

Service matter – Wilful misconduct and negligence simplicitor are not interchangeable terms and have different connotations in law – Neither the Adhoc Disciplinary Authority nor the Appellate Authority nor the Tribunal has taken into consideration the past service record of the petitioner or the law settled by the Apex Court, while adjudicating upon the proportionality aspect of the penalty inflicted – Imputed misconduct was the only one happening during the scientific career of the petitioner over the last 3 decades – Incident has happened at the fag end of the career of the petitioner and the punishment of removal of service awarded to the petitioner would be highly disproportionate to the misconduct for which the petitioner was charged, particularly, in view of the fact that the Disciplinary Authority of the same respondent-institute, has adopted different yard-stick for other regular employees in somewhat similar situation – Perusal of the inquiry report and the order imposing penalty have found the petitioner guilty of misconduct on the ground that the petitioner being at a responsible position, was duty bound to look into the work of the first author though no finding has been arrived at that the said default was wilful in character – There is no mention of any material in the report of the Adhoc Disciplinary Authority or the Appellate Authority to indicate that the misconduct imputed to the petitioner was an act of wilful design or that the petitioner had the intention (*mens rea*) to do so and that it was not a case of negligence – It was incumbent upon the Disciplinary Authority to also record a specific finding that the misconduct was wilful in character, while arriving at the conclusion that the petitioner was guilty of the misconduct imputed – Punishment – Doctrine of proportionality – It would be extremely harsh and would rather cause injustice to the petitioner in wiping out his entire retiral benefits, which have accrued to him over a span of 3 decades – Punishment of penalty of removal from service is disproportionate to the misconduct imputed in the absence of a categorical finding that the misconduct was wilful in character and is sufficient to shock the conscience of the Court – Central Civil Services (Classification, Control and Appeal) Rules, 1965, Rule 11

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