not be a composite enquiry report containing the recommendation rather ought to have been separately finds favour of this court and is decided in favour of petitioner.

58. The petitioner further relied upon the judgement of Hon'ble Supreme Court in the case of **'State of U.P. and others v. Saroj Kumar Sinha' reported in (2010) 2 SCC 772** and pointed out paragraph no.22 in which it has been mentioned that 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. There cannot be any quarrel on the settled position of law, but the authority in the case of **Saroj Kumar Singh** (supra) is of no assistance to the petitioner as no bias has been alleged against the inquiry officer and it has been pleaded nowhere that enquiry officer had not acted as an independent adjudicator.

59. Learned counsel for the petitioner has lastly relied upon the judgement of this Court passed by coordinate bench in the case of **Mirza Barkat Ali v. Inspector General of Police Allahabad and others** reported in (**2002) 2 UPLBEC 1871 and Ram Ujagar Yadav v. The State of U.P. and others (Civil Misc. Writ Petition No.2316 of 1999)** dated 06.03.2006 and submitted that the quantum of punishment is disproportionate with the gravity of charges but it is no more res-integra in the light of judgement of Hon'ble Supreme Court in the case of **Chennai Metroplitan Water Supply and Sewerage Board and others vs. T.T. Murali Baby** reported in **(2014) 4 SCC 108** that unauthorized absence of an employee as a misconduct cannot be put in a straight-jacket formula for imposition of punishment, which depends on various factors and the order of dismissal was restored by Hon'ble Supreme Court, but at the same time keeping in view the length of service of petitioner, and admitted position of superannuation and promotion in interregnum are peculiar features of this case, impels this Court to take different view.

60. With respect to relief on punishment found disproportionate the Hon'ble Supreme Court in the case of **Union of India and others Vs. Datta Linga Toshatwad** reported in **2006 SCC (L & S) 1504** has held that the High Court is competent to remit the matter back to disciplinary authority to reconsider the matter as regard to punishment, thus, the matter is remitted back to the disciplinary authority for taking appropriate decision with respect to punishment in peculiar facts of this case as petitioner had rendered 36 years of service i.e. 16 years of service prior to removal and 20 years of service after his reinstatement in the light of interim protection granted by this court and was also promoted to the post of head constable in the year 2016 thus, excluding 4 years when petitioner was out of service the petitioner has completed 36 years of service and reached the age of superannuation and is receiving the provisional pension.

61. It is trite law that the Court or Tribunal cannot interfere with the discretion of punishing authority in imposing particular penalty but this rule has an exception, if the penalty is grossly disproportionate and does not commensurate with the misconduct committed then the Court can interfere as held in the case of **Alexandar Pal Singh Vs. Divisional Operating Superintendent** reported in **1987 (ATC) 922 Supreme Court.**

G. CONCLUSION

62. This court is mindful that writ petitioner has reached the age of superannuation and has served the department for 36 years and was promoted in interregnum and at present is drawing provisional pension, thus in view of aforesaid admitted factual position the order of removal from service is disapproved in the facts of this case and the matter is relegated back for fresh decision as no reply in relation to quantum of punishment could be received despite the mandate contained in Rule 14(2) of 1991 Rules.

63. Accordingly, the impugned orders are **set-aside** and the disciplinary authority is directed to consider imposition of any other punishment, except dismissal or removal from service and pass necessary order in this regard including fresh order in relation to salary for the period of unauthorized absence after putting the petitioner under notice qua the quantum of punishment proposed having removal order been set-aside.

64. The fresh order in pursuance to remand by this court would be passed by the competent authority within a month after receipt of certified copy of this order and all the consequent post retiral dues shall be recalculated and be released within next one month.

65. Accordingly, the writ petition is **partly allowed** in above said terms.

66. The cost is made easy.

(Indrajeet Shukla, J.)

Order dated 20.01.2026

S.P.