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SLP(C)No. 2403 OF 2000
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
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(Arising out of SLP(C)No. 2403/2000)

Sham Lal ...Appellant

Vs.

State of Punjab & Anr. ...Respondents

ORDER@@
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Leave is granted.

In the appeal to appellant has assailed the judgment of the High Court of Punjab and Haryuana in CWP No.7690/99, dismissing the writ petition and confirming the order of punishment passed against him pursuant to the disciplinary proceeding. The Enquiry Officer submitted a report on 24th September, 1993 holding inter alia that the appellant was responsible for the financial loss incurred by the State Government. He was found guilty of the charges of negligence and lack of integrity. The Disciplinary Authority on consideration of the said report held the appellant guilty of the charge and imposed the punishment of recovery of Rs. 5,57,027/- (rupees five lakhs, fifty seven thousand and twenty seven) and reduction to the minimum scale of pay for three years. On appeal the appellate authority modified the sentence and directed recovery of Rs.2,60,465/- (rupees two lakhs sixty thousand and four hundred and sixty five) in place of Rs.5,57,027/- (rupees five lakhs fifty seven thousand and twenty seven only). The appellant challenged the order of punishment in the writ petition which, as noted earlier, was dismissed by the judgment under challenge.

The main thrust of the submissions of the learned counsel for the appellant is that it is clear from the order of punishment that the Authority has relied upon the letter of the District Food & Supplies Controller, Sangrur vide memo No. Account Officer 2-96/2346 dated 17/7/96 which was not part of the record before the Enquiry Officer. Learned counsel further submitted that such extraneous material could not have been considered by the Disciplinary Authority, without bringing it to the notice of the appellant.

Considering the said contentiionwe had passed the order dated 22/11/2001 direcitng the respondents to file an affidavit dealing with the contentiion raised by counsel appearing for the petition relating to the letter dated 17.7.96 mentioned earlier. In compliance with the sia dorder an affidavit has been filed on behalf of the respondents. On perusal of the affidavit it is clear to us that the averments made therein cannot be accedpted. The

learned counsel appearing for the State fairly accepted this position. Therefore the contention that the Disciplinary Authority while passed the order of punishment had relief on the aforementioned letter which was not a part of the record and to which the attention of the appellant was not drawn has to be accepted. The punishment order is vitiated on that score and it is unsustainable. Therefore in fairness to the parties the matter should be reconsidered by the Disciplinary Authority and if he still intends to place reliance on the aforementioned letter he will issue notice to the appellant annexing to it a copy of the letter and giving reasonable opportunity to him to place his case regarding the said letter. It is made clear that the reconsideration of the matter herein ordered will be confined to the question of punishment to be imposed on the appellant. It is ordered accordingly.

The appeal is allowed. The judgment of the High Court confirming the orders passed by the Disciplinary Authority and the Appellate Authority is set aside. The matter is remitted to the Disciplinary Authority for reconsideration on the above terms. No costs.

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.....J.
(D.P.Mohapatra)

.....J.
(P.Venkatarama Reddi)

New Delhi;
February 15, 2002