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

Date of Decision: 14th August, 2026

\# **CNR No. DLHC016225132015**

\+ W.P.(C) 4661/2016

KANHAYA LAL .....Petitioner

Through: Mr. Navin Kumar, Ms. Prakriti Priya, Mr. Sahil Javed and Ms. Nikita, Advocates.

versus

NATIONAL BAL BHAWAN & ORS .....Respondents

Through: Mr. S. Rajappa, Mr. R. Gowrishankar and Mr. G. Dhivyasri, Advocates for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present petition arises from disciplinary proceedings initiated against Kanhaya Lal in 2004, which culminated in the imposition of a penalty after his retirement. An appeal preferred against the said penalty was rejected as time-barred on 24th September, 2005. During the pendency of the present petition, Kanhaya Lal died and his legal representatives were brought on record. The surviving grievance is principally directed against the findings returned in the departmental inquiry and, more particularly, against the penalty imposed upon him, namely, permanent reduction of pension by 50% coupled with denial of gratuity.

Factual Background

2. Kanhaya Lal was serving as Officer Incharge (Training) and was also

assigned charge of the Stores Section of National Bal Bhawan ["*NBB*"]. By memorandum dated 29th January, 2004, two Articles of Charge were framed against him. Article I concerned the procurement of stores from NAFED during 2001 and 2002, while Article II concerned his failure to properly scrutinize bills submitted by NCCF during 2003. Mr. V.S. Bhanot was appointed as the Inquiry Officer on 24th February, 2004. He submitted his report on 27th July, 2004. Of the seven constituent charges framed under the two Articles of Charge, five were held proved and two were held not proved.

3. A copy of the Inquiry Report was supplied to Kanhaya Lal on 28th July, 2004, and he submitted his representation on 3rd September, 2004. Kanhaya Lal retired on 31st July, 2004. The inquiry proceedings were thereafter continued under Rule 9 of the Central Civil Services (Pension) Rules, 1972 ["*1972 Pension Rules*"], the powers under which were vested in the Board of Management of NBB under Rule 43 of its Service Bye-laws. The Board considered the charges, the Inquiry Officer's Report and Kanhaya Lal's defence at its meeting held on 19th March, 2005 and, by order dated 9th April, 2005, directed that his pension be permanently reduced by 50% and that he be not entitled to any gratuity. The order records that the Board of Management took the decision and directed that it be signed by Dr. Madhu Pant, Member Secretary, for and on behalf of the Board.

4. Kanhaya Lal thereafter preferred an appeal against the penalty order, which was rejected as time-barred on 24th September, 2005. He challenged the said rejection before this Court. By order dated 16th September, 2010, this Court set aside the earlier appellate order and permitted him to prefer a fresh appeal before the competent authority. Pursuant thereto, Kanhaya Lal preferred a fresh appeal, which was considered on merits and rejected by the

Appellate Authority by order dated 8th April, 2015. The present writ petition followed. The petition, *inter alia*, challenges the appellate order dated 8th April, 2015, the Inquiry Report dated 27th July, 2004 and the penalty order dated 9th April, 2005.

Contentions

5. During the course of arguments, Mr. Navin Kumar, counsel for the Petitioner, on instructions, did not press the challenge to the competence of Dr. Madhu Pant to exercise disciplinary powers. The objections founded upon her alleged lack of authority, therefore, do not require adjudication.

6. Mr. Kumar confines the Petitioner's challenge substantially to three areas. First, the principal finding relating to document S-2 is said to rest on conjecture rather than evidence. No witness, according to him, saw Kanhaya Lal procure or fabricate S-2. Ms. Neelam Chawla herself had stated that, although she found the document in her drawer, she did not know who had placed it there. The absence of any criminal complaint alleging forgery is also relied upon. Second, the proceedings are attacked as having been coloured by the hostility of Dr. Madhu Pant, who, according to the Petitioner, believed that Kanhaya Lal had played a part in the events which resulted in her suspension and subsequent disciplinary proceedings against her. Third, the punishment is said to be wholly out of proportion to what was actually established in the inquiry, particularly when no quantified financial loss or personal pecuniary gain has been proved.

7. Mr. S. Rajappa, counsel for NBB, defends both the inquiry and the penalty. He submits that judicial review of a disciplinary proceeding does not permit a fresh appreciation of evidence. S-2 was denied as authentic by NAFED; the Inquiry Officer found that Kanhaya Lal had acted upon the

document, obtained approval for purchases from NAFED and thereafter participated in purchases exceeding INR 45 lakhs. Mr. Rajappa also points out that, on the advice of the CVC, major penalty proceedings were initiated against other officers, including the then officiating Director and officiating Deputy Director (Administration), and major penalties were imposed upon them. The allegation that Kanhaya Lal alone was singled out is, therefore, disputed.

Analysis

8. There is no difficulty with the governing principle. A writ court does not sit in appeal over a departmental inquiry. Where there is some evidence upon which a reasonable disciplinary authority could reach the conclusion in question, the adequacy of that evidence or the possibility of another view is ordinarily outside the scope of judicial review. Interference remains available where the finding rests on no evidence, is perverse, or proceeds upon considerations which the record cannot sustain.[1] It is against this standard, and not by re-trying the charges, that the Inquiry Report must be examined.

9. Before turning to the principal objections, it is useful to place the seven constituent charges, the Inquiry Officer's findings, and this Court's assessment in one view:

Charge	**Inquiry Officer's finding**	**This Court's assessment**
Article I(i): alleged fraudulent procurement and use of S-2	Proved	Sustainable on the cumulative circumstances; not a case of '*no evidence*'.
Article I(ii): obtaining approval on S-2 without safeguards or	Proved	No ground for interference, though the role of senior officers

[1] ***B.C. Chaturvedi v. UOI & Ors.*** (1995) 6 SCC 749.

procurement restrictions		is relevant to penalty.
Article I(iii): large-scale procurement from NAFED in disregard of financial procedure	Proved	Sustainable as to irregular procurement and procedural breach; not, without more, as proof of quantified loss or personal gain.
Article I(iv): purchases without formal orders or financial sanction	Not proved	No occasion to disturb the finding.
Article I(v): alteration in Bill No. 1804 from Rs. 950 to Rs. 2,950	Proved	Supported by contemporaneous record.
Article II(i): deficient scrutiny of NCCF bills	Proved	Sustainable as a lapse in scrutiny; ulterior motive cannot be presumed.
Article II(ii): doubtful genuineness of NCCF invoices	Not proved	No occasion to disturb the finding.

10. Article I substantially turns on document S-2. It was a communication purportedly issued on NAFED letterhead, but it bore no number, no date and no designation of the person who had signed it. NAFED *vide* letter dated 23rd January, 2003 denied the authenticity of the document. The charge against Kanhaya Lal, therefore, was not limited to his having processed an irregular document. The gravamen was more serious: that he had fraudulently procured and used S-2 to create an official basis for treating NAFED as an authorised source for procurement by offices in Delhi.

11. It is true that there was no direct witness who saw Kanhaya Lal prepare S-2 or physically procure it; Ms. Neelam Chawla did not depose to that effect. Her evidence was narrower. She stated that, sometime in May-June 2001, Kanhaya Lal told her that purchases should thereafter be made from NAFED and that approval of the higher authorities had already been obtained. Later, when Dr. Madhu Pant questioned her in April 2002 about the purchases from NAFED, she stated that Kanhaya Lal could explain

them, since the orders had been placed at his instance. On returning to the Stores Section, she found S-2 in her drawer. She also stated that she did not know who had kept it there.

12. If the matter had rested there, the finding on fraudulent procurement would have been vulnerable. The Inquiry Officer, however, did not proceed on that circumstance alone.

13. Kanhaya Lal himself made the note dated 28th March, 2001 on S-2. The evidence before the Inquiry Officer also connected him with securing approval for the purchases from NAFED, the subsequent supply orders and processing of bills. Document D-6 showed a marked change in the pattern of procurement: between 25th April, 2001 and 30th March, 2002, purchases from NAFED amounted to INR 46,95,760 out of total purchases of INR 58,36,502, or approximately 80.5%. When asked how S-2 had reached him, Kanhaya Lal stated that papers used to come from the Stores Section and that S-2 "*possibly*" came along with other papers or files. It was upon this set of circumstances that the Inquiry Officer held Article I(i) proved.

14. Certain observations in the Inquiry Report, however, go beyond what the evidence safely permits. The Inquiry Officer observed that, since S-2 had been branded as forged by NAFED, it would have been "*interesting*" if Kanhaya Lal had himself produced, as a defence witness, the person who had delivered the document. The absence of such a witness was then used to reinforce the conclusion against Kanhaya Lal. This comes close to shifting the burden of proof, which at all times remained with the department. The evidence of Ms. Neelam Chawla, in any event, did not establish who had placed S-2 in her drawer. Similarly, the inference that the preference for NAFED was "*obviously for some financial gain*" is unsupported by any

proof of pecuniary benefit received by him. These observations cannot, therefore, be treated as independent findings of personal enrichment or as aggravating circumstances for the purpose of penalty.

15. The overstatement in parts of the Inquiry Report does not, however, reduce the finding on Article I(i) to a case of '*no evidence*'. Departmental charges are tested on the preponderance of probabilities, not proof beyond reasonable doubt. The appearance of S-2 in the Stores Section, its subsequent use by Kanhaya Lal, the approval obtained for the NAFED purchases, his role in the ensuing procurement, and the concentration of purchases with NAFED together furnished material from which the Inquiry Officer could reasonably draw the inference recorded. This Court cannot substitute another view merely because the evidence was circumstantial.

16. Article I(ii) also survives for substantially the same reason. Kanhaya Lal's explanation was that he was unfamiliar with the procurement rules and that the approving authority ought independently to have scrutinised S-2. The Inquiry Officer rejected that explanation in view of his position as Store Incharge and the responsibilities attached to that position. At the same time, the Report itself records that senior officers, including the then Officiating Director, failed to notice the character of S-2. That circumstance may bear upon the measure of penalty, but it does not efface the responsibility attached to Kanhaya Lal's own office.

17. Article I(iii) requires a more careful separation of what is proved from what is assumed. The charge alleged large-scale procurement from NAFED, disregard of financial procedure, purchase at exorbitant rates and consequent loss to NBB. The first two elements are sufficiently supported by the record. D-6 placed the value of purchases from NAFED at INR 46,95,760. The

Inquiry Officer also referred to supply orders signed by Kanhaya Lal, oral directions attributed to him and his role in processing bills.

18. The record is less satisfactory on the further allegation that the purchases were, as a class, made at exorbitant rates or that the entire amount, or any identified portion of it, represented financial loss. Kanhaya Lal had specifically pointed out that payment of approximately INR 15 lakhs had been stopped at the instance of Mr. J.K. Sharma, the then DD(A). The Inquiry Report does not appear to undertake a transaction-wise comparison of specifications, prevailing rates and amounts allegedly overpaid.

19. The finding under Article I(iii) is therefore sustained only to this extent: that procurement from NAFED was unusually large and was undertaken in disregard of the prescribed financial procedure. The value of purchases cannot, by itself, be treated as the quantum of loss. Nor does procedural irregularity, without more, establish personal pecuniary gain. These distinctions are material when the Court later examines the severity of the pensionary consequence.

20. Article I(v) stands on firmer documentary footing. Bill No. 1804 dated 25th March, 2002 contained an alteration by which the price of one trunk appeared as INR 2,950 instead of INR 950. The Inquiry Officer found that this resulted in an additional payment of INR 12,000. The record also contains Kanhaya Lal's letter dated 28th May, 2002 to NAFED stating:

> *"We confirm that the supply rate of one trunk i.e. Rs. 2950/- each charged in your bill no. 1804 dated 25-3-2002 is correct and its payment has been released to NAFED accordingly."*

21. The stock entries were also found to have been made by Kanhaya Lal himself. When asked why he had thereafter confirmed the rate of INR 2,950

per trunk to NAFED, he stated that the case was old, he could not recollect why the letter had been sent, and "*there must have been some reference*" to which it was a reply. The Inquiry Officer was entitled to find that explanation unsatisfactory. The documentary record, thus, is sufficient to sustain Article I(v).

22. Article II(i) concerned NCCF bills in which rates exceeded the MRP and, in some instances, the specifications billed did not correspond with the goods received. Kanhaya Lal maintained that excess charging was for NCCF to explain and that discrepancies in the goods received ought to have been noticed by the Store Keeper. The Inquiry Officer rejected that defence, holding that scrutiny of the bills was part of his responsibility as Store Incharge. The Disciplinary Authority, however, went further and attributed an "*ulterior motive*" to the lapse, principally because Mr. P.K. Mohanty was subsequently able to secure a substantial reduction in the rates from NCCF. That circumstance may support the finding that the bills were not properly scrutinised; it does not, without more, establish an improper motive.

23. Articles I(iv) and II(ii) need not detain the Court. The Inquiry Officer found no worthwhile evidence in support of the former and recorded that the latter was still at the investigation stage. Both were held not proved, and the penalty order did not reverse those findings. The objection based on absence of a disagreement note in respect of these two charges is, therefore, misconceived.

24. Nor does the absence of a criminal prosecution for forgery alter the position. A disciplinary proceeding is not dependent on a criminal trial and is not governed by the criminal standard of proof. The relevant question is whether the departmental findings have some evidentiary support. For the

reasons already recorded, that threshold stands crossed.

25. The allegation of personal bias against Dr. Madhu Pant requires separate consideration, particularly because another disciplinary matter from the same institution has since reached the Supreme Court.

26. The Petitioner pleads that Dr. Madhu Pant believed Kanhaya Lal to have sided with the then Chairperson, Ajay Singh, and to have been instrumental in the events which led to her suspension. Reliance was placed on ***Khazan Chand v. National Bal Bhawan & Ors.***[2], where this Court found a likelihood of bias on the part of Dr. Madhu Pant and held that it was unfair and legally impermissible for her to act as the Disciplinary Authority in proceedings initiated against the petitioner.

27. That matter thereafter reached the Supreme Court in ***National Bal Bhawan & Anr. v. Khazan Chand & Ors***[3]. The Supreme Court noted that the Disciplinary Authority was the very person against whom Khazan Chand had sent the letter in question and had also filed a writ petition. In these circumstances, the Court held that the allegation of the Disciplinary Authority carrying "*ill will*" against Khazan Chand could not be brushed aside. The Court further observed that, where the person required to take the final decision in the disciplinary proceeding had already been the subject of serious allegations by the delinquent, the authorities ought to have been mindful of not leaving any occasion for grievance, particularly when the delinquent had expressed his lack of faith in that person. The Supreme Court accordingly declined to interfere with the setting aside of the dismissal, but, treating the defect as procedural and capable of correction, revived the

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[2] W.P.(C) 8711/2007, decided on 2nd August, 2004 (Delhi High Court).
[3] Civil Appeal No. 4216/2026, decided on 6th April, 2026.

disciplinary proceeding from the stage of consideration of the Inquiry Report by a different Disciplinary Authority.

28. The facts here are materially different. No contemporaneous document has been shown in which Kanhaya Lal himself made allegations against Dr. Pant which subsequently became the subject matter of proceedings against him. The Staff Welfare Association material placed on record bears, among others, the signatures of Banwari Lal and Khazan Chand; it does not establish Kanhaya Lal as its author or signatory. More importantly, after his retirement, the final order under Rule 9 was not expressed to be the individual decision of Dr. Pant. It records that the Board of Management considered the charges, the Inquiry Report and Kanhaya Lal's defence at its meeting held on 19th March, 2005 and itself decided the penalty. Dr. Pant signed the order as Member Secretary "*for and on behalf of*" the Board.

29. There is no material from which the Court can conclude that the collective decision of the Board was merely a device to give effect to an individual decision already taken by Dr. Pant. The aforesaid decisions cannot be read as holding that every disciplinary proceeding initiated during her tenure was infected by bias. The objection, therefore, does not furnish a ground to annul either the inquiry or the findings returned against Kanhaya Lal.

30. The challenge therefore narrows to the pensionary penalty. It is at this stage that the impugned orders fall short.

31. Rule 9, as it stood when the impugned order was passed, was both the source and the limit of the power to interfere with pensionary benefits after retirement. It authorised withholding or withdrawal of pension or gratuity, or

both, but conditioned that power upon the pensioner being found, in departmental or judicial proceedings, guilty of grave misconduct or negligence during service. In ***D.V. Kapoor v. UOI & Ors.***[4], the Supreme Court observed that the exercise of the power under Rule 9 is "*hedged with a condition precedent*" that a finding must be recorded in departmental or judicial proceedings that the pensioner is guilty of grave misconduct or negligence in the discharge of his duties. The Court further observed that pension is a statutory right and held that the measure of deprivation must be "*correlative to or commensurate with the gravity*" of the grave misconduct or irregularity.

32. The Petitioner is therefore right in submitting that proof of some misconduct does not, by itself, insulate a pensionary deprivation from scrutiny. He is not, however, right in contending that the penalty order under Rule 9 must be set aside merely because it does not employ the exact expression "*grave misconduct*".

33. The requirement, however, is substantive and not one of terminology. In ***Pandit D. Aher v. State of Maharashtra***[5], the Supreme Court reiterated that what is necessary is a finding of misconduct "w*hich is of grave nature or misconduct involving negligence*". Where the delinquent has been found guilty of such misconduct in the departmental inquiry, it is not necessary that the final order should specifically mention "*grave misconduct or negligence*". The question, therefore, is whether the misconduct found against the pensioner, read as a whole, is of the nature contemplated by Rule 9, and not whether the order reproduces the language of the Rule verbatim.

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[4] (1990) 4 SCC 314.
[5] (2007) 1 SCC 445.

34. The penalty order dated 9th April, 2005 recites the Rule 9 standard and then records that the Board found Kanhaya Lal guilty of "*gross misconduct*" involving "*serious irregularities*". That conclusion has to be read with the findings which this Court has declined to disturb, particularly those concerning S-2, disregard of procurement norms, Bill No. 1804 and deficient scrutiny of NCCF bills. So read, the jurisdictional threshold cannot be said to be absent merely because the Board used the word "*gross*" rather than "*grave*".

35. There is also no merit in treating ***D.V. Kapoor*** as authority for the proposition that gratuity could never be withheld under Rule 9. The decision was concerned with Rule 9(1) as it then stood, under which the Court found no provision empowering the President to withhold gratuity after retirement as a measure of punishment. Rule 9(1) was subsequently substituted by notification dated 23rd August, 1991 and, in its substituted form, expressly empowered the President to withhold "*pension or gratuity, or both*", in whole or in part, subject to the conditions prescribed therein. Since the order under consideration was passed in 2005, the power to deal with gratuity was available under the Rule as it then stood.

36. The difficulty, however, lies in the manner in which the consequence was calibrated. After discussing the charges, the Board stated: *"Sh. Lal committed gross misconduct inasmuch as he indulged in serious irregularities, as discussed above ... which resulted into sizeable financial loss to N.B.B."* The operative part then reads: *"considering the totality of the circumstances, N.B.B. Board of Management ordered that pension of Sh. K. Lal shall be reduced permanently by 50%. It was further ordered that he shall not be entitled to any gratuity."* Between these two conclusions, the

order supplies no reasoning for the measure chosen. It does not explain why one-half of the pension had to be withheld, why the reduction had to operate permanently, or why gratuity had to be denied in full in addition to that permanent reduction.

37. That omission is significant because "*sizeable financial loss*" was one of the considerations used to characterise the misconduct. As noticed earlier, the record establishes purchases of INR 46,95,760 from NAFED. It does not establish that this entire amount, or any substantial portion of it, represented loss. Nor does the Inquiry Report identify or quantify the loss arising from the NAFED purchases. A specific additional payment of INR 12,000 emerges from the record concerning Bill No. 1804. Beyond that, the material before the Court does not permit the value of purchases to be transposed into the amount of loss.

38. This distinction does not dilute the misconduct. It is settled that a financial irregularity exposing the employer to financial risk constitutes misconduct, and that penal action on proof of such misconduct cannot be questioned merely because no actual pecuniary loss has been suffered. The issue in the present case, however, arises at a different stage. The Board itself treated "*sizeable financial loss*" as part of the gravity of the misconduct while imposing a permanent 50% cut in pension together with complete withholding of gratuity. Rule 9 leaves the authority to determine the extent and duration of such deprivation. ***D.V. Kapoor*** requires that the measure of deprivation be correlative to or commensurate with the gravity of the misconduct established. The impugned order, however, does not disclose how the Board moved from the misconduct proved to the particular measure of deprivation it chose.

39. The Respondents, *inter alia*, rely upon ***B.C. Chaturvedi*** and ***State of Orissa v. Bidyabhushan Mohapatra***[6] to submit that the disciplinary authority, having found misconduct proved, has the discretion to impose an appropriate punishment having regard to the magnitude or gravity of the misconduct, and that the Court should not ordinarily substitute its own view as to the penalty. That principle is well settled. The disciplinary authority and, where applicable, the appellate authority are the authorities entrusted with the discretion to determine the appropriate punishment. Where the punishment warrants judicial interference, the normal course is to direct the disciplinary or appellate authority to reconsider the penalty, rather than for the Court to substitute its own punishment.

40. The present conclusion does not rest on the failure of one or two charges, followed by conjecture about what punishment might otherwise have been imposed. Articles I(iv) and II(ii) had already failed before the Inquiry Officer and never formed part of the proved misconduct. Nor is the Court treating the surviving misconduct as minor. The error lies in the later and distinct exercise under Rule 9. A composite pensionary deprivation of unusual severity was imposed on a factual premise which included "*sizeable financial loss*" and other aggravating expressions, without identifying the loss or explaining how the extent and duration of deprivation were chosen.

41. It would be equally inappropriate for this Court to cure that defect by fixing a different measure of deprivation. Whether the pension should be reduced by 10%, 20% or 30%, and whether such reduction should operate for a specified period or permanently, calls for an assessment which ordinarily belongs to the competent authority. ***B.C. Chaturvedi*** permits

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[6] 1962 SCC OnLine SC 106.

judicial substitution of penalty only in exceptional and rare cases. This is not one of them. The proper course is therefore to remit the matter for reconsideration confined to the question of penalty.

42. The Petitioner also sought parity with other officers involved in the transactions and contended that the responsibility of the senior officers had not been appropriately taken into account. The Appellate Authority records that, on the advice of the CVC, major penalty proceedings were initiated against Y.D. Mathur, the then Officiating Director, and J.K. Sharma, the then Officiating Deputy Director (Administration), and that major penalties were imposed upon them.

43. ***Rajendra Yadav v. State of Madhya Pradesh & Ors.***[7] recognises that the doctrine of equality applies even among persons found guilty, and that parity among co-delinquents has to be maintained where they are involved in the same incident and the punishment imposed does not correspond to their respective involvement. The necessary factual foundation is missing here. The actual penalty orders against Mr. Mathur and Mr. Sharma, the charges proved against them, and their respective service positions have not been placed before this Court. No finding of discriminatory punishment can, therefore, be returned. The competent authority, however, is not precluded from considering comparable departmental treatment if the relevant records are available when the penalty is reconsidered.

44. The objection concerning continuation of the proceedings after retirement also fails. The proceedings had been instituted while Kanhaya Lal was still in service. Rule 9 permits such departmental proceedings to continue after retirement in the manner contemplated by the rule. ***D.V.***

Kapoor itself recognises the validity of such continuation.

45. The objection founded on the absence of consultation with the UPSC also does not succeed. Rule 43 of the NBB Service Bye-laws adopts the pension scheme contained in the CCS (Pension) Rules, 1972 and vests in the Board of Management the powers which are exercisable by the President in relation to Central Government employees. The question, therefore, is not whether Rule 9 applies to NBB employees, but whether its provisions are to be applied mechanically or with the institutional adaptations contemplated by the NBB Service Bye-laws. In ***O.P. Gupta v. Delhi Vidyut Board & Anr.***[8], this Court considered the same question in the context of an autonomous body to which the CCS Pension Rules applied *mutatis mutandis*. It held that the reference to the President had to be read as a reference to the Board and, in that institutional setting, consultation with the UPSC was not necessary before the Board passed the order under Rule 9. The same reasoning applies here. Rule 43 of the NBB Service Bye-laws vests the relevant powers of the President in the Board of Management, and the penalty order records that the Board exercised those powers. The absence of consultation with the UPSC, therefore, does not invalidate the impugned order.

46. The challenge based on non-supply of second-stage CVC advice also does not take the matter further. The CVC, by OM No. 003/EDN/006 dated 2nd June, 2003, advised NBB that a penalty commensurate with the gravity of the charges could be imposed upon Kanhaya Lal after finalisation of the inquiry. The Appellate Authority specifically records that the CVC had not

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[7] (2013) 3 SCC 73.

[8] 2000 SCC OnLine Del 239.

instructed NBB to seek second-stage advice in the case of Kanhaya Lal. There is, therefore, no material before the Court to show that any subsequent CVC opinion on the guilt or punishment of Kanhaya Lal was relied upon in arriving at the impugned orders.

Conclusion and Directions

47. The result is therefore limited. The inquiry and the findings of misconduct sustained above remain undisturbed. What requires reconsideration is only the measure of pensionary deprivation imposed under Rule 9.

48. Accordingly, the writ petition is partly allowed in the following terms:

(i) The Inquiry Report dated 27th July, 2004 is not interfered with insofar as it holds Articles I(i), I(ii), I(iii), I(v) and II(i) proved, subject to the observations in this judgment concerning the extent of financial loss, personal pecuniary gain, collusion and ulterior motive. Articles I(iv) and II(ii) shall continue to stand not proved.

(ii) The order dated 9th April, 2005 is set aside only to the extent that it permanently reduces the pension of Kanhaya Lal by 50% and denies gratuity in its entirety. The order dated 8th April, 2015 of the Appellate Authority shall also stand set aside to the corresponding extent.

(iii) The matter is remitted to the Appellate authority under the applicable Service Bye-laws read with Rule 9 of the 1972 Pension Rules for a fresh decision confined to the nature, extent and duration of the pensionary consequence, if any.

(iv) The authority shall proceed on the findings which survive this judgment. It shall not treat the aggregate value of purchases from NAFED as equivalent to pecuniary loss, nor shall personal financial gain, collusion or ulterior motive be assumed merely from the volume of procurement, unless the existing record independently establishes such an aggravating circumstance.

(v) Since Kanhaya Lal has died during the pendency of this petition, his legal representatives may, within three weeks from the date of this judgment, submit a concise written representation confined to the question of penalty. The findings of guilt shall not be reopened and no fresh inquiry or recording of evidence shall take place.

(vi) The Appellate authority shall pass a reasoned order within eight weeks thereafter. In doing so, it shall separately consider the extent of pension, the duration of any reduction or withdrawal, and the question of gratuity rather than treating them as an indivisible consequence.

(vii) Any amount which becomes payable to the legal representatives as a consequence of the fresh decision shall be released within six weeks of that decision.

49. The present petition, along with any pending application(s), stands disposed of in the above terms.

SANJEEV NARULA, J

AUGUST 14, 2026/as