IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE GOPINATH P.

TUESDAY, THE 10TH DAY OF AUGUST 2021/19TH SRAVANA, 1943

W.A NO.569 OF 2021

AGAINST THE JUDGMENT DATED 25.02.2021 IN WP(C).NO.30918/2019
OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

S.GOPINATH
AGED 59 YEARS
S/O.LATE C.SANKARAN NADAR, JOINT REGISTRAR
(ACADEMICS),(UNDER ORDER OF REMOVAL FROM SERVICE),
CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS, PERIYE
P.O, KASARAGOD -671 316, RESIDING AT 'ARANYA',
MANIYANI COMPOUND, PARAKKATTA, R.D. NAGAR, P.O,
KASARAGOD - 671 124.

BY ADVS.ELVIN PETER P.J.
SIDHARTH SUDHEER

RESPONDENTS/RESPONDENTS:

1 THE CENTRAL UNIVERSITY OF KERALA
REPRESENTED BY ITS REGISTRAR, THEJASWINI HILLS, PERIYA
(P.O), KASARAGOD-671 316

2 THE VICE CHANCELLOR,
CENTRAL UNIVERSITY OF KERALA, THEJASWINI HILLS, PERIYE
P.O, KASARAGOD-671 316

3 THE REGISTRAR,
CENTRAL UNIVERSITY OF KERALA, THEJASWINI HILLS, PERIYA
(P.O), KASARAGOD-671 316

4 THE EXECUTIVE COUNCIL
REPRESENTED BY ITS CHAIRPERSON, THE VICE CHANCELLOR,
CENTRAL UNIVERSITY OF KERALA, THEJASWINI HILLS,
PERIYE P.O, KASARAGOD-671 316

BY ADV SRI.V.SAJITH KUMAR, SC, CENTRAL UNIVERSITY OF KERALA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 10.08.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Gopinath P., J.

This appeal is filed at the instance of the unsuccessful writ petitioner in W.P.(C).No.30918 of 2019. For the sake of convenience and clarity, the parties will hereinafter be referred to as they appear in the writ petition.

2. The writ petitioner, while working as Joint Registrar in the Central University of Kerala, was placed under suspension on 4.5.2017. While under suspension, the writ petitioner was served with Ext.P3 memo of charges. The memo of charges contained one article of charge. The misconduct alleged, in essence, was that the writ petitioner was instrumental in taking on rent a building to house the boys hostel of the 1st respondent University agreeing to pay a monthly rent of Rs.75,000/- as well as an advance equivalent to three months rent @ Rs.75,000/- per month to the building owner without

due sanction from the Vice-Chancellor or the Registrar of the University and without obtaining a 'rent reasonableness certificate' (RRC) from the Central Public Works Department [CPWD]. It was also alleged that the writ petitioner had not entered into any agreement prior to payment of the amounts, and that by paying an amount in excess of the amount shown in the RRC, which, was obtained about two years later, the writ petitioner caused heavy monetary loss to the University.

3. The writ petitioner submitted Ext.P5 reply to the memo of charges. Not being satisfied with the reply, the University proceeded to appoint an Enquiry Officer to conduct an enquiry into the allegations levelled against the writ petitioner. The report of the Enquiry Officer is produced as Ext.P18, in which, the Enquiry Officer found that the charges levelled against the writ petitioner had been proved against him. Following Ext.P18, and in response to a notice issued to him, the writ petitioner submitted Ext.P19 reply to the Registrar of the 1st respondent University. Thereafter, Ext.P20 order

was issued imposing on the writ petitioner the penalty of removal from service with immediate effect. Ext.P21 is the Minutes of the 44th meeting of the Executive Council of the 1st respondent University, which took a decision on the finalization of disciplinary proceedings against the writ petitioner. The writ petitioner therefore approached this Court challenging Exts.P20 and P21.

4. The learned Single Judge, on a consideration of the matter, found that there was no error in the proceedings initiated by the University or in the final order issued by the University warranting exercise of jurisdiction under Article 226 of the Constitution of India. It was found that the proceedings do not suffer from any illegality / do not disclose any error apparent on the face of the record / do not disclose any jurisdictional defect or non-compliance with principles of natural justice. The learned single Judge, therefore, refused interference under Article 226 of the Constitution of India.

5. We have heard Sri. Elvin Peter P.J., the learned counsel appearing for the writ petitioner as also Sri.V.Sajith Kumar, the learned Standing Counsel appearing for the 1st respondent University.

6. It is the primary contention of the learned counsel for the writ petitioner that the writ petitioner was clearly not involved in the decision-making process which led to the rent being fixed in respect of the boy's hostel and the advance payment as noticed hereinabove. He would submit, with reference to the documents produced, including copies of the note file obtained under the provisions of the Right to Information Act, that the decision to take the hostel on rent and to pay a reasonable amount as advance, was taken at the level of the Vice-Chancellor and the Registrar of the University based on the recommendations of a search committee appointed by the University to find out a suitable building to accommodate a boys hostel of the University. It is submitted, with reference to the evidence given by some of the members of the Search Committee before the Enquiry Officer, that the Search Committee had, in fact, prepared a report

recommending the rent to be paid and the advance to be paid pending determination of the reasonable rent by the CPWD. It is also submitted that the Central University was a fledgling University at that point in time, and there was an urgent need to locate a suitable building for housing the boy's hostel of the University, which is evident from the note file and the evidence tendered by the members of the Search Committee before the Enquiry Officer. It is submitted with reference to the judgment of the Supreme Court in **Smt.S.R.Venkataraman v. Union of India and Others – [AIR 1979 SC 49]** that when the action of a public body is prompted by a mistaken belief in the existence of a non-existing fact or circumstance, the proceedings based on such belief would be clearly unreasonable and in bad faith. The judgment of the Supreme Court in **Bongaigaon Refinery & Petrochemicals Ltd. and Others v. Girish Chandra Sarma - [(2007) 7 SCC 206]** is relied on to contend that, in almost identical circumstances, when it was found that a collective decision had been taken with regard to a matter, it would not be proper to proceed against one person alone by making

him a scapegoat. He also placed reliance on the judgment of the Supreme Court in **Rajendra Yadav v. State of Madhya Pradesh and Others - [2013 (1) KHC SN 31 (SC)]**, where, it was held that a doctrine of equality applies to all who are equally placed, and discrimination in the matter of selecting one person for disciplinary proceedings, while leaving all others involved in the matter out of the purview of the disciplinary proceedings, amounts to clear discrimination.

7. *Per contra,* the learned Standing Counsel for the 1st respondent University would refer to the judgment of the Supreme Court in **Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi and Others – [(1991) 2 SCC 716]** and **State of Uttar Pradesh and Another v. Man Mohan Nath Sinha and Another - [(2009) 8 SCC 310]** to remind us that the strict rules of evidence are not applicable to disciplinary proceedings and that the scope of judicial review in disciplinary proceedings is limited, and this Court should not

function as an appellate authority in sifting through the evidence and determining whether there was sufficient evidence to establish the guilt of the delinquent employee. In particular, he refers to paragraph 37 of **Maharashtra State Board of Secondary and Higher Secondary Education [supra]** where it was held:-

> ***"37.*** *It is thus well settled law that strict rules of the Evidence Act, and the standard of proof envisaged therein do not apply to departmental proceedings or domestic tribunal. It is open to the authorities to receive and place on record all the necessary, relevant, cogent and acceptable material facts though not proved strictly in conformity with the Evidence Act. The material must be germane and relevant to the facts in issue. In grave cases like forgery, fraud, conspiracy, misappropriation, etc. seldom direct evidence would be available. Only the circumstantial evidence would furnish the proof. In our considered view inference from the evidence and circumstances must be carefully distinguished from conjectures or speculation. The mind is prone to take pleasure to adapt circumstances to one another and even in straining them a little to force them to form parts of one connected whole. There must be evidence direct or circumstantial to deduce necessary inferences in proof of the facts in issue. There can be no inferences unless there are objective facts, direct or circumstantial from which to infer the other fact which it is sought to establish. In some cases the other facts can be inferred, as much as is practical, as if they had been actually observed. In other cases the inferences do not go beyond reasonable probability. If there are no positive proved facts, oral, documentary or circumstantial*

> *from which the inferences can be made the method of inference fails and what is left is mere speculation or conjecture. Therefore, when an inference of proof that a fact in dispute has been held established there must be some material facts or circumstances on record from which such an inference could be drawn. The standard of proof is not proof beyond reasonable doubt "but" the preponderance of probabilities tending to draw an inference that the fact must be more probable. Standard of proof cannot be put in a strait-jacket formula. No mathematical formula could be laid on degree of proof. The probative value could be gauged from facts and circumstances in a given case. The standard of proof is the same both in civil cases and domestic enquiries."*

Paragraphs 10, 11 and 12 of **State of Uttar Pradesh [supra]**, on which considerable reliance was placed by the learned counsel for the University reads thus: -

> *10. The Division Bench went on to scan the evidence produced before the inquiry officer in the following manner:*
> *"The petitioner has though given an explanation for the aforesaid transactions, but even without accepting that the Minister has authorised him orally to make the payment from the account and, even assuming that on the denial of the Minister of such oral instructions, the petitioner could not have made the deposit in his own account and could not have made the payment in cash to petrol firms, but the fact remains that the said amount was actually paid to the petrol dealers and, therefore, it cannot be a case of embezzlement, so far the government money is concerned.*

The Minister himself admitted and it is also proved from the record that the signatures on the cheques were that of the Minister and the money was withdrawn from the Bank on his instructions by the petitioner. It is a different matter that the Minister qualified his statement by saying that the signatures were obtained on the blank cheques without indicating the actual amount which was likely to be withdrawn on the ground that the actual amount would be confirmed from the register towards the price of petrol and then would be filled in, but the fact remains that the signatures on the cheques were that of the Minister, which signatures he put knowing that he was issuing the cheques for paying the price of petrol. It, therefore, cannot be said that the petitioner had withdrawn the amount by obtaining the signatures of the Minister on the cheques fraudulently."

11. In State of Orissa v. Murlidhar Jena [AIR 1963 SC 404] a Constitution Bench of this Court held: (AIR p. 408, para 14)

"14. There are two other considerations to which reference must be made. In its judgment the High Court has observed that the oral evidence admittedly did not support the case against the respondent. The use of the word 'admittedly', in our opinion, amounts somewhat to an overstatement; and the discussion that follows this overstatement in the judgment indicates an attempt to appreciate the evidence which it would ordinarily not be open to the High Court to do in writ proceedings. The same comment falls to be made in regard to the discussion in the judgment of the High Court where it considered the question about the interpretation of the words 'Chatrapur Saheb'. The High Court has observed that 'in the absence of a clear evidence on the point the inference drawn by the Tribunal that Chatrapur Saheb meant the respondent would not be justified'. This observation clearly indicates that the High Court was

attempting to appreciate evidence. The judgment of the Tribunal shows that it considered several facts and circumstances in dealing with the question about the identity of the individual indicated by the expression 'Chatrapur Saheb'. Whether or not the evidence on which the Tribunal relied was satisfactory and sufficient for justifying its conclusion would not fall to be considered in a writ petition. That in effect is the approach initially adopted by the High Court at the beginning of its judgment. However, in the subsequent part of the judgment, the High Court appears to have been persuaded to appreciate the evidence for itself, and that, in our opinion, is not reasonable or legitimate."

12. In State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723] a three-Judge Bench of this Court held: (AIR pp. 1726-27, para 7)

"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair

decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

8. We have considered the submissions on either side. We have also perused File No.CUK/ADMN/Lease–18/2013, which was made available to us by the learned Standing Counsel and contains the relevant records and file notes relevant to period when the decision was taken to take on rent the building in question for housing the boys hostel of the 1st respondent University.

9. Before embarking upon an analysis of the contentions raised, we think that we must set out the jurisdictional limitations that must inform us in the matter of interference in disciplinary proceedings,

under Article 226 of the Constitution of India. We find that the there is a restatement of the law on the point in **State Bank of India v. Ajai Kumar Srivastava – [(2021) 2 SCC 612]**, where a three Judge bench of the Supreme Court had reiterated the principles regarding the scope of judicial review in disciplinary matters. We therefore deem it appropriate to extract hereunder paragraphs 22 to 28 of the above judgment, which are relevant in this context and reads as follows:

> *"22. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court in State of T.N. v. T.V. Venugopalan [State of T.N. v. T.V. Venugopalan, (1994) 6 SCC 302 : 1994 SCC (L&S) 1385] and later in State of T.N. v. A. Rajapandian [State of T.N. v. A. Rajapandian, (1995) 1 SCC 216 : 1995 SCC (L&S) 292] and further examined by the three-Judge Bench of this Court in B.C. Chaturvedi v. Union of India [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] wherein it has been held as under: (B.C. Chaturvedi case [B.C. Chaturvedi v. Union of India, (1995) 6*

SCC 749 : 1996 SCC (L&S) 80] , SCC pp. 759-60, para 13)

"13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the court/tribunal. In Union of India v. H.C. Goel [Union of India v. H.C. Goel, (1964) 4 SCR 718 : AIR 1964 SC 364] this Court held at SCR p. 728 (AIR p. 369, para 20) that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

23. It has been consistently followed in the later decision of this Court in H.P. SEB v. Mahesh Dahiya [H.P. SEB v. Mahesh Dahiya, (2017) 1 SCC 768 : (2017) 1 SCC (L&S) 297] and recently by the three-Judge Bench of this Court in Pravin Kumar v. Union of India [Pravin Kumar v. Union of India, (2020) 9 SCC 471 : (2021) 1 SCC (L&S) 103] .

24. It is thus settled that the power of judicial review, of the constitutional courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the

disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

25. When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the court is to examine and determine:

(i) whether the enquiry was held by the competent authority;

(ii) whether rules of natural justice are complied with;

(iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.

26. It is well settled that where the enquiry officer is not the disciplinary authority, on receiving the report of enquiry, the disciplinary authority may or may not agree with the findings recorded by the former, in case of disagreement, the disciplinary authority has to record the reasons for disagreement and after affording an opportunity of hearing to the delinquent may record his own findings if the evidence available on record be sufficient for such exercise or else to remit the case to the enquiry officer for further enquiry.

27. It is true that strict rules of evidence are not applicable to departmental enquiry proceedings. However, the only requirement of law is that the allegation against the

delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. It is true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.

28. The constitutional court while exercising its jurisdiction of judicial review under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of mala fides or perversity i.e. where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at those findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained."

Thus informed of our jurisdiction in interfering with the disciplinary proceedings, we proceed to examine whether the instant is a case that merits interference under Article 226 of the Constitution of India. In the instant case, the memo of charges, which was issued to the writ petitioner, reads as under:

Article-1

"That the said Sri.S. Gopinath while working as Deputy Registrar, Central University of Kerala, Kasargod from 25/07/2011 without entering into a written agreement with building owner of Aleema apartments and Rent

Reasonableness Certificate (RRC) from CPWD fixed the monthly rent and paid advance rent for 3 months and continued to pay the excess rent than the amount fixed in the Rent Reasonableness Certificate (RRC) subsequently issued by the CPWD, in violation of Rules and Regulations, causing heavy monitory loss to the University.

By his above acts, Sri. S. Gopinath failed to maintain absolute integrity and devotion to duty as envisaged on Rule 3 (I)(i)&(ii) of CCS (Conduct Rules) 1964 and behaved in a manner unbecoming of a Government servant/University employee violating Rule 3(I)(iii) of CCS (Conduct Rules) 1964."

The relevant portions of the Enquiry Report [Ext.P18], which holds that the writ petitioner is guilty of the charges levelled against him in the memo of charges, read as under:

"Now, an independent evaluation of evidences adduced during the oral inquiry can be made.

The crux of the article of charge is that Sri.S.Gopinath, Jt Registrar (U/S) Central University of Kerala Kasaragod while working as Dy. Registrar from 25.7.11, without entering into a written agreement with building owner of Aleema apartment and Rent reasonableness certificate from (CPWD) fixed the monthly rent and paid advance rent for three months and continued to pay the excess rent than the amount fixed in the rent reasonableness certificates subsequently issued by the CPWD, in violation of rules and

regulations causing heavy monetary loss to the University. By his above acts, it was imputed that Sri.S.Gopinath, failed to maintain absolute integrity, devotion to duty and behaved in a manner unbecoming of a Govt. servant violating Rules 3(1), (ii) and (iii) of CCS (Conduct) Rules 1964.

University file CUK/ADMN/LEASE-18/2013 is the vital document to establish by whom approval was issued for payment of monthly rent Rs.75000/- and three months' rent as advance. In Ext.P-5 note sheet the proposal put up to the vice-chancellor for decision was as follows.

(i) In view of the position summed up in N3 and N4 the proposal to hire the buildings for one year for Boys Hostel may be considered for approval. The monthly rent may be fixed below CPWD certification.
(ii) The proposal for sanction of advance to the building owner as in A1 N4 may also be considered for sanction, which is to be adjusted from the rent payable on our taking over the building on hire.

The then Vice-Chancellor approved the proposal on 21.8.13. However, thereafter the said file was not seen by the Registrar or Vice-Chancellor. Sanction for payment of monthly rent Rs.75000/- and advance Rs.2.25 lakhs issued vide P-3 order, which was signed only by the Dy. Registrar, the charged officer. The file noting evidences that the said file was not submitted to Registrar or Vice-Chancellor or their signature or initials available in the note sheet. So, the evidences available in the said file, which carries the initials/signature of the charged officer only, for the issuances of P-3 order, make the charged officer responsible. The C.O could not escape from his responsibility by just

mentioning the administrative or financial powers of the officers in the hierarchy at the Central University. Further, it is pertinent to note that the C.O has never disowned P-3 sanction or prepared to mention or point out any order by the Registrar or Vice Chancellor for the issuance of P-3 sanction.

So also, the C.O is not having a case that lease agreement or atleast an agreement in white paper was obtained from the landlord before releasing the rent sanction memo. Ext.P-7 Rent reasonable certificate issued on 05.11.15 proves beyond any doubt that the rent sanction was issued before receipt of the rent reasonable certificate from CPWD and that the rent sanctioned was not below this CPWD certification as approved by the Vice Chancellor, but far above the fair rent. By proving this aspect, it is also proved that, the University sustained heavy loss, Sri.S.Gopinath, the charged officer is primarily responsible for all these lapses. As inquiry officer, I hold that the Article of charge framed against Sri.S.Gopinath, Jt Registrar (U/S) Central University of Kerala, Kasaragod as contained in CUK Kasaragod memo no CUK/NT/PF-15/SG/2010 dated 16.7.18 is proved beyond any doubt by oral as well as documentary evidence."

10. Without going into the merits of the findings in the Enquiry Report, what appears to us at first blush is that the findings of the Enquiry Officer do not establish the charges levelled against the writ petitioner in the memo of charges. They appear to establish certain

other facts which are not connected with the specific charges in the memo of charges. The memo of charges itself contained a charge that could not be occasioned by the writ petitioner since it was clearly beyond the scope of his authority. If we were to dissect the charges levelled against the writ petitioner, we find that there are three distinct imputations against the writ petitioner in the single article of charge. The first appears to be that the writ petitioner was wholly responsible for making and sanctioning payment of rent and advance rent @ Rs.75,000/- per month, without there being any sanction or authority from either the Vice-Chancellor or the Registrar. The second limb of the charge is that the writ petitioner failed to enter into an agreement before sanctioning and making the payment in respect of the building taken on rent by the University. The third limb is that by these acts of the writ petitioner, he had caused monetary loss to the University.

11. The files produced before us by the learned Standing counsel for the University, which was also perused by the Enquiry Officer, show that considering the urgent need for locating the boy's

hostel of the University, a Search Committee was constituted by the University, (of which the writ petitioner was not a member) for identifying and locating suitable buildings that could be taken on rent by the University. The files show that the Search Committee had prepared certain Minutes, which, however, is not available in the file. The writ petitioner had put up a note on 12.8.2013, referring to the Minutes of the Search Committee, making it clear that the rent is to be paid only after an assessment by the CPWD. Though we are informed that there is no such Rule or Regulation applicable to the 1st respondent University that mandates such a procedure, we are told that such a procedure is followed as a matter of practice in every Central Government Institution including Universities like the 1st respondent. The note put up by the writ petitioner on 12.8.2013 was then seen by the Registrar in charge, who, on 16.8.2013, directed that the files be placed before the Vice-Chancellor for approval of the proposal, after obtaining the financial concurrence of the Finance Officer. The files were thereafter placed before the then Vice-Chancellor, through the Finance Officer. The Vice-Chancellor

approved the proposal on 21.8.2013. The files were returned to the writ petitioner, who was then working as Deputy Registrar (Administration) for 'necessary action' (referred to in the file note as ‘n/a’). This can only be a reference to the consequential action to be taken by the writ petitioner on the basis of the approvals referred to above. The files were then sent to the Assistant Registrar (Administration) to put up a draft letter to the owner and also the draft of the administrative order for taking the building on rent. We must, at this point, note that while a copy of the administrative order which is produced as Ext.P12 in the writ petition is on file, the original of the same is not available in the file. However, on a perusal of the said administrative order, we notice that the said order is marked as signed by the Registrar, and the writ petitioner has countersigned the same on a subsequent date, which is 29.8.2013, while the order itself bears the date 21.8.2013. The administrative order, no doubt, accords the approval for the sanctioning of the rent at Rs.75,000/- per month and an advance of Rs.2,25,000/- [amount equivalent to three months of rent] to be paid to the owner of the

building and also mentions the fact that the payment, as sanctioned, will be reviewed after finalization of the rent assessment by the CPWD. It is clear from subsequent proceedings that the payment of the advance amount to the owner of the building was made on 21.8.2013 or so as the subsequent file notings and documents in the file show that the owner of the building had sold the building to a third party and the original owner had refunded the deposit amount to enable the payment of the same amount to the new owner. Those proceedings refer to the date of payment of the advance as 21.8.2013. The writ petitioner has countersigned the University proceedings dated 21.8.2013 only on 29.8.2013, which, in our view, suggests that it is not the countersignature of the writ petitioner that triggered the consequential payment. It is also to be noted that even assuming that the writ petitioner had put up a proposal for payment, the payment itself could not have been sanctioned without the concurrence of the Finance Officer, who was then holding charge of the office of the Registrar of the University also. Moreover a copy of the the order is seen marked to the Private Secretaries of both the Vice-Chancellor

and the Registrar. Therefore, we fail to understand how the Enquiry Officer could have reached the finding that it was the writ petitioner, who made the payment, and further that all the three facets of the charge that we have explained above were established as against the writ petitioner. We are of the view that the findings of the Enquiry Officer not only fail to establish the specific charges against the writ petitioner but is clearly hit by the principle of 'no evidence'. It is clear from the *ratio* of **State Bank of India [supra]** that in cases where this Court finds that there was a complete lack of evidence in disciplinary proceedings, such proceedings can be quashed. Even if we were to take the entire findings of the Enquiry Officer, to be based on some evidence, the fact remains that such findings also do not relate to the specific charges alleged against the writ petitioner.

12. We must also take note of one additional fact that was specifically brought to our notice by the learned counsel for the writ petitioner. It appears that the main thrust of the allegations against the writ petitioner is that he had sanctioned the payment of rent and advance without awaiting a rent reasonableness certificate from the

CPWD. We notice that the CPWD had issued a rent reasonableness certificate on 5.11.2015 [Ext.P16]. However, it appears from Ext.P15 that even thereafter, the Rent Negotiation Committee had extended the lease of the building in question on the same terms and agreed to pay rent, as earlier, at the rate originally fixed which was higher than the 'reasonable rate' suggested by the CPWD. Of course, the learned Standing Counsel for the 1st respondent University points out from Ext.P15 that the said arrangement was only for a short period as the hostel building being constructed by the 1st respondent University was nearing completion and was expected to be ready for occupation within a period of three months from the date of Ext.P15. However the fact that the same arrangement was continued even after the receipt of the RRC from the CPWD speaks volumes of the hollowness of the charge levelled against the writ petitioner.

13. While the above findings would be sufficient to hold that the entire proceedings culminating in Ext.P20 order is vitiated and are liable to be quashed, we must also notice that the charges levelled against the writ petitioner, even if proved by cogent evidence, could

not have ended in an order of removal from service as we find that even if the charges levelled were found to be completely true and supported by the evidence, the punishment imposed would have been shockingly disproportionate on the principles laid down by the Supreme Court in **Union of India & Another v. G. Ganayutham – [AIR 1997 SC 3387]**. However, since we have found that the charges as alleged have not been established against the writ petitioner, and that the findings of the enquiry officer are based on no evidence, we do not deem it necessary to examine that issue any further.

In the result this Writ Appeal is allowed. The judgment of the learned Single Judge in W.P.(C).No.30918 of 2019 is set aside, and that Writ Petition will stand allowed. Exts.P20 and P21 will stand quashed. Since it is stated that the writ petitioner has retired from service on 31.5.2021, we hold that he will be entitled to all consequential service benefits stemming from our finding that Exts.P20 and P21 proceedings cannot be sustained in law. Any arrears of salary and other service benefits payable to the writ

petitioner, as a result of the above will be calculated and paid to the writ petitioner, within a period of three months from the date of receipt of a copy of this judgment. The files made available for our perusal are returned to the learned Standing Counsel for the 1st respondent University.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
GOPINATH P.
JUDGE

prp/11/8/21

APPENDIX OF W.A.No.569/2021

PETITIONER'S ANNEXURE:

ANNEXURE 1	TRUE COPY OF THE MINUTES OF THE 44TH MEETING OF THE EXECUTIVE COUNCIL HELD ON 15.10.2019 IN WHICH MEETING THE EXECUTIVE COUNCIL DECIDED TO ACCEPT THE ENQUIRY REPORT AND IMPOSE ON THE APPELLANT THE PUNISHMENT OF REMOVAL FROM SERVICE.
ANNEXURE 2	TRUE COPY OF THE MINUTES OF THE 45TH MEETING OF THE EXECUTIVE COUNCIL HELD ON 20.02.2020.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE