IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.22892 OF 2016

Between:

Dr Mohd. Shujath Ali

... Petitioner

And

Maulana Azad National Urdu University & others

... Respondents

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes

2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes

3. Whether Their Lordships wish to see the fair copy of the Judgment? : Yes

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MRS. JUSTICE SUREPALLI NANDA

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> Head Note:

! Counsel for the Petitioners : Mr Goda Siva
Sr.Designated counsel

^ Counsel for the Respondents: Mr Muddu Vijay

? Cases Referred:

1. (1974) ICR 120 (NIRC)
2. (2010) 3 SCC 732
3. (2010) 9 SCC 496
4. (2002) 7 SCC 142
5. (2007) 4 SCC 699
6. 2001(2) SCC 386
7. 1995(6) SCC 749
8. 2013 (12) SCC 372

HON'BLE MRS. JUSTICE SUREPALLI NANDA

WRIT PETITION No.22892 OF 2016

ORDER:

Heard the learned Senior Designate Counsel Sri Goda Siva, appearing on behalf of the petitioner, and Dr.Muddu Vijay, learned standing counsel appearing on behalf of respondent Nos.1 to 3.

2. The petitioner approached the court seeking prayer as under:

> "to issue a direction, order or writ more particularly on in the nature of writ of Certiorari
>
> a) Calling for all the records relating to and connected with Order No.MANUU/E.R-I(A)/F.200/Vol.2/2015-16/1951, DATED 21.03.2016 of the 3rd respondent and quash or set aside the same holding it as arbitrary, illegal, unjust and violative of principles of natural justice and also Articles 14 and 21 of the Constitution of India;
>
> b) Consequently declare that the petitioner is deemed to be in service on and from the date of impugned order;
>
> c) Further direct the respondents return the items that have been taken into custody and to release all the benefits, monetary and service by the University that flow from out of setting aside of the impugned order and grant the declaration prayed for herein.

PERUSED THE RECORD :

3. <u>The case of the petitioner, in brief, as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition, is as under:</u>

a) The petitioner obtained Post Graduation in Arts and Philosophy and was also awarded the Doctorate in Philosophy. The petitioner worked as an Urdu Announcer in the All India Radio, Hyderabad from 01.03.1996 to 04.05.2005.

b) While the petitioner was working in the said capacity, petitioner responded to the Notification issued by the Moulana Azad National Urdu University calling for applications from eligible candidates for filling up of the vacancy of the Assistant Public Relation Officer, and the petitioner had been short listed and offered the petitioner the said Post. The petitioner accepted the same and reported to duty on 05.05.2005, and in response to an advertisement that was issued by the University proposing to fill up the post of Associate Professor/Deputy Director after an oral interview which was cleared by the petitioner, petitioner was appointed as an Associate Professor and joined the said Post on 26.06.2007.

c) While so, a letter dated 05.09.2014 was addressed by one Sri Abeed Abdul Wasay, an Assistant Public Relation Officer, and the same let to infliction of capital punishment against the petitioner.

d) It is further the case of the petitioner that as per the contents of the said letter it is alleged that the petitioner persuaded the senior journalist of Munsiff to publish negative and damaging news about the University and its Vice Chancellor and such a letter was alleged to have impact on the University and also would have caused communal disharmony. The news appeared to have published in another Urdu Daily Siasit on 16.08.2014.

e) It is further the case of the petitioner that on the said complaint, respondent No.1 issued a show cause notice dated 19.09.2014 and the Petitioner has replied vide letter dated 25.09.2014 to the Show cause Notice denying the allegations against him. On 18.11.2014 charges were framed against the petitioner and Charge Sheet was issued against the Petitioner on 18-11-2014 directing him to file a written statement within 15 days from the date of receipt of the Charge Sheet. On 15.1.2015 Petitioner filed a Reply to the charge sheet. 19-01-2015 the Reply was not satisfactory, Petitioner was kept under

suspension. Thereafter, the University decided to conduct enquiry in the matter of allegation made against the charged employee and on 6-2-2015 the Respondent No.1 appointed Mr. Abdullah Sahab, a Retired District Judge, as Enquiry Officer in a disciplinary case initiated against the Petitioner.

f) During the pendency of the disciplinary proceedings the Petitioner filed the writ petition No.1816 of 2015 on 24.1.2015, seeking directions to set aside the Show Cause Notice dated 19.9.2014 and an Interim order dated 03.2.2015 was passed wherein the University was directed to complete enquiry proceedings within a period of three months.

g) It is further the case of the petitioner that the procedure contemplated under the CCS (CCA Rules) 1965, was to be followed for conduct of inquiry and one Sri Syed Abdulla Saheb, Retired District and Sessions Judge, was appointed as an Inquiry Officer. The said individual is beyond 70 years of age and hence the very appointment of the said individual as an Inquiry Officer was contrary to the rules. However, the inquiry had been conducted by the Inquiry officer, but petitioner remained ex parte. The Inquiry Officer completed the proceedings on 09.04.2015 and submitted his report on 15.04.2015 but however, the copy of the inquiry report was not furnished by the

petitioner. Subsequently, the 2nd respondent council resolved to impose a major penalty and authorise the 3rd respondent to take further action and accordingly the order pertaining to the removal of the petitioner from service was issued on 11.05.2015. Aggrieved by the same, the petitioner had filed W.P.No.14811 of 2015 and the same was allowed vide order of this Court dated 16.12.2015 observing that the respondents failed to follow the due procedure since the petitioner was not served with the copy of the inquiry report enabling the petitioner to submit the petitioner's explanation and accordingly the order of removal from service was set aside and the petitioner was directed to file explanation within two weeks from the date of receipt of the copy of the order to the inquiry report.

h) It is further the case of the petitioner that in compliance with the said direction, the petitioner submitted his remarks by representation dated 18.01.2016 and even to the said explanation, the Petitioner had enclosed the letters given by the journalist of Munsiff i.e. Shri Taher Roomani and Shri Amer Ali Khan, news editor of Siasat Urdu Daily as well as the print out from the website detailing the particulars of the judges by which his objection that the Inquiry Officer was beyond the permissible age for being appointed as such. But however, without dealing

with any of the contentions raised by the Petitioner, the 3rd respondent herein had mechanically passed the impugned order vide No.MANUU/E.R-I(A)/F.200/Vol.2/2015-16/1951, dated 21.03.2016 against the petitioner herein. Aggrieved by the same, the petitioner filed the present writ petition.

4. <u>The learned Senior Designated Counsel Sri Goda Siva mainly puts forth the following submissions.</u>

(i) The entire exercise lacks in bonafides and the same is evident from the fact that the University had resorted to suspending the Petitioner after charge-sheet has been drawn up and almost 5 months after the incident of the article being published in the Urdu Daily, in violation of the requirement of law and appointing an outsider and a person who crossed the permissible age limit was objected by the petitioner. <u>But however, the same was not considered by the 3rd respondent.</u>

(ii) The impugned order had been passed in deliberate flouting of the law laid down by the Apex Court and the Rules governing the field as well as the law declared by the Hon'ble Supreme Court of India that the Inquiry Officer's Report is bound to be furnished to the delinquent official and remarks solicited thereon, duly giving him 15 days' time for the purpose, but however, in the present case the impugned order of removal had been passed just two days before the then Vice-Chancellor laid down his office. The order impugned of the 3rd respondent dated 21.03.2016 is

in violation of Articles 14, 16 and 21 of the Constitution of India.

(iii) As per the provisions of CCS (Classification, Control and Appeal) Rules, 1965, a punishment can be imposed on an employee only if there is a mis-conduct. A reading of the Articles of charge at Page 37 would only read that the action "could have led .." And "could have disturbed..." Thus, the event which was projected, never having occurred, the question of any mis-conduct does not arise and as such, inflicting any penalty cannot be countenanced.

(iv) A penalty can only be imposed for a proven misconduct. The proof is liable to be based on qualitative evidence and the meaning of qualitative evidence as held by the Supreme Court would be existence of some evidence which links the charged officer with the misconduct alleged against him.

(v) In the present case, the order impugned had been passed without any evidence on record establishing the guilt of the petitioner for the alleged misconduct since the present case is a clear case of “no evidence” at all.

(vi) The Inquiry Officer's report also suffers from the vice of being perverse and partisan in applying the principles. While the Inquiry Officer stated that "men may lie but the circumstances will not lie", this is not uniformly applied. The complaint of PW 1 is treated as gospel truth and there is no material to substantiate the major limb of the charge

that the Petitioner has persuaded the Senior Journalist of either Munsiff Urdu Daily or Siasat.

(vii) The fact that the Inquiry Officer has not been holding the scales even is evident from the manner in which Exhibit D1 and D2 are brushed aside. The charge that is liable to be looked into by him is not the association of the Petitioner with the press but with regard to the persuasion that was alleged. Exhibit D1 and D2 are letters of the journalists vouching for the fact that the Petitioner has no connection whatsoever with the articles published. In that view of the matter, since the Inquiry Officer had mis-directed himself regarding the charge, the report is only liable to be considered as perverse. Since the entire exercise of imposing civil death on the Petitioner, rests on such a defective report, the impugned order is liable to be interfered by this Hon'ble Court.

(viii) Insofar as the objection of the Inquiry Officer being incompetent to hold the Inquiry. It has been raised as a specific objection by the Petitioner in the remarks submitted to the Inquiry Report on 18.1.2016. The Government of India instructions under Rule 14 of the CCS(CCA) Rules. Instruction No. 12 at Page 59 of the Volume of CCS (CCA) Rules contains the terms and conditions on which a retired person can be appointed as an Inquiry Officer. Item No. 1 thereof, clearly specifies that a person who crossed 70 years cannot be appointed as an Inquiry Officer. As the Inquiry Report and nothing except that has been the basis for the impugned action; and the

very appointment being illegal, the edifice built has to fall to ground.

(ix) The punishment imposed is shockingly disproportionate to the alleged misconduct, in view of the fact that the consequences that would have arisen having not occurred by the act alleged to have been committed by the petitioner.

Placing reliance on the aforesaid submissions, the learned Senior counsel appearing on behalf of the petitioner contends that the writ petition should be allowed as prayed for.

5. The learned counsel appearing on behalf of the respondent Nos.1 to 4 placing reliance on the averments made in the counter affidavit mainly puts forth the following submissions:

(i) The impugned order dated 21.03.2016 passed by the 3rd respondent is in accordance to law in conformity with principles of natural justice and hence warrants no interference by this court.

(ii) The Executive Council considered the explanation submitted by the petitioner and came to the conclusion that the explanation given by the petitioner to the charges mentioned in Article I and Article II are contrary to the evidence on record and unacceptable and evidence on record clearly proves

that the findings of the Inquiry Officer are correct and need no interference or changes.

(iii) The petitioner cannot alleged bias against all the members of the Executive Council which on its own wisdom arrived at a decision to remove the petitioner from the services of the university on proven misconduct.

(iv) The order impugned had been passed by the 3rd respondent after conducting detailed enquiry in the disciplinary proceedings conducted in accordance to law and hence the petitioner is not entitled for any relief as prayed for in the present writ petition.

Based on the aforesaid submission the learned counsel appearing on behalf of the respondents contended that the writ petition needs to be dismissed.

DISCUSSION AND CONCLUSION:

6. A bare perusal of the impugned order dated 21.03.2016 passed by the 3rd Respondent clearly indicates that the 3rd Respondent failed to discuss the remarks submitted by the Petitioner on the Inquiry Report, paragraph numbers 1 to 10 narrate the events till the Petitioner submitting remarks on the Inquiry Report. Para Nos. 11 and 12 of the impugned order also does not indicate consideration of the explanation of the Petitioner

dt. 18.01.2016 to the enquiry report. This Court opines that the order impugned passed by the 3rd Respondent dt. 21.03.2016 is not reasoned order.

7. In Alexander Machinery (Dudley Limited) Vs. Crabtree reported in (1974) ICR 120 (NIRC) it was observed

> "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "Inscrutable face of the sphinx" it can, by its silence, render it virtually impossible for the Courts to perform their Appellate function or exercise the power of judicial review in adjudging the validity of the decision."

8. The Apex Court in judgment reported in (2010) 3 SCC 732 in Secretary and Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity & Others at para 41 observed as under :

> "Reason is the heart beat of every conclusion, it introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order

unsustainable particularly when the order is subject to further challenge before a higher forum".

9. The Apex Court in the judgment reported in (2010) 9 SCC 496 in Kranti Associates Private Limited & Another v. Masood Ahmed Khan & Others at para 47 observed as under :

Para 47 : ***Summarising the above discussion, this Court holds:***

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by

judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making,

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons, for the decision is of the essence and is virtually a part of "due process".

10. It is too well settled a principle of law that orders which are quasi-judicial in nature would have to be a reasoned order and that being conspicuous by its absence in the present case, since the impugned order of the 3rd Respondent dated 21.03.2016, admittedly as borne on record does not deal/discuss the explanation/remarks dt. 18.01.2016 submitted by the Petitioner on the enquiry report, this Court opines that the order impugned in the present writ petition has been passed by the 3rd Respondent without considering the explanation dated

18.01.2016 furnished by the Petitioner to the 3rd Respondent.

11. A bare perusal of reading of the charge and annexure III thereof, this Court opines that there is no clarity in so far as connecting the Petitioner with the alleged misconduct. This Court opines that a penalty can only be imposed for a proven misconduct.

12. The Apex Court in the judgment reported in (2002) 7 SCC 142 in Sher Bahadur Vs. Union of India held that the meaning of qualitative evidence would be existence of some evidence which links the charged officer with the misconduct alleged against him. In the said judgment it is explained as under :

> "It may be observed that the expression "sufficiency of evidence" postulates existence of some evidence which links the charged officer with the misconduct alleged against him. Evidence, however, voluminous it may be, which is neither relevant in a broad sense nor establishes any nexus between the alleged misconduct and the charged officer, is no evidence in law. The mere fact that the enquiry officer has noted in his report, "in view of oral, documentary and circumstantial evidence as adduced in the enquiry", would not in principle satisfy the rule of sufficiency of evidence. Though, the disciplinary authority

cited one witness Sh.R.A.Vashist, Ex. CVI/N.Rly., New Delhi, in support of the charges, he was not examined. Regarding documentary evidence, Ex.P-1, referred to in the enquiry report and adverted to by the High Court, is the order of appointment of the appellant which is a neutral fact. The enquiry officer examined the charged officer but nothing is elicited to connect him with the charge. The statement of the appellant recorded by the enquiry officer shows no more than his working earlier to his re-engagement during the period between May 1978 and November 1979 in different phases. Indeed, his statement was not relied upon by the enquiry officer. The finding of the enquiry officer that in view of the oral, documentary and circumstantial evidence, the charge against the appellant for securing the fraudulent appointment letter duly signed by the said APO (Const.) was proved, is, in the light of the above discussion, erroneous. In our view, this is clearly a case of finding the appellant guilty of charge without having any evidence to link the appellant with the alleged misconduct.

13. A bare perusal of the enquiry report dated 15.04.2015 of the Enquiry Officer, in particular the relevant paragraphs extracted below indicate that admittedly as borne on record there is no direct evidence and inference had been drawn from the facts and circumstances :

The evidence of PW-1 coupled with the admissions of DW-1 and the documents on record would establish that the charged officer involved himself and by hook or crook he was influencing the press in getting the news published against the officials of the MANUU indirectly or directly. "Men may lie but the circumstances will not lie". The various circumstances pointed out supports the evidence of PW-1's authentic version and truth about the incidents covered by Ex.P1 report. The quality of the evidence is to be taken but not the quality. "An ounce of documentary evidence out-weigh tonnes of oral evidence". Thus on an over all evaluation of the oral, documentary evidence on record it is held that the charges I & II are proved.

Regarding Article-IV, inciting or spreading communal hatred and violence so as to disrepute the institution is a serious matter which attracts Section-3 of CCS (Conduct) Rules, 1964. The allegations of this nature cannot be proved by direct evidence and it is to be inferred from the facts and circumstances. Ex.D6, D9, D11 records produced by the charged officer itself reflects that he is an indisciplined employee and wants to have upper hand over his colleagues else would create trouble by approaching the press.

14. A bare perusal of the above referred two paragraphs of the enquiry report dated 15.04.2015 of the enquiry officer clearly indicates that the complaint of PW-1 is treated as gospel truth and credence has been given to the enquiry report dated

15.04.2015 and the circumstances without there being any direct evidence on record establishing the misconduct alleged against the Petitioner. Admittedly there is no material on record to substantiate the major limb of the charge that the Petitioner has persuaded the senior journalist of either Munsif Urdu Daily of Siasat.

15. A bare perusal of the record also indicates that the Petitioner had raised a specific objection in the remarks submitted in the enquiry report on 18.01.2016 that the enquiry officer is incompetent to hold the enquiry. The Government of India instructions under Rule 14 of the CCS (CCA) Rules, instruction No.12, item No.1, clearly specifies that a person who crossed 70 years cannot be appointed as an enquiry officer. This specific objection of the Petitioner had not been dealt with by the 3rd Respondent and had been totally ignored. This Court opines that the enquiry report of the enquiry officer alone has been the basis for passing the order impugned against the Petitioner and hence the present case falls within the scope of judicial review as explained above.

16. This Court opines that the penalty imposed against the Petitioner is shockingly disproportionate in view of the

fact that the consequences that would have arisen having not occurred by the act alleged to have been committed by the Petitioner, this Court opines that on applying the Doctrine of Proportionality the present case warrants interference by this Court.

17. The Apex Court in a judgment reported in (2007) 4 SCC 699 in Coimbatore District Central Co-operative Bank Vs. Coimbatore District Central Co-operative Bank Employees Association explained the concept of proportionality in the following manner:

> 'proportionality' is a principle where the Court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of the decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality thus steps in focus true nature of exercise – the elaboration of a Rule of permissible priorities. De Smith states that 'proportionality' involves 'balancing test' and 'necessity test'. Whereas the former (balancing test) permits scrutiny of excessive onerous penalties or infringement of rights or interests and a manifest imbalance of relevant considerations, the latter (necessity test) requires infringement of human rights to the least restrictive alternative'.

18. In the judgment of the Apex Court in Omkumar v Union of India reported in 2001 (2) SCC 386, the Court after considering the Wednesbury principles and the doctrine of proportionality, has observed and held that the question of quantum of punishment in disciplinary matters is primarily for the disciplinary authority and the jurisdiction of the High Courts under Article 226 of the Constitution or of the Administrative Tribunals is limited and is confined to the applicability of one or other of the well-known principles known as 'Wednesbury principles'. In the Wednesbury case, (1948) 1 KB 223, it was observed that when a statute gave discretion to an administrator to take a decision, the scope of judicial review would remain limited. Lord Greene further said that interference was not permissible unless one or the other of the following conditions was satisfied, namely, the order was contrary to law, or relevant factors were not considered, or irrelevant factors were considered, or the decision was one which no reasonable person could have taken.

19. In the case of B.C.Chaturvedi v Union of India reported in 1995(6) SCC 749 it was observed and held at para 18 as under:

> "18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact- finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. **If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."**

The way the order impugned dated 21.03.2016 is passed by the 3rd respondent without any reasoning and justification the same shocks the conscience of this Court.

20. In the case of Lucknow Kshetriya Gramin Bank (Now Allahabad, Uttar Pradesh Gramin Bank) v Rajendra Singh

reported in 2013 (12) SCC 372 at para 19, observed as under:

> **"19. The principles discussed above can be summed up and summarised as follows:**
> 19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.
> 19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.
> **19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.**
> **19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.**
> 19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable."

21. <u>This court opines that the judgments relied upon by the learned counsel appearing on behalf of the Respondents do not apply to the facts of the present case.</u>

22. <u>Taking into consideration :</u>

a) The above referred facts and circumstances of the case,

b) Duly considering that the order impugned dt. 21.03.2016 passed by the 3rd Respondent is without any reasoning and justification which shocks the conscience of this Court as explained above,

c) Duly considering the judgments of the Apex Court on the settled principle of law that the order which is quasi judicial in nature should be a reasoned order (referred to and extracted above),

d) Applying principle of doctrine of proportionality to the facts of the present case,

e) Duly considering that there is no direct evidence on record to connect the Petitioner with the alleged misconduct as observed in the enquiry report dated 15.04.2015 and duly taking into consideration the law laid down by the Apex Court in Sher Bahadur Vs. Union Of India reported in (2002) 7 SCC 142 (referred to and extracted above) which held that the qualitative evidence

would mean existence of some evidence which links the charged officer with the misconduct alleged against him,

f) Duly taking into consideration the observations of the Apex Court on the doctrine of proportionality in the judgments referred to and extracted above,

g) In the light of discussion and conclusion as arrived at as above,

The writ petition is allowed, the impugned order dated 21.03.2016 of the 3rd Respondent is set aside, and the matter is remitted to 3rd Respondent to reconsider the penalty imposed and pass appropriate order of penalty duly taking into consideration the observations of the Apex Court in the judgments referred to and extracted above and duly taking into consideration the observations of this Court in the present order within a period of (06) six weeks from the date of receipt of the copy of the order in accordance to law in conformity to the principles of natural justice and duly communicate the decision to the petitioner. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

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MRS. JUSTICE SUREPALLI NANDA

Date: 03.06.2024

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