(2014) 12 CAL CK 0107

Calcutta High Court

Case No: Writ Petition No. 3027(W) of 1994

Sukumar Mallick		APPELLANT
	Vs	
Union of India		RESPONDENT

Date of Decision: Dec. 24, 2014

Citation: (2015) 1 CALLT 202

Hon'ble Judges: Sambuddha Chakrabarti, J

Bench: Single Bench

Advocate: Partha Sarathi Bhattacharyya and Raju Bhattacharyya, Advocate for the Appellant; Soumya Majumder and Snehasis Sen, Advocate for the Respondent

Judgement

Sambuddha Chakrabarti, J.
The facts of the present case can be reduced to a short compass.

2. The petitioner was appointed as a Clerk-cum-Cashier in Punjab National Bank (PNB, for short) in the year 1978. In the year 1983 an FIR was lodged with the concerned police station by the bank authorities against the petitioner alleging cash shortage of Rs. 25,400/-. Another FIR was lodged against the petitioner by the same authorities in December, 1984 alleging misappropriation of Rs. 7,000/-. In both the cases charge-sheets were filed against the petitioner in the year 1985 and 1993 respectively.

3. Simultaneously the respondents nos. 2 and 3, i.e., the bank authorities, decided to initiate a departmental enquiry and consequently charge-sheet was issued. The first charge against the petitioner related to cash shortage of Rs. 25,400/- and the second charge was with regard to superfluous cash deposit entries amounting to Rs. 25,050/- made in the ledger on various dates without any corresponding entry in their relevant documents.

4. In reply the petitioner wanted the supply and inspection of certain documents which, the petitioner alleges, were not supplied to him.

5. In the enquiry proceeding that followed the petitioner, though absent initially, ultimately participated and cross-examined the prosecution witnesses. The Enquiry Officer had found him guilty of the first charge and partly in respect of the second charge.

6. A second show-cause notice was issued to the petitioner. He gave a reply.

7. Ultimately the respondent no. 3, i.e., the Regional Manager of the concerned bank, by a letter dated March 10, 1994 intimated the petitioner that he stood dismissed from the service of the bank with immediate effect and would not be entitled to any salary for the period of suspension except the subsistence allowance paid or payable in accordance with the provisions of the bipartite settlement.

8. The disciplinary proceeding and the said order is the subject-matter of challenge in the present writ petition.

9. Two subsequent developments, however, have been mentioned by the petitioner in support of his case. On June 7, 2010 the learned Judge of the First Special Court, Hooghly, in both the criminal matters had acquitted the petitioner of the charges.

10. Strongly relying on this development Mr. Parthasarathi Bhattacharya, the learned advocate for the petitioner, has very strenuously argued that the learned Magistrate in both the cases had observed that the benefit of doubt must go in favour of the accused. A limb of Mr. Bhattacharya''s arguments was that since in the second show-cause notice it was recorded that there was no progress in the criminal cases the bank decided to examine the matters in accordance with the provisions of the bipartite settlement. Therefore, after the acquittal of the petitioner the foundation of the respondents'' case has very significantly been altered.

11. A very persistent case of the petitioner was that he was not supplied with the documents as requested by him and, therefore, the bank authorities without giving him copies of those documents had violated the principles of natural justice. According to Mr. Bhattacharya a person facing a departmental enquiry has every right to have access to the documents necessary for the preparation of his defence and by denying the same the authorities had clearly deprived him of his right to participate effectively at the enquiry.

12. Mr. Bhattacharya further argued that many of the documents exhibited at the enquiry by the bank were never referred to in the charge-sheet and no copy thereof was given to the petitioner. But the Enquiry Officer had nonetheless relied on those documents. His further grievance is that no copy of the evidence was supplied to him and thus the bank authorities despite his protestations did not comply with the principles of natural justice. In support of his contention that the charge-sheet should be accompanied by statements of imputation of misconduct Mr. Bhattacharya has relied on the case of Surath Chandra Chakrabarty Vs. State of West Bengal, . The appellant in that case who was appointed in the Bengal Fire Service in

1943 was served with a charge-sheet which was not very specific. It was in this context that the Supreme Court had held that if a person is not told clearly and definitely what the allegations were on which the charges preferred against him are founded he cannot possibly by projecting his own imagination discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him. The whole object of furnishing the statement of allegations is to give all the necessary particulars and details which would satisfy the requirement of giving a reasonable opportunity to put up the defence. The Supreme Court further observed that the failure to supply an accused person the facts, circumstances and particulars relevant to the charges even at the stage of second show-cause notice would amount to denial of proper and reasonable opportunity of defending himself in complete disregard of the relevant rules.

13. Mr. Bhattacharya further relied on the case of Kashinath Dikshita Vs. Union of India (UOI)and Others, for a proposition that non-supply of copies of statements of witnesses and documents vitiated the entire proceeding inasmuch as the employee had been denied reasonable opportunity of defending himself. It is not entirely correct to say that none of the documents relied upon by the authorities was ever supplied to the petitioner or he was not allowed to take inspection of the same. In the case relied upon by Mr. Bhattacharya the Supreme Court was considering a case whether the question of supplying copies of witnesses examined at the stage of preliminary enquiry and whether the failure to supply copies of the documents on which reliance was placed by the department to establish the charges before the enquiry commenced, violated the principles of natural justice. In that case the concerned employee had requested for the supply of copies of the statements made by the witnesses at the pre-enquiry stage and also copies of the documents on which reliance was placed in support of the charges leveled against him. And this request was turned down by the disciplinary authority. It was in this context that the Supreme Court had held that the appellant was afforded reasonable opportunity to meet the charges leveled against him and that he had been denied reasonable opportunity of exonerating himself. In further support of his case Mr. Bhattacharya relied on the case of The State of Punjab Vs. Bhagat Ram, wherein the Supreme Court had held that unless the previous statements of witness are supplied the dismissed person would not be able to have an effective and useful cross-examination and, therefore, it is unfair to deny an employee copies of the earlier statements of witnesses.

14. In the case of Pepsu Road Transport Corporation -Vs.-Lachhman Dass Gupta and Anr., reported in (2001) 9 SCC 523 the Supreme Court held that when even the documents relied upon by the department in establishing the charge have not been given to the delinquent the conclusion is irresistible that the delinquent had been denied reasonable opportunity to defend himself in the proceeding and, therefore, the lower appellate court in that case as well as the High Court were fully justified in setting aside the order of termination passed by the competent authority. Same was

the view taken by the Supreme Court in the case of State of U.P. and Others Vs. Saroj Kumar Sinha, . The Supreme Court held that an enquiry 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 or the disciplinary authority or the government. The departmental enquiry has to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee should be given reasonable opportunity of being heard in any proceeding which may culminate in punishment being imposed on the employee. The Supreme Court further observed that copies of the documents which formed the foundation of the charge-sheet against the respondents had been denied to him on a lame excuse. Relying on the case of Kashinath Dikshita (Supra) and other cases the Supreme Court held that non-disclosure of documents having a potential to cause prejudice to a government servant in the enquiry proceeding would clearly be a denial of reasonable opportunity to submit a plausible and effective rebuttal to the charges being enquired into against the employee.

15. Relying on the case of State of U.P. Vs. Shatrughan Lal and Another, Mr. Bhattacharya submitted that if a charged employee is required to submit reply to the charge-sheet without having copies of the statements he is deprived of the opportunity of effective hearing. Supply of copies is also necessary where witnesses making the statements are intended to be examined against him in regular enquiry. It has further been observed in the said judgment that if the state did not intend to give copies of the documents to the employee it should have been indicated to the respondent in writing that he might inspect those documents and merely saying that the employee could have inspected the documents at any time is not enough. He has to be informed that the documents of which copies were asked by him, may be inspected. Access to records must have been assured to him. To the same effect is also the ratio of the decision in the case of The Government of Andhra Pradesh and Others Vs. A. Venkata Rayudu, where the Supreme Court had held that if any material is sought to be used in an enquiry copy thereof should be supplied to the party against whom such an enquiry is being held. And in the case of Deepak Puri -Vs.-State of Hariyana and Others, reported in (2000) 10 SCC 373 the Supreme Court directed that enquiry would not proceed till copies of all the documents asked for by the appellant were supplied to him.

16. This has been the persistent view of the Supreme Court that non-providing of documents relied upon by the prosecution will constitute a major violation of the principles of natural justice. In the case of Committee of Management, Kisan Degree College Vs. Shambhu Saran Pandey and Others, the Supreme Court very categorically held that a delinquent should be given the opportunity for inspection of documents and thereafter the enquiry should be conducted. And then the delinquent should be heard at the conclusion of the enquiry. Since that procedure was not followed in that case the order of dismissal was held to be liable to be set aside.

17. Mr. Bhattacharya has assailed the enquiry report on a further ground that the enquiry report has been based on conjectures and surmises; but not on evidence. In the case of Roop Singh Negi Vs. Punjab National Bank and Others, the Supreme Court held with reference to the facts of that case that the order of the disciplinary authority as also the appellate authority were not supported by any reason as for the orders passed by them for severe consequences appropriate reasons should have been assigned. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures the same could not have been sustained. The inferences drawn by the enquiry report were not supported by any evidence. Suspicion, however, high it might be can never be held to be a substitute for legal proof.

18. Mr. Bhattacharya has further relied on the case of G.M. Tank Vs. State of Gujarat and Another, for a proposition that after acquittal in a criminal trial which is based on the charges identical with that of the departmental enquiry a finding to the contrary recorded in the departmental proceeding is unjust, unfair and oppressive. Such was also the view of the Supreme Court in the case of Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another, .

19. Mr. Bhattacharya further argued that the punishment imposed upon the petitioner in the present case is disproportionate to the alleged charge and in support thereof he has relied on the case of S.K. Giri Vs. Home Secretary, Ministry of Home Affairs and others, . In that case with reference to its particular facts the Supreme Court held that the punishment on removal from service was held to be severe and disproportionate and hence the same was set aside.

20. Mr. Bhattacharya lastly relied on the case of Union of India (UOI) and Others Vs. Gyan Chand Chattar, . In that case the delinquent employee was contesting quasi criminal charges for three decades when the only punishment he was entitled to was a minor penalty. In that case the High Court found that the delinquent was guilty of only one charge and directed the disciplinary authority to pass a fresh order imposing minor punishment. The department was contesting the case and finally after two decades of the employee''s suspension the High Court directed the department to give 50 per cent of back wages with all consequential benefits including retrial benefits. The Supreme Court observed that since the delinquent employee had suffered for three decades and had crossed the age of superannuation payment of 50 per cent of pay and allowances without interest till the respondent had reached the age of superannuation would be held proper and it was in this context that the Supreme Court directed the authorities to close the chapter. Obviously this case has no bearing on the facts of the present case and, therefore, it is not applicable to the present case.

21. In Harjit Singh and Another Vs. The State of Punjab and Another, the Supreme Court modified the penalty in view of the long lapse of time and taking into consideration that one of the guilty persons had already expired and, therefore,

penalty of dismissal was modified to compulsory retirement.

22. Based on these judicial pronouncement, Mr. Bhattacharya argued that the respondent authorities had committed so many infirmities and illegalities in conducting the departmental proceeding that the same including the subsequent orders of removal should be set aside and quashed.

23. Appearing for the respondent bank Mr. Majumder argued that the petitioner did not initially participate in the enquiry but subsequently participated despite the pendency of the criminal case against him. By a letter dated September 13, 1985 to the Enquiry Officer he informed that he was attending the enquiry to honour the Supreme Court''s verdict that departmental enquiry and court proceedings might be carried on simultaneously. In course of the enquiry the presenting officer had very categorically pointed out to the Enquiry Officer that papers had been seized by the police authorities in connection with the criminal case. According to Mr. Majumder the petitioner had understood the charges, received the copies, attended the enquiry proceedings and decided to proceed without any assistance. The petitioner had also inspected the documents and on request he was given inspection of the relevant portion of the report dated December 12, 1983. He also verified the long register at the enquiry and despite opportunities he did not cross-examine many of the management witnesses.

24. Mr. Majumder submitted that at the stage of enquiry proceedings another criminal case was initiated against the petitioner alleging fictitious deposits had been made in the bank account. That case was started after the evidence in the disciplinary proceedings had been concluded. By the enquiry report dated December 7, 1985 the charges against the petitioner were proved and subsequently a money suit was filed against the petitioner for recovery of the loss sustained by the bank. A second show-cause notice for punishment was issued on January 24, 1994 which was duly replied by the petitioner and ultimately the petitioner was dismissed from service on March 10, 1994. Subsequently the money suit was decreed in favour of the bank which was confirmed in the first appeal and a second appeal is pending before this court.

25. Mr. Majumder highlighted that it was only on June 7, 2010 that the criminal cases against the petitioner ended in acquittal on the basis of benefit of doubt and the witnesses in the departmental proceeding were different from the witness in the criminal case.

26. Rebutting the submissions of the petitioner that the charge-sheet was not accompanied by relevant documents Mr. Majumder said that the petitioner himself admitted at the enquiry that he understood the charges and he never raised any objection as regards the charge-sheet not being accompanied by the relevant documents. The petitioner did not specify what he meant by the words ''relevant documents''. The purpose of a charge-sheet is to make a delinquent know the

allegations against him and the petitioner having understood the charges and having participated at the enquiry is estopped from contending that the charge-sheet was not accompanied by the relevant documents.

27. As against the submission of Mr. Bhattacharya that the petitioner''s prayer for stay of the departmental proceeding was not considered the stand of the bank was that the petitioner himself stated that he was participating at the enquiry following the judgment of the Supreme Court. There was no inviolable rule that disciplinary proceedings and court proceedings cannot proceed simultaneously. Moreover, when evidence in the departmental proceeding had been recorded the second criminal case was not even started and the charge in respect of the first criminal case had not been framed. As such there was no question of two proceedings being conducted simultaneously.

28. The submission of Mr. Bhattacharya about the denial of inspection of the records to the petitioner, according to the respondents, is against the records of the case and the petitioner also could not demonstrate what prejudice he suffered for non-production of documents. In a departmental enquiry the delinquent has to show not only the relevance of documents but he must also plead and prove the prejudice suffered by him.

29. According to the respondents since the petitioner himself either cross-examined or declined to cross-examine the witnesses the allegation that copies of depositions of the witnesses were not supplied is not sustainable. Mr. Majumder lastly contended that the petitioner was dismissed from service on March 10, 1994 whereas the order of acquittal was passed on June 7,2010 and that acquittal was on the basis of the benefit of doubt. In the criminal case only three prosecution witnesses deposed and the Investigating Officer was not examined. The non-examination of the Investigating Officer weighed very heavily with the criminal court and more importantly the standards of proof in the criminal court and in the departmental enquiry are very different.

30. Mr. Majumder has very heavily relied on the case of Haryana Financial Corporation and Another Vs. Kailash Chandra Ahuja, for a proposition that the charged employee must show that prejudice had been caused to him. Non-furnishing of the enquiry report does not by itself render the punishment invalid and in the absence of any proof High Court could not presume that the prejudice was writ large.

31. Mr. Majumder further relied on the case of The Divisional Controller, KSRTC Vs. M.G. Vittal Rao, . In that case the Supreme Court held that the question of considering reinstatement after decision of acquittal or discharge by a competent criminal court arises only and only if dismissal from services was based on conviction by criminal court. Where the enquiry is independent of criminal proceeding acquittal in a criminal court is of no help. Even if a person stands

acquitted in domestic enquiry he can still be held guilty since the standard of proof required in a domestic enquiry and that in a criminal case are different in nature.

32. Relying on the case of State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya, Mr. Majumder submitted that a subsequent acquittal in a criminal court on the basis of benefit of doubt does not render all completed disciplinary proceedings invalid nor does it affect the consequential punishment. He has further relied on the case of State of West Bengal and Ors. -Vs.- Shankar Ghosh, reported in 2014 LLR 319 where the Supreme Court had held that an order of discharge or acquittal by criminal court shall not be a bar toward departmental punishment on the basis of finding in domestic enquiry. Acquittal in criminal court is no ground for reinstatement automatically despite identity of the charges levelled against the employee when an acquittal is based on benefit of doubt in favour of the accused or the prosecution fails to examine certain crucial witnesses due to any reason.

33. Again in the case of The Deputy Inspector General of Police and Another Vs. S. Samuthiram, the Supreme Court held that acquittal in criminal proceedings has not impact on departmental enquiry if the acquittal is on account of flawed prosecution but departmental enquiry is based on adequate evidence.

34. If the submissions of the respective parties are analysed and considered in their proper backdrop it cannot be disputed that the petitioner had participated at the enquiry rather belatedly. The charges against him were very serious and the respondents authorities after a validly constituted enquiry had found the petitioner guilty and ultimately dismissed him from service.

35. The main submissions of the petitioner may be broadly grouped under two heads. First, the respondents did not comply with the principles of natural justice and, secondly, the acquittal of the petitioner in the criminal charge has entitled him to be acquitted in the departmental enquiry as well. The petitioner has projected several other flaws in the conduct of the enquiry proceeding which, mostly being of rather technical in nature, cannot be said to have affected him prejudicially in defending himself at the enquiry rendering it liable to be set aside.

36. I take the second point first. In the facts of the present case there is not much merit in it. It cannot be glossed over that even if the charges in the departmental enquiry as well as in the criminal case were identical the witnesses were different and that the order of acquittal was not passed before the conclusion of the departmental enquiry. The judgment in the case of G.M. Tank (Supra) and Capt. M Paul Anthony (Supra) are easily distinguishable on these facts as well. Moreover, I find some substance in the submission of the respondents that a flawed prosecution case might also be a factor for the acquittal of the petitioner. Particularly in view of the more recent Supreme Court judgments the principle stressed by Mr. Bhattacharya cannot be taken to be an absolute one.

37. So far as the violation of the principles of natural justice is concerned I find the submissions of Mr. Bhattacharya to be somewhat over-emphasized. Before the production of the first witness the petitioner had admitted that he had inspected the documents and records. But he was aggrieved that the presenting officer could not produce all the items as demanded by him. The presenting officer submitted that out of the 13 counterfoils meant for the customers he has produced 8 as management documents and he produced the relevant pass books in original at the enquiry in response to the parties'' counterfoil. Moreover, it cannot be said that for non-production of all the documents as asked for by him the petitioner had been prejudiced in his defence at the enquiry. The enquiry officer has carefully considered the charges and the evidence and he had based his conclusion on the basis of the 8 cash receipt counterfoils which the presenting officer had been able to produce at the enquiry and on assessment of the evidence the enquiry officer had held that they were received by the petitioner in the capacity of the Cashier-in-charge. He has also considered the evidence of 10 witnesses who had appeared at the enquiry and some of them were cross-examined by the charged employee. The enquiry officer has also examined the original long book and the day book and came to the conclusion that there was no corresponding entry and on the contrary there had been superfluous entries on various dates. On an overall assessment of the evidence the enquiry officer found that the petitioner had received cash of Rs. 25,050/- on the material dates and did not enter in the relevant book meant for cash department as per the procedural requirement. As a result of his gross negligence there were no receipt voucher at the branch record thereby creating superfluous cash deposit entries in various ledgers on various dates without the corresponding entries in cash books or long books or day books.

38. While it is a fact that the petitioner was not given copies of the documents relied on by the management it cannot be simultaneously ignored that he was after all given an opportunity to inspect those documents. When inspection is permitted and the petitioner has availed himself of that opportunity violation of the principles of natural justice should not be invoked for setting aside an order passed in the departmental enquiry.

39. The petitioner himself has not spelt out how he was prejudiced by the non-supply of documents when he has taken inspection of them. In the writ petition also there is no such specific plea about how he has been handicapped in his defence by the non-supply of the documents to him. Moreover, this is a case where many of the documents had already been seized by the police. The question is not so much whether the documents as prayed for were given to the petitioner. The question is whether on the basis of the documents produced at the enquiry the case was proved and here the case was proved on the basis of the documents of which the petitioner has taken an inspection. And thus relying on the judgment in the case of Hariyana Financial Corporation and Another. (Supra) I hold that failure to supply all the documents to the petitioner would not automatically result in quashing or

setting aside of the order passed by the disciplinary authority. The delinquent has to show the prejudice suffered by him.

40. Obviously the judgment in the case of Surath Chandra Chakravarty (Supra) has no application to the facts of the present case. That was a case where the Supreme Court was dealing with a situation where the charge-sheet was absolutely vague and indefinite and the man proceeded against was not specifically told the charges alleged against him and the facts and circumstances were not furnished to him. Such is not the case here. The charge-sheet was specific and it left no manner of doubt to anybody about the very specific nature of allegation that the petitioner was required to meet. Moreover, the judgment in the case of Surath Chandra Chakravarty (Supra) was delivered in the context of Rule 55 of the Central Civil Services (Classification, Control and Appeal) Rules which provides for how a charge-sheet should be drawn against a delinquent employee. The statements of allegations were definitely present in the present case and the grounds of which the respondents wanted to take action were also very specifically mentioned. The observation made by the Supreme Court that the concerned Rule which applied to the case of Surath Chandra Chakravarty (Supra) embodied a principle which was one of the basic requirements of a reasonable and adequate opportunity of defending oneself, must be held to have been completely satisfied in the present case. The allegations in details were present and it will not be proper to insist on any particular form.

41. The judgment in the case of Kashinath Dikshita (Supra) is clearly distinguishable on the ground that the documents in respect of which inspection was allowed ran into hundreds of pages and were 112 in number. Moreover, 38 witnesses were examined in that case. In the particular facts of that case, the Supreme Court held that the employee was not afforded reasonable opportunity to meet the charges levelled against him. It was observed whether it caused prejudice to the appellant depended on the facts of each case. The appellant in a tabular form running into 12 pages set out how he was prejudiced. But in the present case, the petitioner is silent on how he was prejudiced by the acts of the disciplinary authority.

42. In Pepsu Road Transport Corporation (Supra) it has only been recorded that the documents relied on by the department were not given to the employee. It does not appear whether any inspection was allowed him. Without that it is difficult to apply the ratio decided therein to the facts of the present case.

43. In the case of Saroj Kumar Sinha (Supra) R. 7 of the relevant Discipline and Appeal Rules made it mandatory that the proposed documentary evidence and names of the witnesses together with the oral evidence that might be recorded must be mentioned in the charge-sheet. R. 7(V) further required that copies of documentary evidence mentioned in the charge-sheet were to be served on a Government servant. It was in this context, that the Supreme Court observed that the disciplinary authority was duty-bound to make available all relevant documents

which are sought to be relied upon by the Government.

44. In the case of Shatrughan Lal and Another (Supra), the Supreme Court observed that the disciplinary authority should have made it clear to the charged employee that he might inspect the documents. It was further held that the preliminary enquiry documents, on a request made by the employee, should have been supplied to him.

45. Again in the case of A. Venkata Raidu (Supra), it appears that the relevant Government Orders, the violations of which constituted the charges against the employee, were not in even placed before the Enquiry Officer. Moreover, the charge was not specific. Therefore, the Supreme Court held that without the relevant Government Orders being on record charge no. 1 against the employee could not be said to have been proved.

46. In the case of Deepak Puri (Supra) the Supreme Court directed that the copies of documents were to be given to the appellant only because the respondents wanted to give an inspection of the "Government Legal Documents" whereas the appellant wanted copies of many more documents. The appellant argued that "Government Legal Documents" were vague and in spite of his objection the respondents did not clarify what was meant by these words.

47. In Shambhu Saran Pandey (Supra), the Supreme Court held in favour of granting inspection of documents at the earliest stage which was done to the petitioner in the present case. Prakash Kumar Tandon (Supra) has been relied on by the petitioner for a proposition that if the disciplinary proceedings are not fairly conducted an inference may be drawn that the delinquent has been prejudiced thereby. That is a settled proposition of law which in the facts of the present case cannot be said to have any application. From what has been discussed above it cannot be said that the enquiry was not fairly conducted by the respondents.

48. The case of Sher Bahadur (Supra), is an authority based on the facts of that particular case. There the Supreme Court had held that the finding that the appellant was guilty of the charges was without any evidence to link him to the alleged misconduct. On the factual matrix the proposition has no application to the present case. It cannot be said that the respondents had drawn a conclusion without any evidence or that the finding is otherwise perverse. In the case of Bhagat Ram (Supra) the contention of the appellant-State was that the employee was supplied the synopsis of the statements and that was adequate to acquaint the respondent with the gist of the evidence. It was in this context that the Supreme Court had held that the government servant should be afforded a reasonable opportunity to defend himself against the charges and that a synopsis does not satisfy the requirements of giving a government servant a reasonable opportunity of showing cause against the action proposed to be taken. In the present case since an inspection was allowed of the documents to the petitioner it cannot be said that

reasonable opportunity was denied to him for defending his case at the enquiry.

49. The judgment in the case of Kuldeep Singh Vs. The Commissioner of Police and Others, rather goes in favour of the respondents inasmuch as it has been specifically held that a finding of guilt reached in a departmental enquiry is not normally to be interfered with.

50. Courts have persistently laid down the criteria when a finding of fact arrived at a disciplinary proceeding can be interfered with which in the present case cannot be said to have been satisfied. The case of G.M. Tank (Supra) and Copt. M. Paul Anthony (Supra) are distinguishable on the grounds that the evidence was not the same in the criminal cases as well as the departmental enquiry. The witnesses examined at the departmental enquiry were much more numerous whereas in the criminal trial only one witness on behalf of the prosecution was examined who had no direct knowledge of the incident. It was in this context that the learned Judge of the First Special Court, Hooghly, held that it was hard to reach the conclusion that the alleged misappropriation of money could be said to have been done by the accused beyond any reasonable doubt. The prosecution did not even examine the Investigating Officer and the learned Judge observed that such a lapse was fatal to the prosecution case and the evidence of the P.W. 1 was also silent whether the petitioner had misappropriated any money. Thus the petitioner has been given the benefit of doubt and was acquitted in the criminal case.

51. I thus find no merit in the writ petition and the same is hereby dismissed.

52. There shall be, however, no order as to costs.

53. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all requisite formalities.