

HIGH COURT OF SIKKIM
Record of Proceedings

WP(C) No. 41 of 2017

RAGAP CHETTRI

PETITIONER (S)

VERSUS

THE STATE OF SIKKIM AND OTHERS

RESPONDENT(S)

Date: 10.08.2018

CORAM:

THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, A.C.J.

For Petitioner(s) : Mr. N.B. Khatiwada, Sr. Advocate
with Mrs. Gita Bista, Advocate.

For Respondent(s)
For R-1-4 : Mr. J.B. Pradhan, Addl. Advocate
General with Mrs. Pollin Rai, Asst.
Govt. Advocate.

For R-5 : None.

For R-6 & R-7 : Mr. Bhusan Nepal, Advocate.

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ORDER

1. Heard.

2. It is agreed between the parties that the provisions of sub-rule (22) (3) of Rule 5 of the *Sikkim Government Servants' (Discipline and Appeal) Rules, 1985* shall be applied to the case of the Petitioner.

3. Sub-rule (22) (3) of Rule 5 reads as follows:

“(3) The Disciplinary Authority shall deliver or cause to be delivered to the Government servant a copy of the report prepared under sub-rule (22) (1) and shall also require the Government servant to submit within such time as may be specified, a representation, if any, against the findings in the inquiry report to the Disciplinary Authority.”

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4. Sub-rule (22) (1) reads as follows:

“(22) (1) After the conclusion of the inquiry, a report shall be prepared and it shall contain,-

- (a) the articles of charge and the statement of the imputations of misconduct or misbehavior;
- (b) the defence of the Government servant in respect of each article of charge;
- (c) an assessment of the evidence in respect of each article of charge;
- (d) the findings on each article of charge and the reason thereof.

Explanation.- If in the opinion of the Inquiring Authority the proceedings of the inquiry establish any article of charge different from the original article of charge, it may record its findings on such article of charge;

Provided that the findings on such articles of charge shall not be recorded unless the Government servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.”

5. Hence, as agreed, the matter shall be taken up by the State-Respondent from the stage it stood vitiated, uninfluenced by any observations made by this Court. The said steps shall be concluded within three months from today.

6. In terms of the above Rules and as agreed by the parties, the matter stands disposed of with the above directions.

Acting Chief Justice
10.08.2018

Index : Yes / No
Internet : Yes / No

Jk/bp