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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2950/2010**

Date of Decision: **28.04.2026**

**IN THE MATTER OF:**

**AVIJEET MULLICK**

.....Petitioner

Through: Mr. Shiv Mehrotra, Advocate along  
with petitioner in person.

versus

**UOI AND OTHERS**

.....Respondents

Through: Mr. B S Shukla, CGSC with Mr.  
Dashmesh Tripathi, Advocate for R1.  
Ms. Nihaarika Jauhari with Mr.  
Manish Kumar, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**JUDGEMENT**

**PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The petitioner has instituted the present petition under Article 226 of the Constitution of India seeking quashing of the order dated 13.01.2010 passed by the Rehabilitation Council of India (RCI), whereby he was removed from service, and the order dated 09.04.2010 dismissing his appeal. Consequently, the petitioner prays for reinstatement with all consequential benefits including arrears of pay and allowances.

2. The factual matrix, in brief, is that the petitioner was appointed as an Assistant in the Rehabilitation Council of India in the year 1999. On



17.04.2009, three female colleagues of the petitioner submitted a complaint to the authorities alleging sexual harassment at the workplace. The allegation was that the petitioner had printed a pornographic image from his computer on a shared printer located at the complainants' workstation. Consequently, the petitioner was placed under suspension, and the matter was referred to the Sexual Harassment Committee on 27.04.2009 under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (CCS (CCA) Rules).

3. The Committee submitted its report on 24.11.2009, holding the petitioner guilty of sexual harassment. A copy of the report was furnished to the petitioner on 09.12.2009, and he submitted his defence on 14.12.2009, denying the findings. Thereupon, the Disciplinary Authority passed the impugned order of removal from service, which was affirmed by the Appellate Authority vide order dated 09.04.2010.

4. The petitioner challenges the impugned order mainly on the ground that he was not furnished with any relevant documents, including the complaint against him, nor was he afforded an opportunity to cross-examine the witnesses relied upon by the Disciplinary Authority and thus there is a violation of Rule 14(14) of the CCS (CCA) Rules. The petitioner places reliance on the decision of the Supreme Court in the case of **Aureliano Fernandes v. State of Goa and Ors**<sup>1</sup>. He also places reliance in the case of **Vineeth V.V. v. Kerala State Electricity Board Ltd. & Ors.**<sup>2</sup> decision of the Kerala High Court.

5. The respondents, represented by learned counsel Mr. B S Shukla and

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<sup>1</sup> 2023 INSC 527

<sup>2</sup> 2024:KER:21733



Ms. Nihaarika Jauhari, oppose the submissions. They contend that the enquiry was in accordance with law and the petitioner was extended full opportunity to defend his case, and therefore, it does not give any opportunity to the petitioner to raise any grievance of non-extension of opportunity of hearing. Mr. Shukla relies on the decision of the Supreme Court in the cases of ***State Bank of Patiala & Ors. v. S.K. Sharma***.<sup>3</sup>

6. I have heard the learned counsel appearing for the parties and have perused the record.

7. The Division Bench of this Court in the case of ***Prof. Bidyug Chakraborty v. Delhi University & Ors.***<sup>4</sup> has held that non-furnishing of the documents and material on the basis of which the enquiry report was finalised was in contravention of the CCS (CCA) Rules. Paragraph 8 of the said decision is extracted as under:

*“8. Admittedly, annexures/appendices to the inquiry report were not supplied to the petitioner, by the committee. Supplying copy of the inquiry report, without supplying copies of all its annexures/appendices does not serve the desired purposes and does not fulfil the legal obligation of the Disciplinary Authority in this regard. The annexures/appendices constitute an integral part of the Enquiry Report and cannot be separated from it. Supply of enquiry report without supplying all its annexures/appendices would therefore amount to not supplying the copy of the Enquiry Report itself.”*

8. The Court has also held that principle of natural justice ought to have been followed and an opportunity of cross-examination of the complainant ought to have been given to the petitioner. Paragraph 14 is extracted as under:

*“14. As noted earlier, no opportunity was given to the petitioner for verbal cross examination of the complainant. A perusal of the inquiry*

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<sup>3</sup> 1996 SCC (3) 364

<sup>4</sup> W.P.(C) No. 8226/2007



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*report shows that the committee informed the petitioner that he could cross examine the complainant by giving written questions to the committee. In our opinion, mere permission to give written questions to the committee for cross examination of the complainant does not fulfil the legal requirement on the part of the Inquiring Authority, to give opportunity to the delinquent to cross examine her. Cross examination by giving written questions to the inquiring authority can never be as effective as verbal cross examination and cannot be its proper substitute. ... Denial of opportunity to cross examine the complainant and other witnesses examined by the committee constitutes gross violation of principles of natural justice.”*

9. Rule 14(17) of the CCS (CCA) Rules, 1965, explicitly entitles the charged employee to cross-examine the witnesses relied upon by the department. This position has been firmly reiterated in paragraph 15:

*“15. Rule 14(16) of CCS/CCA rules mandates the Disciplinary Authority to ask the delinquent to state his defence which is to be recorded unless it is a written statement. Clause 17 of this rule requires the Inquiring Authority to then call upon the delinquent to produce his evidence. ... The committee was required not only to give an opportunity to the petitioner to produce his witnesses but those witnesses were to be cross examined by the petitioner and not by the committee.”*

10. Upon a careful scrutiny of the material placed before the Court, it is evident that the petitioner was not supplied with a copy of the complaint or any of the documents that formed the basis of the allegations. It also stands un rebutted that the petitioner was not permitted to cross-examine any of the witnesses whose testimonies were relied upon by the Sexual Harassment Committee in arriving at the finding of guilt. The denial of such an opportunity violates the principles of natural justice and is a breach of the mandatory provisions of Rule 14(14) and Rule 14(17) of the CCS (CCA) Rules.

11. Accordingly, the impugned orders of termination dated 13.01.2010 and the dismissal of the appeal dated 09.04.2010 are hereby set aside. The



petitioner is directed to be reinstated in service with all consequential benefits.

12. As regards the question of back wages, this Court notes that the petitioner was hale and hearty at the time of termination and there is no affidavit placed on record by him that he was not gainfully employed during the period of termination. The normal rule of reinstatement with full back wages is not absolute. In *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya*,<sup>5</sup> Supreme Court held that while reinstatement with full back wages is the normal rule in cases of wrongful termination, the relief of back wages is discretionary and depends upon the facts of each case.

13. The impugned order has been set aside on account of non-compliance with procedural requirements. When termination is set aside on procedural grounds, the Court generally grants liberty to the employer to undertake a fresh enquiry. However, in the instant case, the complaint is of the year 2009 and after the lapse of about seventeen years, it is not practically possible to conduct a full-fledged enquiry. The liberty to revisit the enquiry is, therefore, not required. Since the petitioner was hale and hearty, no back wages are awarded. The petitioner shall be reinstated within sixty days from the date of receipt of a certified copy of this order..

14. Accordingly, the writ petition stands disposed of.

**PURUSHAINDRA KUMAR KAURAV, J**

**APRIL 28, 2026**

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<sup>5</sup> (2013) 10 SCC 324