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

Reserved on:- 04.02.2026.
Date of pronouncement:- 13.02.2026

\+ LPA 733/2025, CM APPLs. 76001/2025, 76002/2025 & 76004/2025

PUNJAB NATIONAL BANK AND ORS. .....Appellants

Through: Mr.Saurabh Mishra, Sr.Adv with Mr.Bitu Kumar Singh, Mr.Rajeev Ranjan and Mr.Gunjan Kumar, Advs

versus

C.J. ARORA .....Respondent

Through: Dr. Ashwani Bhardwaj, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

CHALLENGE

1. This letter patent appeal instituted under Clause X of the Letter Patent seeks to challenge the judgment and order dated 09.12.2024 passed by learned Single Judge whereby W.P.(C) No.6696/2003 filed by the respondent, was allowed, and the charge-sheet along with the Inquiry Report dated 14.12.1995, punishment order of dismissal from service dated 17.08.1996, the order of the Appellate Authority dated 26.07.2002 dismissing the appeal against the order of punishment, and the order dated

08.04.2003 passed by Reviewing Authority dismissing the review, has been quashed.

2. Learned Single Judge has further held that the respondent shall be entitled to notional reinstatement from the date of the order of penalty till 30.04.2011 when he retired on attaining the age of superannuation. Further directions were also issued by learned Single Judge in the impugned judgment and order that pay and allowances of the respondent shall be calculated for the period of notional reinstatement for the purposes of retiral benefits on this basis, and he shall accordingly be paid his pension from 30.04.2011 along with arrears.

FACTS

3. Heard the learned Senior Counsel for the appellants and the learned counsel for the respondent. We have also perused the records available before us on this letters patent appeal.

4. The facts as pleaded in this matter in brief are as follows:-

i.) Before the merger of the Bank of India with the Punjab National Bank, the respondent was working as Manager (MMG/S-II) at New Bank of India till 07.01.1990. While working in the said position, a charge-sheet was issued against him on 20.09.1990, whereby he was charged with misconduct. The charges as mentioned in the Articles of Charge were that the respondent acted in a manner prejudicial to the interest of the Bank; he failed to discharge his duties with utmost integrity, honesty and diligence; he failed to ensure and protect the interest of the Bank; he acted in manner

unbecoming of an Officer of the Bank; he acted otherwise than in his best judgment while discharging his duties, he misused /abused his position and status in the Bank, and therefore, such acts committed by the respondent constituted misconduct under Regulation 24 of the New Bank of India Officer Employees (Conduct) Regulation, 1982, which are punishable.

ii.) The statement of allegations, which accompanied the Articles of Charge, states that (a) the respondent directly or indirectly helped the firm M/s Vishal Super Insulators, of which one Mr.Vijay Kumar and Mrs.Menka Mehta were partners, to secure financial assistance from the Bank without disclosing to the recommending authority or the sanctioning authority that Mrs.Menka Mehta was his sister.

iii.) The allegations against the respondent further were that he made certain manipulations in the documents by changing the dates of note from 03.03.1988 to 19.02.1988 and got the financial assistance sanctioned by misusing his position in respect of the proposal of M/s UKG Engineering Private Limited, which was a sister company of M/s Vishal Super Insulators. It was also stated in the allegation that limit of financial assistance was enhanced within a period of one and a half month from Rs.4,00,000/- to Rs.7,50,000/- on 08.04.1988, which was without jurisdiction, without examining the operation of the account which showed divergence of fund to the sister company and further that concerned branch of the Bank frequently allowed excess drawing in the sanctioned limit recommended by the respondent.

iv.) As per the allegation, the respondent was asked to declare his

relationship with Mrs.Menka Mehta, and in order to mislead, he mentioned the names of Directors of M/s Everest Promoters Private Limited as Mr.U.K.Gupta and Mrs.Satya Bale, whereas the Bank record showed that his sister Mrs.Menka Mehta was the Director of the company concerned, who had executed documents. It was also alleged that the respondent also helped various companies, which were sister companies of M/s Everest Promoters Private Limited and M/s Vishal Super Insulators, where his sister Mrs.Menka Mehta was Director/partner.

v.) The statement of allegations also mentioned that in respect of credit facility to M/s Everest Promoters Private Limited to the tune of Rs.19,75,000/-, the respondent did not conveyed the fact that only photocopy of title deed were held in the account and that he helped his sister's construction company to secure the housing loan and further that such housing loans included a loan of Rs.1,00,000/- to the husband of Mrs.Menka Mehta.

vi.) The statement of allegations in support of Articles of Charge framed against the respondent is extracted herein below:-

> *"STATEMENT OF ALLEGATIONS IN SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI CJ ARORA, MANAGER, BO, JANPATH*
> *(PREVIOUSLY AT BO, L-BLOCK, CONNAUGHT PLACE, NEW DELHI)*
>
> *Shri CJ Arora while working as Manager (Loans) at BO, L-Block, Connaught Place, New Delhi from 2.4.85 to 15.6.89 and later at BO, Janpath, New Delhi w.e.f. 16.6.89 onwards till the date of suspension was grossly negligent in discharge of his duties and committed the following misconducts:-*

1. *A/C M/S Vishal Super Insulators at BO, L-Block, New Delhi.*

C/C Hyp. limit -	*Rs. 7 lacs*	*Bank's dues as on 1.9.90*	*Rs.7,47,189.52*
Bills Discounted -	*Rs.12.50 lacs*	*-do-*	*Rs.4,15,077.72*

Shri Vijay Kumar and Mrs. Menka Mehta are the partners of the firm. Mrs. Menka Mehta is the sister of Shri CJ Arora, who was Manager of BO, L-Block from 2.4.85 to 15.6.89 and was Incharge of Loans. Shri Arora did not disclose to the recommending authority or to the sanctioning authority his relationship with one of the partners of the firm i.e. Mrs. Manka Mehta. On the other hand, Sh. Arora directly or indirectly helped the firm to secure financial assistance from the bank despite the existence of lacunae and shortcomings. During his tenure as Manager in Loans Department of BO, L-Block, he got the limits sanctioned to the above party. By this process he helped his sister to get the facilities sanctioned from the bank and also frequent enhancements from time to time as per details given below:

Initially a limit of C/C (Hyp.) of Rs.2 lacs and Term loan of Rs.2 lacs was sanctioned by the then Sr. Manager, Shri ML Mahajan on 14.4.86. Shri Arora was then working as Manager Incharge of Loans Department. He did not disclose that his sister is one of the partners.

On 16.1.87 a further Bill Discounting limit of 8.2 lacs was sanctioned. The limits were further increased by placing a note dt. 8.2.88 before the Sr. Manager by Sh.CJ Arora as follows: -

Cash Credit (Hyp.) limit of Rs.2 lacs to Rs.5 lacs. No financial papers were obtained to justify the increased limits. Sh.Arora himself interviewed the party and recommended increase in limit on the basis of personal Interview. The cash credit (hyp.) limit was further increased to Rs. 7 lacs and the BD limit to Rs. 12.50 lacs by getting the sanction of Asst. General Manager, RO, Delhi on the branch's letter itself. No renewal papers and latest financial papers, showing the working results of this company were obtained. The Increase in limits were recommended just at the party's request without any supporting financial papers. Not even such figures were obtained. While recommending BD limit Rs. 12.50 lacs on DA basis, the names of the drawers were not ascertained and their financial standing studied. In

the recommendations it was just stated "Reputed parties". Though the Asst. Gen. Manager, RO sanctioned the increased limit only for three months with a condition that proposal must be submitted within this period of three months, no efforts were made to submit the renewal proposal and the enhanced limits were continued without obtaining regular renewed sanction.
Thus, undue favour was shown to the party by Sh.Arora.

2. <u>M/S U.K.G. Engg. Pvt. Ltd. A/C at BO, L-Block, New Delhi</u>
This is a sister concern of M/S Vishal Super Insulators. The proposal of M/s UKG Engg. Pvt. Ltd. was sent to RO, Delhi for sanction, duly recommended by the Senior Manager, Sh.ML Mahajan on 12.2.88 and Regional office had returned the proposal with the letter that the proposal falls under Sr.Manager's discretionary powers having aggregate powers upto 2.20 lacs vide Regional Office letter no. ROD:L:4727 dated 23.2.88.

After receipt of letter dated 23.2.88 from Regional Office a note/sanction memorandum dated 3.3.88 was put up by Sh.CJ Arora. As per circular no. LD/8/88 dt. 17.2.88 the Sr.Manager was not empowered to sanction the limits as recommended in the said note. In order to overcome this Sh.CJ Arora changed the dates of the note from 3.3.88 to 19.2.88 and got the limit sanctioned from the Sr.Manager with dated 19.2.88. This is a clear case of misuse of his position. Since the Regional office advised the branch only on 23.2.88 and hence there cannot be any note for sanction of the facilities by the Sr.Manager prior to this date.

Further the limits were enhanced within a period of one and a half months from Rs. 4 lacs to Rs. 7.50 lacs on 8.4.88 without any Justification and just simply on the request of the party. The operation of the account from the date of previous sanctioned was not at all examined. The operation of the account clearly shows diversion of firm funds invested in the sister concern only as shown hereunder:-

<u>Date</u>	*<u>Amount</u>*	*<u>Name of the sister concern</u>*
20.02.88	*Rs.25,000/-*	*To M/S Raja Sons-Mr. UK Gupta, who is directors of the firm, is also proprietor of M/S Raja Sons*
22.2.88	*Rs.50,000/-*	*To M/S Sona Machine & Engg. Works Group: Concern*

22.2.88	*Rs.50,000/-*	*-do-*
3.3.88	*Rs.20,000/-*	*To Sh. Umesh Kumar Gupta (Director)*
3.3.88	*Rs. 4,000/-*	*-do-*
7.3.88	*Rs.30,000/-*	*To M/S Sona Machinery & Engg. Works*
10.3.88	*Rs.50,000/-*	*To self*
11.3.88	*Rs.50,000/-*	*To M/S Sona Machinery & Engg.Works*
	Rs.2,79,000/	

The debit and credit submission for the period upto 8.4.88 are as follows:-

Debit	*Credit*
Rs.5,69,697/-	*Rs.85,835.22*

Thus it clearly shows that for a period of 45 days the credit summation was only Rs.85,835.22.

The branch frequently allowed excess drawings upto Rs. 9.51 lacs as against a limit of Rs. 7.50 lacs and the action upto 23.4.89 was confirmed by the then Asst. Gen. Manager, Delhi, Sh. K.L. Chandna. The over drawings were continued and the balance as at 3.9.90 stood at Rs.11.31 lacs against the sanctioned limit of Rs. 7.50 lacs.

In the sanction memorandum recommended by Shri CJ Arora it was stated that the applicant has offered a collateral security viz mortgage of property by way of security bond comprising the premises at 1/641 Loni Road, Shahdra and valued at Rs.7.20 lacs.

It has not been brought to the notice of the sanctioning authority in the note that the original title deed of the property are not available. In the legal opinion dt. 8.2.88 there have been corrections suggesting that the Legal Advisor Sh. Ravi Kant Chadha first recommended a regular mortgage in the absence of original title deed which was subsequently corrected as Deed of Security Bond.

The fact that the original title deeds are not available and the whereabout of the original title deeds were purposely not shown/disclosed in the sanction note put up by Sh. CJ Arora.

In the absence of deposit of original title deeds or a registered

mortgage, bank does not have any hold in the property.

By allowing further withdrawals over and above the limit the party was allowed to divert funds to the sister concerns as per details given below :

Date	*Amount*	*Group concerns*
14.9.88	*Rs.20,000/-*	*To M/S Vishal Super Insulators*
14.9.88	*Rs.90,000/-*	*To M/S Sona Super Insulators*
12.10.88	*Rs.2,00,000/-*	*-do-*
12.10.88	*Rs.50,000/-*	*To M/S Sona Machinery & Engg. (P) Ltd.*
15.11.88	*Rs.1,50,000/-*	*-do-*
29.11.88	*Rs.1,25,000/-*	*-do-*
29.11.88	*Rs.1,00,000/-*	*To M/S Sidharth Investment*

The party was defaulter in the term loan account from the very beginning i.e. from March/June 1988 and inspite of this c/c hyp. & BD limits were increased and excess withdrawal over the limits were allowed without taking any steps to recover the instalments in arrear.

The above acts of Shri CJ Arora clearly establish that he has shown favour to this company acting as Manager (Loans) in the said branch.

The Vigilance Department asked Shri Arora to declare his relationship with Mrs. Menka Mehta vide letter dated 18.6.90. Sh.CJ Arora in order to mislead, mentioned the names of the Director of M/S Everest Promoters (P) Ltd., as Shri UK Gupta and Mrs. Satya Bala vide his reply dated 9.7.90 and further stated that both these directors were not related to him. Whereas the bank's record show that Shri UK Gupta and Mrs. Menka Mehta are still the Directors of the company and Mrs. Menka Mehta had executed documents on behalf of the company.

The search in the office of the Registrar of Companies made on 23.7.90 by the bank through the Chartered Accountant clearly established that Shri UK Gupta and Mrs. Menka Mehta are Directors from the date of incorporation and no change has been reported to the Registrar of companies.

A second letter dated 20.7.90 was issued to Shri CJ Arora asking him to

clarify the relationship, Shri CJ Arora received letter on 24.7.90 and finally admitted vide his reply dated 6.9.90 that Mrs. Menka Mehta is his sister.

Further Shri CJ Arora while working as Manager at BO, L-Block and 90, Janpath also helped the following companies to get facilities from the bank and these companies are sister concerns of M/S Everest Promoters (P) Ltd. and M/S Vishal Super Insulators where Mrs. Menka Mehta, his sister is a director/partner.

Name of the party	*Limit*	*Outstanding as on 23.6.90*
M/S UKG Engg. (P) Ltd.	*C/C- 7.50 lacs* *T/L- 1.50 lacs* *T/L- 0.90 lacs*	*10,88,887.01* *1,23,674.80* *76,684.20*
M/S Sona Machines Engg. India (P) Ltd.	*C/C- 7.50 lacs Hyp.*	*9,00,533.26*
M/S Vishal Super Insulator	*C/C- 7.00 lacs Hyp.* *B/D- 12.50 lacs*	*4,24,071.71* *8,11,499.03*
M/S Standard Super Industries	*C/C- 5.00 lacs Hyp.* *T/L- 4.90 lacs*	*6,20,645.37* *5,60,341.11*

Shri Arora never disclosed his relationship with the Director/partner Mrs. Menka Mehta to the Bank and he allowed favour to this group.

3. M/S Everest Promoters (P) Ltd. A/C at BO, Janpath

In this account Shri UK Gupta and Mrs. Menka Mehta were the Directors. For this company a proposal was submitted in February, 1989 at BO, Janpath and a cash credit (Hyp.) limit of Rs.19.75 lacs was sanctioned by RO, Delhi. One of the terms and conditions of recommendations/sanction was that "DP shall be allowed only against paid up stocks. The party shall seek bank's permission before sale of any flat and the sale proceeds shall be deposited direct to the party's account with the bank and DP shall be reduced accordingly."

Shri CJ Arora while working as Manager in BO, L-Block issued a letter to Chief Manager, BO, Janpath confirming that the securities already charged in the account of M/S Sona Machineries and Engineers India

Pvt. Ltd. and M/S UKG Engineering Pvt. Ltd. have also been charged in the account of M/S Everest Promoters (P) Ltd. He had signed this letter as Sr.Manager of the branch which is highly irregular. The fact that only photocopies of title deeds are held in the account of M/S Everest Promoters (P) Ltd. was not conveyed.

No documents, i.e. L-39 A and L-40A for creating this additional charge was obtained and since his sister Mrs. Menka Mehta was Director in the said company, i.e. M/S Everest Promoters (P) Ltd.. he had issued this letter without taking proper documents, to safeguard the bank's interest. Shri CJ Arora was transferred from BO, L-Block to BO, Janpath during June 1989 where he was posted as Manager in the Loans Department. In his capacity as Manager in the Loans Deptt. at BO Janpath he further helped his sister's construction company in getting housing loans sanctioned from the same branch as per particulars given below. The sanctions were made by the Chief Manager on the recommendations of Shri CJ Arora as Manager (Loans).

Name of the party	*Dt.of Adv.*	*Limit*	*B.dues as on 16.7.90*
Suresh Kumar	*18.9.89*	*1,00,000/-*	*95,901.20*
Naresh Chand	*18.9.89*	*1,15,000/-*	*1,10,972.70*
Subhash Chander	*18.9.89*	*1,00,000/-*	*95.897.30*
Suresh Aggarwal	*18.9.89*	*1,15,000/-*	*1,10,972.70*
Raja Ram	*19.9.89*	*1,15,000/-*	*1,09,905.20*
M.L.Sharma	*19.9.89*	*1,20,000/-*	*95,897.30*
K.S.Prashar	*19.9.89*	*1,20,000/-*	*1,15,840.00*
K.Gopal	*20.9.89*	*1,20,000/-*	*1,15,813.60*
R.P.Mehta	*20.9.89*	*1,00,000/-*	*95,876,70*
Smt.Suman Aggarwal	*20.9.89*	*1,20,000/-*	*1,15,813.60*
Smt.Savitri Aggarwal	*20.9.89*	*1,20,000/-*	*1,15,813.60*

The housing loans released for purchase of flats from M/S Everest Promoters (P) Ltd. also include loan of Rs. 1.00 lacs allowed to Shri RP Mehta Husband of Mrs. Menka Mehta.

Housing loans amounting to Rs.12.25 lacs and the margin money/amounts were credited in the account of M/S Everest Promoters Pvt. Ltd. without reducing the DP and the limit to this extent as per terms of the sanction. The original limit of Rs. 19.75 lacs was continued to be availed by the construction company by Shri CJ Arora.

Further Shri CJ Arora had also allowed excess accommodation in the account of M/S Everest Promoters Pvt. Ltd. as under, as, reported by Shri SK Soni, then Chief Manager, BO, Janpath:

i) On 27.1.90 he passed a cheque for Rs. 50,000/- when the balance outstanding against the firm stood at Rs. 21.06 lacs as against the limit of Rs. 19.75 lacs. This was allowed in spite of the specific instructions of Chief Manager on page no.70 of the overdraft register not to pass this cheque. Shri CJ Arora overlooking the instructions of Chief Manager passed the cheque with the help of Accountant, Shri NK Gupta.

ii) On 23.1.90 two cheques for Rs.75,000/- and Rs.30,000/- were presented in clearing when the balance stood at Rs. 20.05 lacs against a limit of Rs. 19.75 lacs. The Chief Manager ordered return of these cheques. The cheques were returned unpaid. However, the same cheque for Rs. 75,000/- was again presented on 25.1.90 in the clearing. In spite of the specific instructions of Chief Manager that the cheque should not be passed the same was passed by Sh.Arora. Sh. CJ Arora also tampered with the overdraft sanction register at page no.70.

It has now been reported by the Chief Manager, BO, Janpath that the register is missing now. In order to avoid action being taken against him the register has been removed.

Sd/-
Assistant General Manager (P)
(Disciplinary Authority)

vii.) The respondent denied the allegations mentioned in the charge-sheet and submitted his reply with the prayer that he be discharged. The disciplinary proceedings, accordingly, proceeded against the respondent and the Inquiry Officer submitted the Inquiry Report dated 02.04.1992 (the first inquiry report) to the disciplinary authority, who *vide* order dated 28.12.1992 directed re-inquiry in respect of the charge-sheet dated 20.09.1990 by stating that re-inquiry has been ordered afresh in view of apprehension raised about the Inquiry Report in the manner it was prepared. The said order dated 28.12.1992 is extracted herein below:-

"NEW BANK OF INDIA

Head Office
1 Tolstoy Marg, New Delhi-1
DISCIPLINARY CASES
DISPOSAL CELL

DCDC/8/92/7540
December 28, 1992

REGISTERED

Shri C.J. Arora,
Manager (Under suspension)
A-23, Hans Apartments,
East Arjun Nagar, Shahdara,
DELHI

Dear Sir,

Reg: Charge Sheet dated 20.9.1990

The undersigned hereby order re-enquiry in respect of Charge Sheet dated 20.9.90. Enquiry has been reconstituted afresh in view of the apprehensions raised about the enquiry report in the manner it was prepared.
You are also informed that Shri S.C. Gupta, Commissioner for Departmental Enquiries, Jamnagar House Hutments, Akbar Road, New Delhi has been appointed as Inquiring Authority. Shri R.K. Goel, Accountant, Enquiry Cell, Head Office will continue to act as Presenting Officer. You are advised to cooperate in the enquiry

proceedings. Please note that till completion of the case, you will continue to be under suspension.

Yours faithfully,
Sd/-
ASST. GENERAL MANAGER (Personnel)
(Disciplinary Authority)

viii.) After conducting the *de novo* inquiry, another Inquiry Report dated 14.12.1995 (second inquiry report) was submitted to the Disciplinary Authority, a copy of which was supplied to the respondent, requiring him to file his objections to the findings recorded in this Inquiry Report. Based on this Inquiry Report dated 14.12.1995, the Disciplinary Authority passed an order dated 17.08.1996, imposing the penalty of dismissal from service of the Bank, upon the respondent.

ix.) It appears that against the dismissal order dated 17.08.1996, the respondent preferred a writ petition before this Court, which was disposed of *vide* order dated 29.01.2002 permitting the respondent to file a statutory appeal before the Appellate Authority. The respondent thereafter instituted the proceedings of the statutory appeal before the Appellate Authority under the relevant rules, which, however, was rejected by the Appellate Authority by means of its order dated 26.07.2002. Challenging the Appellate Authority's order dated 26.07.2002, the respondent preferred a review petition, which, too, was dismissed by the Reviewing Authority *vide* order dated 08.04.2003.

x.) Challenging the Second Inquiry Report dated 14.12.1995, the order of punishment of dismissal from service dated 17.08.1996, the order dated 26.07.2002 of the Appellate Authority whereby his appeal against the

dismissal was rejected, and order of Reviewing Authority dated 08.04.2003, W.P.(C) No.6696/2003 was instituted by the respondent, which has been partially allowed by the impugned judgment and order dated 09.12.2024, which is under challenge herein.

ISSUES

5. The sole ground on which the punishment order along with the appellate order, the order on review, and the second inquiry report, has been quashed by the learned Single Judge is that while passing the order dated 28.12.1992, ordering for a *de novo* inquiry, the Disciplinary Authority has not given any cogent reasons in absence whereof the order is vitiated, and therefore, consequential action which resulted in punishment of dismissal from service of the respondent is also illegal.

6. Following issues emerge for our consideration and adjudication in this appeal;

a. As to whether in the facts of the case and keeping in view the relevant rule regulating the disciplinary proceedings, the order dated 28.12.1992 passed by the Disciplinary Authority directing for a *de novo* inquiry was bad in law, and;

b. As to whether by participating in the *de novo* inquiry, instituted *vide* order dated 28.12.1992 by the Disciplinary Authority, without any protest or demur the respondent, any challenge to institution of such *de novo* inquiry on behalf of the respondent is barred in view of the doctrine of waiver and acquiescence.

DISCUSSION AND ANALYSIS

7. Before adverting to the respective submissions made by learned counsel for the parties in support and opposition of the instant appeal, it would be apposite to extract Regulation 7 of the Punjab National Bank Officer Employees' (Discipline & Appeal) Regulations, 1977 (hereinafter referred to as Regulation), which is as under:-

> *"**Regulation - 7. Action On the Inquiry Report***
> *(1) The Disciplinary Authority, if it is not itself the Inquiring 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 the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Regulation 6 as far as may be.*
> *(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 on 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 contained in regulation 8, make an order imposing such penalty.*
> *(4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the officer employee concerned."*

8. Regulation 7 as quoted above prescribes the procedure to be followed by the Disciplinary Authority on receipt of the Inquiry Report submitted by

the Inquiry Officer after conclusion of the inquiry proceedings. Clause (1) of Regulation 7 provides that in a situation where the Disciplinary Authority is not the Inquiring Authority, it may, for reasons to be recorded in writing, remit the case to the Inquiring Authority for fresh or further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Regulation 6 as far as may be.

9. Clause (2) of Regulation 7 operates in a situation where the Disciplinary Authority, disagrees with the findings of the Inquiring Authority of any Article of Charge. It requires that the Disciplinary Authority shall record its reason for such disagreement and record its own findings on such charge if the evidence on record is sufficient for the purpose. Thereupon, the Disciplinary Authority, having regard to its finding on the Articles of Charges, will form its opinion that any of the penalties specified in Regulation 4 should be imposed on the charged officer, and it shall make an order imposing such penalty. In a situation where the Disciplinary Authority is of the opinion that no penalty is called for, it may pass an order exonerating the charged officer.

10. So far as the instant case is concerned, the order dated 28.12.1992 passed by the Disciplinary Authority directing a *de novo* inquiry on receipt of the First Inquiry Report is referable to Regulation 7(1) as quoted above. The condition precedent in terms of Regulation 7(1) for ordering a fresh or further inquiry is that the Disciplinary Authority has to record in writing its reasons for remitting the case for further or fresh inquiry. Accordingly, so far as the jurisdiction of the Disciplinary Authority to pass the order dated 28.12.1992 is concerned, there is no dispute, as has already been held by the

learned Single Judge in the impugned judgment and order.

11. However, learned Single Judge has gone to observe, while passing the impugned judgment and order, that for remitting the case to the Inquiring Authority for fresh inquiry, the Disciplinary Authority should record reasons which should be cogent warranting fresh inquiry and in the instant case the order dated 28.12.1992 does not reflect a reason for ordering a *de novo* inquiry, which can be said to be cogent and sufficient, for the said purpose.

12. While examining the said finding recorded by the learned Single Judge in the impugned judgment and order, we must note that the Disciplinary Authority, while passing the said order dated 28.12.1992, has clearly observed that a fresh inquiry has been ordered in view of the apprehensions raised about the Inquiry Report in the manner it was prepared. In our opinion, what all is required by the Disciplinary Authority for exercising its powers under Regulation 7(1) for ordering inquiry afresh is that it should record reasons for remitting the case for the said purpose. As a matter of fact, an opinion as to whether a *de novo* inquiry is required or the Inquiry Report ought to be accepted is to be formed by the Disciplinary Authority. For ordering a *de novo* inquiry, the only requirement under Regulation 7(1) is that the Disciplinary Authority should record its reasons. Such an opinion, in our considered view, of course has to be based on some material on record; however, having regard to the language in which Regulation 7(1) is couched, it is not for the Court, in exercise of its jurisdiction of judicial review, to go into the sufficiency of material. If the Disciplinary Authority has given reason that certain apprehensions were raised about the Inquiry Report, such reason would suffice for the

Disciplinary Authority to remit to the Inquiry Authority for fresh or further inquiry.

13. It is also to be noticed that there is no provision in the Regulations for furnishing a copy of the Inquiry Report in respect of which the Disciplinary Authority forms its opinion that matter requires *de novo* inquiry. It is on the basis of the facts and circumstances and founded on some material that the Disciplinary Authority has to form its opinion by giving reasons, which are to be recorded in writing. In the instant case, the reason has been recorded by the Disciplinary Authority while passing the order dated 28.12.1992 directing *de novo* inquiry, and the reason indicated is that the Disciplinary Authority found certain apprehensions about the Inquiry Report. In such a situation, since the opinion has been formed by the Disciplinary Authority for ordering *de novo* inquiry based on certain material available before it, may be the Inquiring Report, the power of judicial review does not go to the extent of examining as to whether the reasons are cogent or not or as to whether the material on which such opinion is formed is sufficient or not.

14. For the aforesaid reasons, we do not find ourselves in agreement with the finding recorded by the learned Single Judge to the effect that the order dated 28.12.1992 directing a *de novo* inquiry against the respondent was bad or vitiated. Learned Single Judge has placed heavy reliance for arriving at such conclusion in the impugned judgment and order on ***K.R.Deb v. The Collector of Central Excise, Shillong [1971 (2) SCC 102]***. A reading of the said judgment of Supreme Court in ***K.R.Deb*** *(supra)* shows that the relevant rules under which inquiry against the Charged Officer was conducted in the said matter, does not have any provision vesting any power in the

Disciplinary Authority for ordering a *de novo* inquiry post submission of Inquiry Report whereas, as already noticed above, Regulation 7(1) does vest such power in the Disciplinary Authority. ***K.R.Deb*** *(supra)* pertains to disciplinary action against the Charged Officer under the provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1957 (hereinafter referred to as 1957, Rules).

15. In the said judgment, the Hon'ble Supreme Court has noticed various clauses of Rule 15 of 1957, Rules. Rule 15 of the 1957 Rules is extracted herein below:-

> *"**15.Procedure for imposing major Penalties --.***
> *(1) Without prejudice to the provisions of the Public Servants (Inquiry) Act, 1850, no order imposing on a Government Procedure for servant any of the penalties specified in clauses (iv) to (vii) of rule 13 shall be passed except after an inquiry, held as for as may be, in the manner hereinafter provided.*
>
> *(2) The Disciplinary Authority shall frame definite charges on the basis of the allegations on which the enquiry is proposed to be held. Such charges, together with a statement of the allegations on which they are based, shall be communicated in writing to the Government servants and he shall be required to submit, within such time as may be specified by the Disciplinary Authority a written statement of his defence and also to state whether he desires to be heard in person.*
>
> *Explanation. In this sub-rule, and in sub-rule (3), the expression "the Disciplinary Authority" shall include the authority competent under these rules to impose upon the Government servant any of the penalties specified in clauses (i) to (iii) of rule 13.*
>
> *(3) The Government servant shall, for the purpose of preparing*

his defence, be permitted to inspect and take extracts from such official records as he may specify, provided that such permission may be refused if, for reasons to be recorded in writing, in the opinion of the disciplinary Authority such records are not relevant for the purpose or public interest to allow him access thereto.

(4) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Disciplinary Authority may itself inquire into such of the charges as are not admitted or, if it considers it necessary so to do, appoint a Board of Inquiry or an inquiring Officer for the purpose

(5) The Disciplinary Authority may nominate any person to present the case in support of the charges before the authority inquiring into the charges (hereinafter referred to as the Inquiring Authority. The Government servant may present his case with the assistance of other Government servant, but may not engage a legal practitioner the purpose unless the person nominated by the Disciplinary Authority as aforesaid is a legal practitioner or unless the Disciplinary, Authority having regard to the circumstances of the case, so permits.

(6) The Inquiring Authority shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The Government servant shall, be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person. The person presenting the case in support of the charges shall be entitled to cross-examine the Government servant and the witnesses examined in his defence. If the Inquiring Authority declines to examine any witness on the ground that his evidence is not relevant or material, it shall record its reasons in writing

(7) At the conclusion of the inquiry, the Inquiring Authority shall prepare a report of the inquiry, recording its findings on each of the charges together with reasons therefor. If in the opinion of such authority the proceedings of the inquiry establish charges

different from those originally framed it may record findings on such charges provided that findings on such charges shall not be recorded unless the Government servant has admitted the facts constituting them or has had an opportunity of defending himself against them.

(8) The record of the inquiry shall include:-

(i) the charges framed against the Government servant and the statement of allegations furnished to him under sub-rule (2)

(ii) his written statement of defence, if any i

(iii) the oral evidence taken in the course of the inquiry :

(iv) the documentary evidence considered in the course of the inquiry:

(v) the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry ; and

(vi) a report setting out the findings on each charge and the reasons therefor.

(9) The Disciplinary Authority shall, if it is not the Inquiring Authority, consider the record of the inquiry and record its findings on each charge.

(10) (i) If the Disciplinary Authority, having regard to its findings on the charges, is of the opinion that any of the penalties specified in clause (iv) to (vii) of rule 13 should be imposed, it shall-

(a) furnish to the Government servant a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reasons for disagreement if any, with the findings of the Inquiring Authority; and

(b) give him a notice stating the penalty proposed to be imposed on him and calling upon him to submit within a specified time such representation as he may wish to make on the proposed penalty, provided that such representation shall be based only on

the evidence adduced during the inquiry.

(ii) (a) In every case in which it is necessary to consult the Commission, the record of the inquiry, together with a copy of the notice given under clause (1) and the representation made in response to such notice, if any, shall be forwarded by the Disciplinary Authority to the Commission for its advice.

(b) On receipt of the advice of the Commission, the Disciplinary Authority shall consider the representation, if any, made by the Government servant as aforesaid, and the advice given by the Commission and determine what penalty, if any, should be imposed on the Government servant and pass appropriate orders on the case.

(iii) In any case in which it is not necessary to consult the Commission, the Disciplinary Authority shall consider the representation, if any, made by the Government servant in response to the notice under clause (i) and determine what penalty, if any should be imposed on the Government servant and pass appropriate orders on the case.

(11) If the Disciplinary Authority having regard to its findings is of the opinion that any of the penalties specified in clauses (1) to (iii) of the rule 13 should be imposed, it shall pass appropriate orders in the case.

Provided that in every case in which it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice taken into consideration before passing the orders.

(12) Orders passed by the Disciplinary Authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reason for disagreement, if any. with the findings of the Inquiring Authority,

unless they have already been supplied to him, and also a copy of the advice, if any, given by the Commission and, where the Disciplinary Authority has not accepted the advice of the Commission, a brief statement o brief statement of the reasons for such non acceptance."

16. As to how the matter should proceed after receipt of the Inquiry Report submitted by the Inquiring Authority under 1957 Rules can be found in sub-Rule (9) of Rule 15 of 1957 Rules, according to which on receipt of the Inquiry Report the Disciplinary Authority shall, if it is not the Inquiring Authority, consider the record of the inquiry and record its findings on each charge. Sub-Rule (10) provides that if the Disciplinary Authority is of the opinion, on the basis of its finding on the charges, that any of the penalties specified in the Rules is to be imposed, it shall furnish the charged government servant a copy of the Inquiry Report and where the Disciplinary Authority is not the Inquiring Authority it shall furnish a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiry Authority giving the Charged Officer notice stating the penalty proposed to be imposed on him and calling upon him to submit his representation on the proposed penalty. Thus, the provision akin to Regulation 7(1) of the Regulation, is absent in the Rules, 1957, and accordingly the reliance placed by the learned Single Judge on ***K.R.Deb*** *(supra)* to arrive at the conclusion, in our opinion, does not appear to be correct. Further, in ***K.R.Deb*** *(supra)* an Inquiry Report was submitted by the Inquiring Authority firstly on 03.07.1961, whereupon the Disciplinary Authority *vide* its order dated 22.08.1961 ordered another Inquiry Officer to conduct a supplementary inquiry, who submitted his report on 12.10.1961.

It is to be noticed that in both the Inquiry Reports dated 03.07.1961 and 12.10.1961, the charges against the Charged Officer were not found to be proved.

The Disciplinary Authority, however, *vide* order dated 20.12.1961, expressed its disagreement and directed the Inquiry Officer to examine certain witnesses and thereafter submit the final Inquiry Report. Thus, the third Inquiry Report was submitted against the Charged Officer on 20.01.1962, wherein as well it was recorded that no conclusive proof was coming to establish the charge against the Charged Officer; however, the conduct of the Charged Officer must not be above board. On receipt of the third Inquiry Report dated 20.01.1962, the Disciplinary Authority again passed an order on 13.02.1962 appointing yet another Inquiry Officer to inquire into the charges against the Charged Officer, whereupon the fourth Inquiry Report was submitted on 06.03.1962, wherein the charge of misappropriation of certain amount was found proved, basis which an order of dismissal was passed by the Disciplinary Authority.

17. From a perusal of the facts as narrated in ***K.R.Deb*** *(supra)* it is apparent that the inquiry afresh in the said matter *vide* order dated 13.02.1962 by the Disciplinary Authority was ordered in terms of Rule 15(4) of the 1957, Rules which is applicable as per the Scheme of Rule 15 of the said Rules at a stage of pre-submission of the Inquiry Report and not post-submission of the Inquiry Report. Thus, the Scheme of the Rules under which the inquiry was conducted are not akin to the Regulations under which the inquiry against the respondent has been conducted and concluded in the instant case. In this view of the matter as well, the reliance placed by

the learned Single Judge in ***K.R.Deb*** *(supra)*, in our opinion, is highly misplaced.

18. Accordingly, we conclude that having regard to the facts and circumstances of this case, as also the provisions of Regulation 7 of the Regulations under which the disciplinary proceedings were conducted against the respondent, the order dated 28.12.1992 passed by the Disciplinary Authority directing a *de novo* inquiry against the respondent, cannot be said to be vitiated.

19. Addressing the issue 'b' as culled out above, we may note that on institution of the *de novo* inquiry by the Disciplinary Authority *vide* its order dated 28.12.1992, the respondent participated in the disciplinary proceedings without any protest or demur. In other words, he did not object to the initiation of *de novo* inquiry as ordered by the Disciplinary Authority by passing the order dated 28.12.1992. Having participated in the *de novo* inquiry which was conducted pursuant to the order dated 28.12.1992, it is, in our considered opinion, not open to the respondent to challenge the said order for the reason that he would be said to have acquiesced and waived his right to challenge the same.

20. It has been stated in this regard by learned counsel for the respondent that, as a matter of fact, the respondent, while filing the first writ petition challenging the order of dismissal, had raised this issue and has also raised the issue relating to the order dated 28.12.1992 constituting the *de novo* inquiry to be bad, while the respondent filed the statutory appeal against the dismissal order. However, we are of the opinion that having participated in

the disciplinary proceedings pursuant to the order dated 28.12.1992, on conclusion of the said inquiry proceedings not only at the end of the Inquiring Authority but also at the end of Disciplinary Authority, even if he challenged this initiation of *de novo* inquiry in statutory appeal, the same is of no avail to the respondent in view of the settled legal principle that issue of jurisdiction etc., has to be raised by the party concerned at the first instances itself and not at any subsequent stage.

21. Regard may be had in this respect to a judgment of Hon'ble Supreme Court in ***H.V.Nirmala v. Karnataka State Financial Corporation and Others. [(2008) 7 SCC 639]***. The facts in ***H.V.Nirmala*** *(supra),* are that after serving the charge-sheet on the Charged Officer, a legal advisor was appointed as an Inquiry Officer, who arrived at a finding of guilt against the Charged Officer, and the disciplinary proceedings ended in penalty of dismissal from service, which was imposed by the Disciplinary Authority. The penalty of dismissal was challenged by the Charged Officer by preferring an appeal, which was treated as a petition for review, which too was dismissed. A writ petition, thereafter, was filed by the Charged Officer before the High Court of Karnataka challenging the order of dismissal and the order rejecting the petition for review. The writ petition was dismissed by the learned Single Judge, whereupon an *intra-court* appeal was preferred by the Charged Officer, which too was dismissed by the Division Bench of the High Court. The matter reached the Hon'ble Supreme Court, where a plea, amongst others, was taken that the legal advisor could not have been appointed as Inquiry Officer.

In the above facts, Hon'ble Supreme Court, as recorded in paragraph

11 of the judgment in ***H.V.Nirmala*** *(supra)*, did not agree with the submission made on behalf of the Charged Officer that since the appointment of the legal advisor as Enquiry Officer was a matter of jurisdiction, and a contention which goes to the root of jurisdiction cannot be urged at any stage. The Apex Court, while disagreeing with such contention, further proceeded to observe that appointment of an incompetent Inquiry Officer may not vitiate the entire proceedings and that such right can be waived, and further that in relation thereto even the principle of estoppels and acquiescence would apply. In ***H.V.Nirmala*** *(supra)* judgment in ***SBI v. Ram Das [(2003) 12 SCC474]*** was referred to, wherein it has been laid down that where a party, despite knowledge of the defect in the jurisdiction, participates in the proceedings without any kind of objections by his conduct, such a party disentitles himself from raising such a question in subsequent proceedings.

22. The Court even went to observe that where the appointment of an Inquiring Officer may have something to do only for carrying out the procedural aspect of the matter, strict adherence to the rules may not be insisted upon and further that the superior Courts in a case of such nature may not permit such a question to be raised for the first time. Paragraphs 11, 12 and 20 of ***H.V.Nirmala*** *(supra)* are relevant here, which are extracted herein below:-

> *"**11.** Mr Patil, however, would submit that such a contention which goes to the root of jurisdiction can be urged at any stage. We do not agree. Appointment of an incompetent enquiry officer may not vitiate the entire proceeding. Such a right can be waived. In relation thereto even the principle of estoppel and acquiescence*

would apply.

12. *In SBI v. Ram Das [(2003) 12 SCC 474] this Court held: (SCC p. 484, para 27)*

"27. ... It is an established view of law that where a party despite knowledge of the defect in the jurisdiction or bias or malice of an arbitrator participated in the proceedings without any kind of objection, by his conduct it disentitles itself from raising such a question in the subsequent proceedings. What we find is that the appellant despite numerous opportunities made available to it, although it was aware of the defect in the award of the umpire, at no stage made out any case of bias against the umpire. We, therefore, find that the appellant cannot be permitted to raise the question of bias for the first time before this Court."

***

20. *We may, however, notice that in a case of this nature where appointment of the enquiry officer may have something to do only for carrying out the procedural aspect of the matter, strict adherence to the rules may not be insisted upon. Superior courts in a case of this nature may not permit such a question to be raised for the first time. (See Sohan Singh v. Ordnance Factory [1984 Supp SCC 661 : 1985 SCC (L&S) 361 : AIR 1981 SC 1862] .)"*

23. We may also refer to another judgment of Hon'ble Supreme Court in ***Kalpraj Dharamshi v. Kotak Investment Advisors Ltd. [(2021) 10 SCC 401],*** where the Doctrine of Waiver has been discussed in detail, quoting Halsbury's Laws of England. Hon'ble Supreme Court in ***Kalpraj Dharamshi (supra)*** has also observed that for considering as to whether a party has waived its right or not, it is relevant to consider the conduct of a party and for establishing waiver, it needs to be established that the party expressly or by its conduct acted in a manner which is inconsistent with the continuance of its rights. Paragraphs 117, 118 and 119 of ***Kalpraj***

Dharamshi (supra) read as under:-

> *"**117.** The word "waiver" has been described in Halsbury's Laws of England, 4th Edn., Para 1471, which reads thus:*
>
> *"1471. Waiver.—Waiver is the abandonment of a right in such a way that the other party is entitled to plead the abandonment by way of confession and avoidance if the right is thereafter asserted, and is either express or implied from conduct. ... A person who is entitled to rely on a stipulation, existing for his benefit alone, in a contract or of a statutory provision, may waive it, and allow the contract or transaction to proceed as though the stipulation or provision did not exist. Waiver of this kind depends upon consent, and the fact that the other party has acted on it is sufficient consideration. ...*
>
> *It seems that, in general, where one party has, by his words or conduct, made to the other a promise or assurance which was intended to affect the legal relations between them and to be acted on accordingly, then, once the other party has taken him at his word and acted on it, so as to alter his position, the party who gave the promise or assurance cannot afterwards be allowed to revert to the previous legal relationship as if no such promise or assurance had been made by him, but he must accept their legal relations subject to the qualification which he has himself so introduced, even though it is not supported in point of law by any consideration."*
>
> ***118.** In Halsbury's Laws of England, Vol. 16(2), 4th Edn., Para 907, it is stated:*
>
> *"The expression "waiver" may, in law, bear different meanings. The primary meaning has been said to be the abandonment of a right in such a way that the other party is entitled to plead the abandonment by way of confession and avoidance if the right is thereafter asserted, and is either express or implied from conduct. It may arise from a party making an election, for example whether or not to exercise a contractual right... Waiver may also be by virtue of equitable or promissory estoppel; unlike waiver arising from an election, no question arises of any particular knowledge on the part of the person making the representation, and the estoppel may be suspensory only... Where the waiver is not express, it may be*

implied from conduct which is inconsistent with the continuance of the right, without the need for writing or for consideration moving from, or detriment to, the party who benefits by the waiver, but mere acts of indulgence will not amount to waiver; nor may a party benefit from the waiver unless he has altered his position in reliance on it."

119. *For considering, as to whether a party has waived its rights or not, it will be relevant to consider the conduct of a party. For establishing waiver, it will have to be established, that a party expressly or by its conduct acted in a manner, which is inconsistent with the continuance of its rights. However, the mere acts of indulgence will not amount to waiver. A party claiming waiver would also not be entitled to claim the benefit of waiver, unless it has altered its position in reliance on the same."*

24. If we apply the Doctrine of Waiver as explained by Hon'ble Supreme Court in ***Kalpraj Dharamshi (supra),*** what we find is that the respondent by participating in the *de novo* inquiry ordered by the Disciplinary Authority *vide* order dated 28.12.1992, conducted himself in a manner which is opposed to continuance of his right not to participate in the *de novo* proceedings for the reason that, the respondent asserted that the *de novo* inquiry could not have been ordered only after participating in the same. Having participated in the *de novo* inquiry as ordered by the Disciplinary Authority *vide* order dated 28.12.1992, in our opinion, the respondent abandoned his right to challenge the same. For these reasons, we conclude, applying the Doctrine of Waiver and Acquiescence in the facts of the instant case, that it was not open to the respondent to challenge the order dated 28.12.1992, as he submitted to the said order and participated in the *de novo* inquiry.

25. For the aforesaid reasons, we find ourselves in complete disagreement with the findings recorded by the learned Single Judge in the impugned judgment and order dated 09.12.2024.

26. Resultantly, the appeal is allowed and the judgment and order dated 09.12.2024 passed by the learned Single Judge in W.P.(C) No.6696/2003 is hereby set aside. The pending applications(s), if any, also stand disposed of.

27. There shall be no orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

FEBRUARY 13, 2026
S.Rawat