Supreme Court of India
Punjab National Bank And Ors.The ... vs Sh. Kunj Behari Misra, Sh. Shanti ... on 19 August, 1998
Author: Kirpal
Bench: S.C. Agarwal, S.P. Bharucha, B.N. Kirpal

PETITIONER:
PUNJAB NATIONAL BANK AND ORS.THE CHIEF PERSONNEL (DISCIPLINA

Vs.

RESPONDENT:
SH. KUNJ BEHARI MISRA, SH. SHANTI PRASAD GOEL

DATE OF JUDGMENT: 19/08/1998

BENCH:
S.C. AGARWAL, S.P. BHARUCHA, B.N. KIRPAL

ACT:

HEADNOTE:

JUDGMENT:

WITH Civil Appeal No. 7433 of 1995 J U D G M E N T KIRPAL, J.

In these two appeals the common question which arises for consideration is that when the inquiry officer, during the course of disciplinary proceedings, comes to a conclusion that all or some of the charges alleging misconduct against an official are not proved than can the disciplinary authority differ from the tan give a contrary finding without affording any opportunity to the delinquent officer.

The respondents in these two appeal, namely, Shri Kunj Behari Misra and Shri Shanti Prasad Goel were working in the appellant bank in the Hazratganj Branch, Lucknow, as Assistant Managers. On 10th November, 1981 on physical verification of the currency chest a shortage of Rs. 1 lac currency notes was found. Thereafter first information report was lodged and disciplinary proceedings were initiated by the appellant bank against both the respondents, who were also placed under suspension. Six charges were framed against Misra while the charge sheet served on Goel Contained seven charges. The disciplinary authority did not conduct the inquiry itself an inquiry officer was appointed to hold the inquiry.

The inquiry officer gave the respondent opportunity of being hear. In his report submitted in

connection with the inquiry against Misra, he found him guilty only of one charge, namely, that he did not sign the relevant register from 20th October, 1981 to 9th November, 1981 but exonerated him of charges two to six. as far as Goel is concerned the inquiry officer, in his report, found him not guilty of any of the charges and exonerated him.

On the receipt of the reports from the inquiry officer the disciplinary authority, namely, the Regional Manager of appellant bank, to whom the reports were submitted, did not agree, in the case of Misra, with the findings of the inquiry officer in respect of charges two to six and by a short order dated 12th December, 1983 passed an order holding that it was an undisputed position that Misra being Assistant Manager was in the joint custody of the keys of the currency chest and he had personal responsibility towards the safe custody of the cash and that no material had been placed during the inquiry proceedings to establish that he had discharged his duties in the manner expected of him. The disciplinary authority accordingly held Misra to be responsible for the shortage in question and held that a minor penalty of proportionate recovery ought to be imposed on the respondent for the loss of Rs.1 lac caused to be the bank due to negligence on his part in the discharge of his duties. Similarly in the case of Goel the disciplinary authority did not agree with the inquiry report and passed an order dated 15th December, 1983 directing proportionate recovery of the loss of Rs. 1 lac caused to the bank by him. It may here be noticed that during the pendency of these disciplinary proceedings both Misra and Goel superannuated on 31st December, 1983. The disciplinary authority accordingly directed the recovery of the money from the bank's contribution to the provident fund of the respondent officers.

The respondents then filed appeals to the appellate authority but they were unsuccessful. Thereupon misra filed Civil Writ Petition No. 3197 of 1984 before the Lucknow bench the Allahabad High Court while Goel filed Civil Writ Petition No. 1192 of 1984 in the High Court at Allahabad. The main contention of the respondents in the said writ petitions was that the disciplinary authority, who had chosen to disagree with the conclusions arrived at by the inquiry officer, could not have come to adverse conclusions without giving them an opportunity of being heard and the orders passed against them were liable to be quashed. This contention found favour with the High Court wh, while allowing Misra's writ petition vide its judgment dated 20th February, 1990, quashed the order imposing penalty and directed the appellants to release the retirement benefits including provident fund and gratuity. Following the aforesaid decision the Writ petition filed by Goel was allowed by the High Court on 10th January, 1995 and a similar direction was issued for the release of the retirement benefits like provident fund and gratuity etc. to the said respondent.

These appeals by special leave came up for hearing before a bench of two judges of this Court. While the appellants placed reliance on the decision in State Bank of India, Bhopal Vs. S. S. Koshal [1994 Suppl. (2) SCC 468], the counsel for the respondents placed reliance on two other Two-Judge Bench decision of this Court in Institute of Chartered Accountants of India Vs. L. K. Ratna and Ors. [(1986) 4 SCC 537] and Ram Kishan Vs. Union of India and Ors. [(1995) 6 SCC 157]. Both the sides also referred to the Constitution Bench decision of this Court in managing Director ECIL, Hyderabad and Ors. Vs. B. Karunakar and Ors. [(1993) 4 SCC 727] and each of them sought to place reliance on them. In view of the apparent conflict in the decisions in the first three cases by order dated 30th October, 1996 the case was referred to be heard by a large bench. We, therefore, propose to deal with

the point in issue and resolve the apparent conflict.

The only contention urged by Sh. V. R. Reddy, learned senior counsel for the appellant, was that Punjab National Bank Officer Employees (Discipline and Appeal) Regulations 1977 [for short 'the Regulations'] did not require an of opportunity of being heard being given to the delinquent officer when the disciplinary authority disagreed with the findings of the inquiring authority once the inquiring authority had given a hearing to them. It was further submitted by the learned counsel that the requirement of giving such a hearing could not be read into the said regulations and no prejudice could be said to have been caused to the respondents inasmuch as the inquiring authority had given full opportunity to them. it was also submitted by Sh. Reddy that if before the decision of this Court in union of India and Ors. Vs. Mohd Ramzan Khan [(1991) 1 SCC 588} the disciplinary authority did not have to give to the delinquent officer the inquiry report then it was not necessary to give him a hearing in case where the disciplinary authority differed from the inquiry report as no copy of the inquiry report was to be given to him.

On behalf of the respondents it was submitted that even if there was no provision in the regulations nevertheless it was incumbent upon the punishing authority to give notice to the respondents if the said authority desired to differ with a favourable finding recorded by the inquiry officer. It was also submitted that the findings recorded by the disciplinary authority were contrary to the provisions of the regulations and were based on surmises and conjectures.

Before dealing with the rival contentions it will be appropriate to refer to the relevant regulations. Regulation 4 of the regulations sets out the minor and the major penalties which may be imposed on an officer employee for acts of misconduct or for any other good and sufficient reason. The procedure for imposing the minor penalties is set out in Regulation 8. It provides that where it is proposed to impose such a penalty the employee concerned has to be informed in writing of the imputations of lapses against him and an opportunity is given to him to submit his written statement. Regulation 8(2) provides that where the disciplinary authority is satisfied that an inquiry is necessary, then it shall follow the procedure for imposing a major penalty as laid down in Regulation -6. Regulation-6, to the extent it is relevant in the present case, reads as follows:

> " 6. Procedure for imposing major penalties;
>
> (2) whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior against an officer employee, it may itself enquire into or appoint any other public servant (hereinafter referred to as the inquiring authority) to enquire into truth thereof.
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> Explanation: when the Disciplinary Authority itself holds the inquiry any reference in sub regulation (8) to sub regulation (21) to the inquiring authority shall be construed as a reference to Disciplinary Authority. (3) Where it is proposed to hold an inquiry, the disciplinary Authority shall frame definite and distinct charges on the basis of the allegations against the officer employee and the articles of charge, together with a statement of the allegations, on which they are based, shall be communicated in

writing to the officer employee who shall be required to submit within such time as may be specified by the Disciplinary Authority (not exceeding 15 days), or within such extended time as may be granted by the said Authority, a written statement of his defence. (4) on receipt of the written statement of the officer employee, or if no such statement is received within the time specified, an enquiry may be held by the Disciplinary Authority itself, or if it considers it necessary so to do appoint under Sub-regulation (2) an inquiring Authority for the purpose.

Provided that it may not be necessary to hold an inquiry in respect of the articles of charge admitted by the officer employee in his written statement but shall be necessary to record its findings on each such charge.

.... (21) (1) On the conclusion of the inquiry the inquiring authority shall prepare a report which shall contain the following:

(a) a gist of the articles of charge and the statement of the imputations of misconduct or misbehavior;

(b) a gist of the defence of the officer employee in respect of each article of charges;

(c) an assessment of the evidence in respect of each article of charge;

(d) the findings on each article of charge and the reasons therefor. Explanation - If, in the opinion of the inquiring Authority, the proceedings of the inquiry establish any article of charge different from the original article of charge, it may record its findings on such article of charge. provided that the findings on such article of charge shall not be recorded unless the officer employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(ii) The Inquiry Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the records of inquiry which shall include.

(a) the report of the inquiry prepared by it under clause (1);

(b) the written statement of defence, if any, submitted by the officer employee referred to in sub-regulation (15);

(c) the oral and documentary evidence produced in the course of the inquiry;

(d) written briefs referred to in sub-regulation (18), if any; and

(e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry."

What action has to be taken on the submission of the inquiry report is provided by Regulation-7 which reads as follows:

> " 7. Action on the inquiry report: (1) The Disciplinary Authority, if it is not itself the Inquiry Authority, may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for fresh or further inquiry and report and Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of regulation 6 as far as may be.
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> (2) The disciplinary Authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence n record is sufficient for the purpose. (3) If the Disciplinary Authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in Regulation 4 should be imposed on the officer employee it shall, notwithstanding anything imposing in regulation 8, make an order imposing such penalty.
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> (4) If the Disciplinary Authority having regard to its findings on all or any o the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the officer employee concerned.

A bare reading of the above regulations shows that on furnishing of the charge sheet full opportunity is required to be given to the delinquent officer to prove his innocence. This is a case where the disciplinary authority decided that procedure contained in Regulation 6 be followed. Under Regulation - 6 (2) the Disciplinary Authority, instead of conducting the inquiry itself, chose to appoint another person as the "Inquiring Authority' to inquire into the imputations of misconduct. On the conclusion of the proceedings in the manner provided by Regulation 6, the inquiring authority has to forward its report to the disciplinary authority along with all relevant records. The said report has to contain the inquiring authority's findings on each of the charges framed against the delinquent officer. According to sub-regulation (3) of Regulation - 7 the disciplinary authority, having regard to the findings on all or any of the articles of charge, imposes any of the penalties specified in Regulation -4. This obviously implies that where the inquiring authority has found all or any of the charges proved against the delinquent officer and the disciplinary authority agrees with the said findings, then it can proceed to impose any of the penalties specified in the said regulation.

The controversy in the present case, however, relates to the case where the disciplinary authority disagrees with the findings of the inquiring authority and acts under Regulation - 7 (2). The said sub-regulation does not specifically state that when the disciplinary authority disagrees with the findings of the inquiring authority, and is required to record its won reason for such disagreement and also to record its own reason for such disagreement and also to record its own finding on such charge, it is required to give a hearing to the delinquent officer.

Sh. Reddy relied on the decision of this Court in S.S. Koshal's case (supra). In that case the disciplinary authority disagreed with the findings of the inquiry officer which was favourable to the

delinquent. A question arose whether the disciplinary authority was required to give a fresh opportunity of being heard. At page 470 a Division Bench (Coram: BP Jeevan Reddy and BL Hanasria, JJ) while coming to the conclusion that fresh opportunity was not required observed as follows:

> " So far as the second ground is concerned, we are unable to see any substance in it. N such fresh opportunity is contemplated by the regulations nor can such a requirement be deduced from the principles of natural justice. It may be remembered that the inquiry officer's report is not binding upon the disciplinary authority and that it is open to the disciplinary authority to come to its own conclusion on the charges. It is not in the nature of an appeal from the inquiry officer to the disciplinary authority. It is one and the same proceeding. It is open to a disciplinary authority to hold the inquiry himself. It is equally open to him to appoint an inquiry officer to conduct the inquiry and place the entire record before hm with or without his findings. But in either case, the final decision is to be taken by him on the basis of the material adduced. This also appears to be the view taken by one of us (B.P. Jeevan Reddy, J) as a Judge of the Andhra Pradesh High Court in Mahendra Kumar V. Union of India. The second contention accordingly stands rejected."

Reliance was also placed on M. C. Saxena's case (supra). In this case also the disciplinary authority disagreed with the findings of the inquiry officer and the after recording reasons in this regard it held that the charges against the delinquent officer stood established. In coming to this conclusion it was observed that while disagreeing the only requirement was that the disciplinary authority should record reasons for disagreement and it was not necessary in such a case for the delinquent government servant to be afforded a further opportunity of hearing.

Sh. Sunil Gupta, learned counsel for the respondent, drew our attention to the decision in the case of Institute of chartered Accountant of India (supra). The respondent therein, who was a chartered accountant, was accused of misconduct. An inquiry was instituted under the Chartered Accountants Act 1949. The disciplinary committee after hearing Ratna submitted its report to the Council opining that he was guilty of professional misconduct. The Council considered the report of the disciplinary committee and found him guilty of misconduct and thereupon the Institute wrote to Ratna that the Council had found him guilty of professional misconduct and it was proposed to remove his name from the register of members for a period not exceeding five years. Thereupon a writ petition was filed by Ratna in the Bombay High Court which was allowed with the finding that the Council should have given an opportunity to Ratna to represent before it against the report of the disciplinary committee. While affirming the decision of the High Court and coming to the conclusion that a member of the Institute of Chartered Accountants accused of misconduct is entitled to hearing by the Council when, on receipt of the report of the disciplinary committee, it proceeds to find whether he is or is not guilty, this Court at page 550 observed as follows:

> " Now when it enters upon the task of finding whether the member is guilty of misconduct, the Council considers the report submitted by the disciplinary Committee. The report constitutes the material to be considered by the council. The

> Council will take into regard the allegations against the member, his case in defence, the recorded evidence and the conclusions expressed by the Disciplinary Committee. Although the member has participated in the inquiry, he has had no opportunity to demonstrate the fallibility of the conclusions of the disciplinary Committee. It is material which falls within the domain of consideration by the Council. It should also be open to the member, we think, to point out to the Council any error in the procedure adopted by the Disciplinary Committee which could have resulted in vitiating the inquiry. Section 21(8) arms the council with power to record oral and documentary evidence, and it is precisely to take account of that eventuality and to repair the error that this power seems to have been conferred. It cannot, therefore, be denied that even though the member has participated in the inquiry before the Disciplinary Committee, there is a range of consideration by the Council on which he has not been heard. He is clearly entitled to an opportunity of hearing before the council finds him guilty of misconduct."

In Ram Kishan's case (supra) disciplinary proceedings on two charges were initiated against Ram Kishan. The inquiry officer in his report found the first charge not proved and the second charge was partly proved. The disciplinary authority disagreed with the conclusion reached by the inquiry officer and a show cause was issued as to why both the charges should not be taken to have been proved. While dealing with the contention that the disciplinary authority had not given any reason in the show cause to disagree with the conclusions reached by the inquiry officer an that, therefore, the findings based on that show cause notice was bad in law, a Two-Judge Bench at page 161 observed as follows:

> " ... The purpose of the show-cause notice, in case of disagreement with the findings of the inquiry officer, is to enable the delinquent to show that the disciplinary authority is persuaded not to disagree with the conclusions reached by the inquiry officer for the reasons given in the inquiry report of he may offer additional reasons in support of the findings by the inquiry officer. In that situation, unless the disciplinary authority gives specific reasons in the show cause on the basis of which the findings of the inquiry officer in that behalf is based, it would be difficult for the delinquent to satisfactorily give reasons to persuade the disciplinary authority to agree with the conclusions reached by the inquiry officer. In the absence of any ground or reason in the show-cause notice it amount to an empty formality which would cause grave prejudice to the delinquent officer and would result in injustice to him. The mere fact that in the final order some reasons have been given to disagree with the conclusions reached by the disciplinary authority cannot cure the defect."

At this stage it will be appropriate to refer to the case of State of Assam and Anr. Vs. Bimal Kumar Pandit ([1964] 2 SCR 1] decided by a Constitution Bench of this Court. A question arose regarding the contents of the second show cause notice when the Government accepts, rejects or partly accepts or partly rejects the findings of the Enquiry Officer. Even though that case relates to Article 311 92) before its deletion by the 42nd Amendment, the principle laid down therein, at page 10 of the report, when read alone with the decision of this Court in Karunakar's case will clearly apply here. The

Court observed at Page 10 as follows:-

> "We ought, however, to add that if the dismissing authority differs from the findings recorded in the enquiry report, it is necessary that its provisional conclusions in that behalf should be specified in the second notice. It may be that the report makes findings in favour of the delinquent officer, but the dismissing authority disagrees with the said findings and proceeds to issue the notice under Article 311 (2). In such a case, it would obviously be necessary that the dismissing authority should expressly state that it differs from the findings recorded in the enquiry report and then indicate the nature of the action proposed to be taken against the delinquent officer. Without such an express statement in the notice, it would be impossible to issue the notice at all. There may also be cases in which the enquiry report may make findings in favour of the delinquent officer on some issues and against him on some other issues. That is precisely what has happened in the present case. If the dismissing authority accepts all the said findings in their entirety, it is another matter: but if the dismissing authority accepts the findings recorded against the delinquent officer and differs from some or all of those recorded in his favour and proceeds to specify the nature of the action proposed to be taken on it own conclusions, it would be necessary that the said conclusions should be briefly indicated in the notice. In this category of case, the action proposed to be taken could be based not only on the findings recorded against the delinquent officer in the enquiry report, but also on the view of the dismissing authority that the other charges not held proved by the enquiring officer, are according to the dismissing authority, proved. In order to give the delinquent officer a reasonable opportunity to show cause under Article 311(2), it is essential that the conclusions provisionally reached by the dismissing authority must, in such cases, be specified in the notice. But whether the dismissing authority purports to proceed to issue the notice against the delinquent officer after accepting the enquiry report in its entirety, it cannot be said that it is essential that the dismissing authority must say that it has so accepted the report. As we have already indicated, it is desirable that even in such cases a statement to that effect should be made. But we do not think that the words used in Article 311 (2) justify the view that the failure to make such a statement amounts to contravention of Article 311(2). In dealing with this point, we must bear in mind the fact that a copy of the enquiry report had been enclosed with the notice, and so, reading the notice in common sense manner, the respondent could not have found any difficulty in realising that the action proposed to be taken against him proceeded on the basis that the appellants had accepted the conclusions of the enquiring officer in the entirety."

In Karunakar's case (supra) the question arose whether after the 42nd amendment of the Constitution, when the inquiry officer was other than a disciplinary authority, was the delinquent employee entitled to a copy of the inquiry report of the inquiry officer before the disciplinary authority takes decision on the question of guilt of the delinquent. It was sought to be contended in that case that as the right to show cause against penalty proposed to be levied had been taken away by the 42nd amendment, therefore, there was no necessity to give to the delinquent a copy of the

inquiry report before the disciplinary authority took the final decision as to whether to impose a penalty or not. Explaining the effect of 42nd amendment the Constitution Bench at page 755 observed that "All that has happened after the Forty-second Amendment of the Constitution is to advance the point of time at which the representation of the employee against the enquiry officer's report would be considered. Now, the disciplinary authority has to consider the representation of the employee against the report before it arrives at its conclusion with regard to his guilt or innocence of the charges." The Court explained that the disciplinary proceedings break into two stages. The first stage ends when the disciplinary authority arrives at its conclusions on the basis of the evidence, inquiry officer's report and the delinquent employee's reply to it. the second stage begins when the disciplinary authority decides to impose penalty on the basis of its conclusions. It is the second right which was taken away by the 42nd Amendment but the right of the charged officer to receive the report of the inquiry officer was an essential part of the first stage itself. This was expressed by the Court in the following words:

> " The reason why the right to receive the report of the enquiry officer is considered an essential part of the reasonable opportunity at the first stage and also a principle of natural justice is that the findings recorded by the enquiry officer form an important material before the disciplinary authority which along with the evidence is taken into consideration by it to come to its conclusions. It is difficult to say in advance, to what extent the said findings including the punishment, if any, recommended in the report would influence the disciplinary authority while drawing its conclusions. the findings further might have been recorded without considering the relevant evidence on record, or by misconstruing it or unsupported by it. If such a finding is to be one of the documents to be considered by the disciplinary authority, the principles of natural justice require that the employee should have a fair opportunity to meet, explain and controvert it before he is condemned. It is negation of the tenants of justice and a denial of fair opportunity to the employee to consider the findings recorded by a third party like the enquiry officer without giving the employee an opportunity to reply to it. Although it is true that the disciplinary authority is supposed to arrive at its own findings on the basis of the evidence recorded in the inquiry, it is also equally true that the disciplinary authority takes into consideration the findings on the basis of the evidence recorded in the inquiry, it is also equally true that the disciplinary authority takes into consideration the findings recorded by the enquiry officer do constitute an important material before the disciplinary authority which is likely to influence its conclusions. If the enquiry officer were only to record the evidence and forward the same to the disciplinary authority, that would not constitute an additional material before the disciplinary authority of which the delinquent 4 employee has no knowledge. However, when the enquiry officer goes further and records his findings, as stated above, which may or may not be based on the evidence on record or are contrary to the same or in ignorance of it, such findings are an additional material unknown to the employee but are taken into consideration by the disciplinary authority while arriving on its conclusions. Both the dictates of the reasonable opportunity as well as the principles of natural justice, therefore, require that before the disciplinary authority comes to its own conclusions, the delinquent

> employee should have an opportunity to reply to the enquiry officer's findings. the disciplinary authority is then required to consider the evidence, the report of the enquiry officer and the representation of the employee against it."

These observations are clearly in tune with the observations in Bimal Kumar Pandit's case (supra) quoted earlier and would be applicable at the first stage itself. the aforesaid passages clearly bring out the necessity of the authority which is to finally record an adverse finding to give a hearing to the delinquent officer. If the inquiry officer had given an adverse finding, as per Karunakar's case (supra) the first stage required an opportunity to be given to the employee to represent to the disciplinary authority, even when an earlier opportunity had been granted to them by the inquiry officer. It will not stand to reason that when the finding in favour of the delinquent officers is proposed to be over-turned by the disciplinary authority then no opportunity should be granted. The first stage of the inquiry is not completed till the disciplinary authority has recorded its findings. The principles of natural justice would demand that the authority which proposes to decide against the delinquent officer must give him a hearing. When the inquiring officer holds the charges to be proved then that report has to be given to the delinquent officer who can make a representation before the disciplinary authority takes further action which may be prejudicial to the delinquent officer. When, like in the present case, the inquiry report is in favour of the delinquent officer but the disciplinary authority proposes to differ with such conclusions then that authority which is deciding against the delinquent officer must give him an opportunity of being heard for otherwise he would be condemned unheard. In departmental proceedings what is of ultimate importance is the findings of the disciplinary authority.

Under Regulation - 6 the inquiry proceedings can be conducted either by an inquiry officer or by the disciplinary authority itself. When the inquiry is conducted by the inquiry officer his report is not final or conclusive and the disciplinary proceedings do not stand concluded. The disciplinary proceedings stand concluded with decision of the disciplinary authority. It is the disciplinary authority which can impose the penalty and not the inquiry officer. Where the disciplinary authority itself holds an inquiry an opportunity of hearing has to be granted by him. When the disciplinary authority differs with the view of the inquiry officer and proposes to come to a different conclusion, there is no reason as to why an opportunity of hearing should not be granted. It will be most unfair and iniquitous that where the charged officers succeed before the inquiry officer they are deprived of representing to the disciplinary authority before that authority differs with the inquiry officer's report and, while recording of guilt, imposes punishment on the officer. In our opinion, in any such situation the charged officer must have an opportunity to represent before the Disciplinary Authority before final findings on the charges are recorded and punishment imposed. This is required to be done as a part of the first stage of inquiry as explained in Karunakar's case(supra).

The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the

disciplinary authority to accept the favorable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.

The aforesaid conclusion, which we have arrived at, is also in consonance with the underlying principle enunciated by this Court in the case of Institute of Chartered Accountants (supra). While agreeing with the decision in Ram Kishan's case (supra), we are of the opinion that the contrary view expressed in S.S. Koshal and M.C. Saxena's cases (supra) do not lay down the correct law.

Both the respondents superannuated on 31st December, 1983. During the pendency of these appeals Misra died on 6th January, 1995 and his legal representatives were brought on record. More than 14 years have elapsed since the delinquent officers had superannuated. It will, therefore, not be in the interest of justice that at this stage the cases should be remanded to the disciplinary authority for the start of another innings. We, therefore, do not issue any such directions and while dismissing these appeals we affirm the decisions of the High Court which had set aside the orders imposing penalty and had directed the appellants to release the retirement benefits to the respondents. There will, however, be no order as to costs.