

2019 (0) AIJEL-HC 240944

GUJARAT HIGH COURT

Hon'ble Judges:S.R.Brahmbhatt and V.B.Mayani JJ.

Arjun Prasad Mishra Versus President, Icar & 6

SPECIAL CIVIL APPLICATION No. 18838 of 2017 ; *J.Date :- APRIL 29, 2019

- CONSTITUTION OF INDIA Article - 226

Service Law - Constitution of India - Art. 226 - punishment - charge of being an officer "unbecoming" of Government servant - disciplinary authority awarded punishment reducing petitioner to lower rank by one stage in time scale of pay till his retirement with direction stopping increment with cumulative effect etc. - on application Tribunal (CAT) upheld the order of disciplinary authority - writ petition - held, order of disciplinary authority and charge sheet were solely based upon the observations, which are uncalled for, unjustified and not to be made in the proceedings of R.T.I. Act - petitioner shall be entitled to receive all the benefits, as if said orders had never been passed - petition allowed with costs.

Imp.Para: [14] [15]

Cases Referred To :

1. Union Of India And Others Vs. Manab Kumar Guha, 2011 11 SCC 535
2. Union Of India And Others Vs. P.Gunasekaran, 2015 2 SCC 610

Equivalent Citation(s):

2019 (2) GCD 1519 : 2019 JX(Guj) 659

JUDGMENT :-

S.R.BRAHMBHATT, J.

1 Heard learned counsels appearing for the parties. Though served, none appears for the respondent nos.1 to 4, 6 and 7.

2 The petitioner, applicant in original application No.52 of 2014 in Central Administrative Tribunal, Ahmedabad Bench, has approached this Court by way of this petition under

Article 226 of the Constitution of India inter alia assailing the order of the Tribunal dated 07.04.2017, whereby the Ahmedabad Bench of the Tribunal dismissed the Original Application which had been filed by the petitioner challenging the order of punishment dated 14.06.2013 reducing the petitioner to a lower stage by one stage in the time scale of pay till his retirement with direction that he would not earn increment of pay during the period of such reduction and the reduction would have cumulative effect affecting pension which was in pursuant to the disciplinary inquiry in respect of the charge of he being an officer 'unbecoming' of government servant.

3 Facts in brief shorn off undue details and required only for deciding the controversy in question deserves to be set out as under:

3.1 The petitioner was appointed in the year 1976 and he retired in the year 2013. The petitioner was working as senior scientist in the respondent organization. The petitioner on receiving information in respect of one SSPS software sought information invoking provisions of Right to Information Act, 2005 (hereinafter referred to as the 'R.T.I. Act'). The information supplied to him was incomplete which give rise to filing of an appeal to the departmental appellate authority under R.T.I. Act, who in-turn also gave information which was not complete and petitioner perceived the same to be a dilatory tactics and an attempt to avoid answering the questions which were raised by the petitioner. The petitioner, therefore, had to make an appeal to the authority i.e. Central Information Commissioner, as provided under R.T.I. Act, 2005, in turn viewed that the appeal deserve to be dismissed, as the information were provided to the petitioner, which were sufficiently adequate and the petitioner unfortunately was spreading falsehood about the organization to which he was affiliated and that was found to be unfortunate and 'unbecoming' of government official.

3.2 The said Chief Information Commissioner made further observations while dismissing the appeal to the effect that there was no reason as to why the respondent should not take appropriate disciplinary action against him under the conduct rules. The said observations of the Central Information Commissioner made in its order dated 02.09.2009 was the sole basis for issuance of memorandum of chargesheet dated 14.06.2010, which ultimately culminated into the imposition of penalty of reduction to a lower stage by one stage in the time scale of pay till his retirement with further barring that he would not earn increment of pay during the period of such reduction, and the reduction would have a cumulative effect affecting his pension.

3.3 Being aggrieved by the same, the petitioner approached Central Administrative Tribunal Ahmedabad Bench by filing Original Application No.240 of 2013 and the Tribunal vide order dated 07.08.2013, disposed of the same by observing that before approaching the Tribunal applicant may prefer an appeal before the concerned authority, if so advised, who shall dispose of the same in consonance with the provisions of CCS (CCA), Rules 1965 and gave liberty to the applicant to seek legal remedy thereafter, if so advised.

3.4 The petitioner made a representation with a request to treat the appeal of the petitioner as Review Application. Pursuant thereto the respondent no.1 by order dated 20.11.2013 rejected the said Review Application of the petitioner by holding that there was no merit in the application.

3.5 The petitioner being aggrieved and dissatisfied with the order challenged the same in the proceedings of Original Application No.52 of 2014 before the Central Administrative Tribunal, Ahmedabad Bench, which after recording its reason for dismissal, dismissed the same. Hence, the present petition.

4 Learned counsel appearing for the petitioner contended that the entire proceedings, as they developed, leading to filing of the Original Application and the resultant order if one examines in light of the settled provisions of law, then one would come to the conclusion that the issuance of the charge-sheet itself was misconceived based on no evidence and hence the entire proceedings has developed only with a view to avoid the person like petitioner and his request for information. The proceedings ought not to have been initiated at all and hence the very basis for the proceedings being not justified in eye of law, the resultant punishment order upheld by the Central Administrative Tribunal deserves to be quashed and set aside.

5 Learned counsel appearing for the petitioner invited Court's attention to the facts and details mentioned in the petition and submitted that the information which was requested by the petitioner was only with a view to see to it that the public exchequer is not made to suffer and he may not be jeopardized in his carrier in any manner. Unfortunately, the said information, inquiry and request for seeking information though made under R.T.I. Act was viewed as an affront by the authority, as is evident from the communications which were exchanged between the parties. The perusal of those communications would clearly indicate that the petitioner did not use any maligning language nor did he impute any motives and ill-will or misconduct against anyone, all he was voicing was his genuine grievances have not been supplied with the information, as he has sought under the R.T.I. Act. The petitioner, if was not entitled to seek this information, the authority should have informed him accordingly and that would have left the petitioner to decide the appropriate course of action as available to him under the law. Unfortunately, the respondent authorities chose to project a scenario, as if, there was a compliance with the mandatory provision of R.T.I. Act and at the same time under one pretext or the other relevant and important information qua his own gradation avoided to be supplied on the ground that the clarification was awaited from the superiors.

6 Learned counsel appearing for the petitioner submitted that it has not come on the record anywhere in these proceedings including those of inquiry proceedings that was there ever any letter or communication in the form of clarification sought from the superior, as sought to be projected by the public information officer in his communication to the petitioner and which had been endorsed by the appellate authority of the department.

7 Learned counsel for the petitioner further submitted that the appellate authority of the department also did lip service in disposing of the appeal without giving any information despite there being an articulated letter written in form of appeal indicating that what information was lacking. These two documents and other correspondence were forming part of the appeal which was preferred to the Central Information Commissioner, who while rendering its order appears to have observed that the information was complete and petitioner was spreading falsehood about the department for which he was affiliated. According to the counsel for the petitioner this was indeed an unfortunate order, which indicates that the concerned Central Information Commissioner over stepping his jurisdiction and made observations qua the appellant rather asking the authorities to initiate departmental proceedings against the appellant petitioner, who had only voiced his grievances in the appeal memo which was presented to the Commissioner and nothing else.

8 Learned counsel for the petitioner further submitted that it is unfortunately not clear as to where from the said authority gathered that there was spreading of falsehood by the petitioner, as the documents which were annexed to the appeal were only documents which were marked by the petitioner to his own office and superiors which can at the best termed as voicing grievances and complaints. Unfortunate observations of the authorities under R.T.I. Act was made basis for issuance of charge-sheet which itself is clear to indicate that the disciplinary authority failed in coming to its own conclusion qua the misconduct of unbecoming of a government servant, as provided under Rule 31 of the Central Civil Services (Conduct) Rules, 1964 warranting any disciplinary proceedings.

9 Learned counsel appearing for the respondents invited Court's attention to the exchange of correspondence and submitted that the petitioner's language in the correspondence would clearly indicate that the petitioner was in habit of questioning the authority and his superior. This attitude of the petitioner has in fact resulted into the charge of 'unbecoming' of a government servant. The counsel laid heavy emphasis upon the communication dated 27th March, 2009 in which the copy is marked to all the authorities. The counsel very fairly submitted that all the authorities to whom the copies were marked were not outsiders, they were departmental authorities only. However, even in the departmental authorities also when the copies are marked, the language employed did not behold an officer of the State and therefore the observations of the Central Information Commissioner could not be said to be uncalled for and they are the observations of an authority which was required to be respected by the disciplinary authority, who accordingly issued charge-sheet and when the charge-sheet was even to be treated as appropriate punishment not dismissal or removal, but only reduction in the time scale was imposed, which was in his opinion just and proper and did not call for any interference.

10 Learned counsel for the respondent relied upon the authorities in case of Union of India And Others Vs. P.Gunasekaran, reported in 2015 (2) SCC 610 with special emphasis upon paragraph nos.14, 15 and 16 and in case of Union of India And Others Vs. Manab Kumar Guha, reported in (2011) 11 SCC 535 with special emphasis upon paragraph no.13, to support his contention that the Court under Article 226 need not reappreciate the evidence and the conclusion especially when there is no breach of principles of

natural justice is alleged and when no deviation of the Rule is pleaded for conducting the inquiry and when the findings are not said to be perverse in any manner, the resultant order of punishment cannot be interfered with in the proceedings under Article 226 of the Constitution of India.

11 This Court has heard learned counsels appearing for the parties and perused the pleadings. The following indisputable aspects emerging therefrom deserves to be cited hereinbelow in order to appreciate the real controversy namely:

(i) The petitioner has claimed that he was serving in

the organization since 1976 to 2013 and except the said charge-sheet he has not received any blame or memo, which has remained to be controverted.

(ii) The petitioner under his letter dated 09.02.2009

asked the following information which we propose to set out hereinbelow for ready reference:

"From:- Dr. A.P. Mishra

Sr. Scientist (Agril. Stat) & In charge

NCRM, Sear, Bharatpur-321303

To

The P.I.O.

NCRM, Sear, Bharatpur Sub: - Request to provide information under

RTI Act, 2005-reg. Sir,

With due respect I would like to know the information regarding the following question under RTI, Act, 2005 for which required fee of Rs.10/- (ten) only in the form of cheque\payable at SBI, Bharatpur is attached herewith for n/a.

Information required,

1. Who have been the reporting and reviewing officers for my CRs (AARs) since 3030-01-1999 to 2007 and who would work in that capacity for my CR (AAR) of 2008? Year wise date of reporting and reviewing of my CRs along with period of reporting and reviewing there to. In the light of Hon'ble Supreme Court verdict I would like to know the year wise grading of my CRs (AARs).

2. I came to know from some reliable sources that SPSS Software has been procured at NRCRM. So, the following information regarding SPSS Packages may kindly be provided.

(i) who was the indenter?

(ii) Date of indent

(iii) Date of order placed to procure SPSS

Software. (iv) Date of procurement (v) How many models of SPSS software

were procured and details there to (vi) total cost invested by the NRCRM to

procure the SPSS software (vii) is it functional for data analysis? If yes, where is the venue? Date:-09.02.2009 (A.P. Mishra)"

(iii) The reply dated 05.03.2009 by the authority also

deserves to be reproduced as under:

"Dated: 05-03-2009

Dr. A.P. Mishra

Senior Scientist (Agri. Stat.) NRCRM Bharatpur

Providing information under RTI-Act, 2005.

This has a reference to your application dated 9.2.2009 regarding information under RTI-Act, 2005, the requisite information is as under:

1. As you know very much that the Director of the Institute/Centre is the Reporting Officer and Deputy Director General (CS) is the Reviewing Officer in your case

since 1999 to 2007 and the same will be for the year of 2018 in your case.

i) Please provide a copy of the judgment of the Hon'ble Supreme Court as referred in your application.

(ii) As for as grading of CRs (AARs) is concerned, the information is a confidential nature. However, your case has been referred to the Council for clarification on this issue. Further, action will be taken as per the clarification received from the Council.

2. i) Incharge Plant Pathology. ii) 12th Oct. 2007

iii) 27th December, 2007

iv) not clear.

v) all 13 modules, further, if you feel necessary, you are free to see the concerned file. vi) Rs.7,53,,256/- including, CST, service tax etc.

vii) Yes, Plant Pathology Unit.

Yours faithfully, Public Information Officer"

(iv) The petitioner's appeal to the authority on

16.03.2009 also deserves to be reproduced as under:

"Dated: 16-03-2009 From: - Dr. A.P. Mishra Senior Scientist (Agri. Stat.) & In charge

National Research Centre on Rapeseed-

Mustard,

Sewar, Bharatpur -321303 (Rajasthan)

To,

The appellate authority/Director, NRCRM, Sewar, Bharatpur (Raj.).

Sub: - Request to provide information under RTI Act, 2005-reg.

Sir, With due respect I would like to inform you that I had requested P.I.O. NRCRM, Sewar, Bharatpur (Raj.) on dated-09.02.2009 with requisite fee of Rs.10/- for certain information under RTI act (copy enclosed for ready reference). In response to my query I had received a reply from PIO on dated 06.03.2009 in which detail information, as asked for was not provided. The information 'ot provided is mention as below.

1. In point 1 I had enquired year wise date of reporting and date of reviewing which was lacking in the reply. The grading of my CRs was also not provided.
2. In point 2 (iv) of my letter, date of procurement/ date of supply by the party was also not provided. In point 2 (v) details of 13 modules were also not provided.

I therefore, request you that it may kindly be provided within stipulated date.

With Regards Appellant (A.P. Mishra)"

(v) The order in the appeal dated 23.03.2009 is deserves to be reproduced as under:

"Dated: 23-03-2009

To Dr. A.P. Mishra, Sr. Scientist, NRCRM,
Sewar Bharatpur (Raj.)

Sub: Providing Information under RTI Act 2005-reg.

Sir,

I have gone through your appeal dated 16-03-2009 for the subject cited above, the point wise order is as under: at

1. In reference to your point No.1, the decision of the Council is awaited, accordingly action will be taken.

2. With respect to point No.2, it is to mention that you are working at this Centre and accordingly you can visit the office of the PIO and collect the information from the file as required on dated 24-03-2009 at 4:30 PM.

However, information has already been

provided vide letter of even number dated 5-03-2009 by PIO.

Further, it has also been observed that you have designated yourself as Incharge of NRCRM, Bharatpur, which is highly objectionable. You are hereby advised to explain the reasons why you have designated yourself as Incharge?

Further, you are hereby advised to concentrate your self to the research work for which you are being paid.

DIRECTOR"

(vi) The request/reply by the petitioner dated

27.03.2009 of the communication dated 23.03.2009, deserves to be reproduced as under:

To,

The Director,

NRCRM, Sear, Bharatpur-321303

Rajasthan,

Sub: - Providing information under R.T.I. Act 2005-reg.

Sir,

I have received your letter F.No.1-1(2)/PIO.05/11 dated 23-03-2009 on dated 26-03-2009 with respect to the subject cited above, the Para wise request/ reply is as under:

1. That, in response to my appeal dated 16.03.09 for subject cited above; the reply given by you in para 1, is only the delay tactics. Further, I am to request you once more kindly provide the information regarding point 1 and 2 by 10.04.09; otherwise undersigned will free to approach/ appeal to the national authorities for the same.

2. That, regarding para 2, about your query that I have designated myself as IN-charge NRCRM, Bharatpur, which is highly objectionable, in this connection, I am to say that I have never designated myself as In-charge NRCRM, Bharatpur, rather your good self have designated me as In-charge statistics, which I used to write.

3. That, regarding para 3, I am to say that, I am always doing and ready to do my research which are assigned either by IRC, RAC or the Director of NRCRM, Bharatpur time to time, but I am not being allowed to do my research work by you. Some time I am being not allowed to proceed on tour, some time curtail the period of tour and some time given mental agony not allowing to attend conferences/workshop. Further, I am to add that my research activities are not being highlighted or being allowed to highlight/publish at any forum. This shows self

style working of your good self even in research, which ruined the scientific tempo of the undersigned.

Date: 27.03.2009 Yours faithfully

(A.P. Mishra) Sr. Scientist I/C- Statistics"

(vii) The order of the Commissioner dated 02.09.2009 is

also deserves to be reproduced as under:

"Facts: 1. The appellant has asked for information relating to the identity of reporting and review officers for his ACRs and details of purchases of

software by the respondent. RTI application dated 9.2.2009 was replied on 6.3.2009 through which a point-wise response was furnished. The Appellate Authority also replied on 23.03.2009, in response to the appeal dated 16.3.2009. There is neither inordinate delay in providing the information nor there is any denial of information to the appellant. Yet, he has alleged that the authorities of the respondent are mis-using their powers and harassing the employees, like hi.

Decision:

2. The respondents have furnished a point-wise response and have thus provided

complete information. The appellant has not indicated as to which information has been refused to him. The appeal therefore, is considered unnecessary and the appellant's allegation against the CPIO/Appellate Authority and other authorities are uncalled for.

The CPIO and Appellate Authority have duly replied within the stipulated period of 30 days, as mandated in the Act. Even then, the appellant, has alleged that the authorities of the respondent have not implemented the Act in letter and spirit. The appellant is indeed spreading falsehood about the organization with which he is affiliated, which is unfortunate and unbecoming of the Government official. There is no reason as to why the respondent should not take appropriate disciplinary action against him under the conduct rules.

4. With these observations, the appeal is dismissed.

(Prof. MM. Ansari) Central Information Commissioner"

(viii) The Memorandum dated 14.06.2010 is also

deserves to be reproduced as under:

"Dated the 14 June, 2010 F.No.3(1)/2010-Vig (D)

M E M O R A N D U M

The President, I.C.A.R. proposes to hold an inquiry against Dr. A.P. Mishra, Senior Scientist, Directorate of Groundnut Research, Junagadh (Gujarat) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 as extended to ICAR employees. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the article of charge is proposed to be sustained are also enclosed. (Annexure III & IV).

Dr. A.P. Mishra, Senior Scientist, Directorate of Groundnut Research, Junagadh is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

He is informed that an inquiry will be held only if the article of charge is not

admitted. He should, therefore, specifically admit or deny the article of charge.

Dr. A.P. Mishra, Senior Scientist, Directorate of Groundnut Research, Junagadh is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS. (CCA.) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him ex-parte.

Attention of Dr. A.P. Mishra, Senior Scientist, Directorate of Groundnut Research, Junagadh, is invited to Rule 20 of the CCS (Conduct) Rules, 1964 (as extended to ICAR employees) under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters

pertaining to his services under the Government . If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Dr. A.P. Mishra, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation

of Rule 20 of the CCS (Conduct) Rules, 1964.

The receipt of this Memorandum may be acknowledged.

(V.D. NANIWADEKAR)

Under Secretary (Vig.) For and on behalf of the President, ICAR"

(ix) The conclusion of the inquiry officer also deserves to be reproduced as under:

"...In present case, keeping in view of the above guidelines under RTI Act-2005, it is matter of record that Dr.A.P. Mishra, Senior Scientist, DGR, Junagadh asked the information pertaining to purchase of SPSS software and name of Reporting & Reviewing Officer and grading of his AARs along with requisite fee. The PIO supplied the information within prescribed time limit. He was not satisfied; he made an appeal to first Appellate

Authority under RTI-Act. Appellate Authority gave his order on his appeal within prescribed time limit. In reference to this order, Charged Officer wrote a letter within prescribed time limit. In reference to this order, Charged Officer wrote a letter dated 27.3.2009 to Director, DRMR, Bharatpur with endorsement to DG & Secretary (DARE), DDG(CS), ADG(OP) and Secretary, ICAR with an allegation that the authority (Director) at NRCRM is adopting delay tactics and showing self style working.

The Public Information Officer also requested vide letter dated 28.04.2009 to collect the information as per decision dated 23.3.2009 of the Appellate Authority. In reference to this letter, Dr. A.P. Mishra wrote a

letter dated 30.4.2009 to PIO and endorsed it to Appellate Authority and he stated that his tour program 23.3.2009 to 24.4.2009 was approved and how I can collect the information" this shows the cleverness of the Appellate Authority." In reference to his (Charged Officer) letter dated 30.4.2012, the appellate authority has ordered, on the body of the letter, to collect the required information from the Office of the PIO on 15.05.2012. The defence witness was questioned regarding this (DW-1 after this long correspondence, Dr. A.P. Mishra made an appeal on 13.5.2009 to Chief Information Commissioner, Central Information

Commission, New Delhi with allegations that authorities at NRCRM are not adhering to the guidelines of RTI Act 2005 and harassing him (Charged Officer) by indulging in dilatory tactics and seven enclosures were enclosed with his appeal.

Findings:

On the basis of analysis of facts/evidence at page No.3 to 5 of this report, the position emerges as under:

1. Article-I of Charge as framed against Dr. A.P. Mishra, Senior Scientist, DGR, Junagadh stands proved."

(x) The concluding portion of the punishment

authority's order dated 14.06.2013 also deserves to be reproduced as under:

NOW THEREFORE, keeping in view the nature of the charge framed against the Charged Officer, report of the Inquiry Officer and submission of the Charged Officer on the inquiry report, the Disciplinary Authority is of the opinion that the article of charge against Dr. A.P. Mishra stands proved and the ends of justice would be met if a penalty of reduction to a lower stage by one stage in the time scale of pay till his retirement is imposed on Dr. A.P. Mishra with further direction that he would not earn increment of pay during the period of such reduction, and the reduction would have 'a cumulative effect affecting his pension.

ACCORDINGLY, a penalty of reduction to a lower stage by one stage in the time scale of pay till his retirement is hereby imposed on Dr. A.P. Mishra with further direction that he would not earn increment of pay during the period of such reduction, and the reduction would have a cumulative effect affecting his pension."

(xi) The concluding portion of the revisional authority's

order dated 20.11.2013 also deserves to be reproduced as under:

AND WHEREAS the Reviewing Authority i.e. President, ICAR after taking into account all facts and circumstances of the case has observed that the applicant has not produced any new material or evidence which could not be produced or was not available at the time of passing the order under review & which has the effect of changing the nature of the case.

NOW, THEREFORE, the President, ICAR is of the opinion that there is no merit in the application of Dr. A.P. Mishra which necessitates Review under 29-A of CCS (CCA) Rules, 1965. Accordingly, the Review Application preferred by Dr. A.P. Mishra is hereby rejected."

12 Against the aforesaid factual backdrop, the Court is called upon to examine the rival contentions of the parties. The Court is mindful of the fact that there cannot be any dispute qua the proposition of law canvassed on behalf of the counsel for the respondent on the strength of the judgment cited at the bar. However, the essential thread running through out this judgment is that, perversity in any form cannot be brooked by the Court under Article 226 of the Constitution of India and/or perversity if is appreciated in its true meaning would take into its sweep the action which smacks of illegality, unreasonableness and anxiety of the authority. If one looks at the proceedings and the communications exchanged and the language employed by the petitioner against the background of the petitioner's urge to seek information, one would have to appreciate the fact that the said communication addressed by the petitioner cannot be said to be containing any intemperate language or imputation so as to offend the sense of reasonableness of any reasonable authority. The Court hasten to add here that no one can dispute the petitioner's right to seek information under the R.T.I. Act. The imputation of charge does not indicate that the petitioner was not right and justified in seeking information by invoking R.T.I. Act. The charge is only qua perception of the authority of Central Information Commissioner, of petitioner spreading the falsehood of the organization to which he has affiliated. The question arises when the petitioner has not approached any authority outside his organization bearing the statutorily appointed Commissioner, he could not have been imputed with the word 'spreading falsehood'.

13 The lack of understanding on the part of the charge-sheet issuing authority would be evident from the fact that the authority, unfortunately was guided by or rather completely guided by the outside authority which was entrusted only with the task of examining appeal and render judgment on the appeal. One can understand, if there was employment of intemperate language or unkind imputation and baseless allegations against the superiors which might have viewed by the authority as unreasonable and ill-founded. The Court is mindful of the fact that this Court is not substituting its appreciation of the appeal memo, but at the same time the Court is of the considered view that if the appeal memo is not capable of inviting any such observations and if such observations are made and they are been relied by the disciplinary authority, then the Court is under obligation to examine the appeal memo and come to its own conclusion qua the justification of the observations, the observations, in our view, were not called for in any manner. The Court hasten to add here that this Court has not examine the justification or otherwise of the order passed by the authority in this present proceeding, but unfortunately the said observation has provided basis for issuance of charge-sheet, which has resulted into penalizing the petitioner so as to affect his status and future pension for which they ought to have been a solid ground for which such proceedings ought to have been justified. In our view, the disciplinary authority was under obligation to come to its own conclusion by forming its own opinion, instead thereof the imputation of charge-sheet clearly indicate that the observation of the Central Information Commissioner is made sole basis for imputing the chargesheet and therefore, in our view the initiation of the departmental proceedings themselves were faulty and such faulty initiation has not only vitiated inquiry, but also resulted into passing the order which cannot be said to be sustained from any angle.

14 The imputation of charge is not qua spreading falsehood to anyone. In fact, it, in our view amounts to indicate that the officer concerned was not required to put any query seeking information from any quarter. Perhaps our service jurisprudence and Articles 14, 16 and 21 provides sufficient freedom to the employee to indicate their grievances in a proper language. The Court hasten to add here that, had there been employment of intemperate language, the Court might have viewed it in different manner, but if an employee is putting forward his grievances and the same grievances are being viewed as affront, then that affront cannot be treated as a misconduct so as to invite disciplinary proceeding resulting into order of punishment affecting his pension also. This, in our view, is a case where the lack of information on the part of the disciplinary authority has not only resulted into the disciplinary proceedings but vitiated the entire proceedings. The Central Administrative Tribunal, Ahmedabad Bench has unfortunately lose to appreciate this fine aspect of the matter. We refrain from observing further. Suffice it to say that the officer and the government officer are not to feel restricted on account of apprehension of disciplinary proceedings from voicing their grievances, if any. The grievances are to be articulately mentioned and if vent is given to the grievances, then the same cannot be subject matter of any disciplinary proceedings.

15 Therefore, we are of the considered view that not only the order of the Tribunal dated 07.04.2017, but the order of the disciplinary authority dated 14.06.2013 and the chargesheet are require to be quashed and set aside and accordingly quashed and set aside, as they were solely based upon the observations, which in our view is uncalled for,

unjustified and not to be made in the proceedings of R.T.I. and the petitioner now, therefore shall be entitled to receive all the benefits, as if the aforesaid orders had never been passed. We hasten to add here that we have to make these observations only in light of the submissions made at the bar. Our this order may not be said to be reflection upon exercising of the power by the Central Information Commissioner, so far as this Act is concerned, but again we reiterate that the observations were not strictly in accordance with law, provisions of R.T.I. Act and one may gather the impression that such observations at least were not required to be made by the authority which may have effect upon the future prospective appellants and that may have restrictive and constructive effect upon them, least they may discourage the appellant from approaching the authority under the provision of Act, rather it is bounden duty of all the concerned to encourage the information seeker, if they are busy body, of course, they are to be discourage but not all and sundry are to be treated in the same fashion.

16 With these observations, the petition is allowed with cost. Rule made absolute.