



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No. 337 of 2021

05 March, 2025

State of Uttarakhand and another

--Petitioners

Versus

Suresh Chandra

--Respondent

Presence:-

Mr. J.P. Joshi, learned Additional Advocate General along with Mr. G.S. Negi, learned Additional C.S.C for the State/petitioners.
Mr. A.S. Rawat, learned Senior Counsel assisted by Mr. Girveer Chand, learned counsel for the respondent.

Hon'ble Manoj Kumar Tiwari, J.

Hon'ble Vivek Bharti Sharma, J.

JUDGMENT: (per Hon'ble Shri Manoj Kumar Tiwari, J)

This writ petition is directed against the judgment and order dated 29.05.2020 passed by Uttarakhand Public Services Tribunal, Dehradun in Claim Petition No.71/DB/2019, “*Suresh Chandra Vs. State of Uttarakhand and another*”.

2. By the said judgment, claim petition filed by respondent was partly allowed and the punishment imposed upon respondent was modified.

3. Operative portion of the judgment rendered by learned Tribunal is extracted below:-

“41. The claim petition is partly allowed and partly dismissed. Such part of the impugned order (Annexure:A1) which provides for the recovery of Rs.3478.89 is hereby affirmed. So far as the remaining part of the impugned order relating to stoppage of increments with cumulative effect is concerned, the same is hereby set aside.”



4. The judgment rendered by the learned Tribunal is challenged mainly on the ground that learned Tribunal has erred in holding that there are mitigating circumstances for interfering with the quantum of punishment, while there is no mitigating circumstance whatsoever for such interference.

5. It is contended on behalf of the petitioners that the Disciplinary Authority had imposed punishment of stoppage of two increments with cumulative effect upon respondent vide order dated 07.05.2019 and recovery of ₹3,478.89/- was also ordered to be made from respondent by the same order.

6. Learned counsel for the petitioners submits that the punishment of stoppage of two increments with cumulative effect was set aside by the learned Tribunal, treating it to be excessive and only the order for recovery of ₹3,478.89/- was maintained. This, according to learned counsel for the petitioners, is impermissible as there is no finding returned by the learned Tribunal that the punishment imposed upon respondent was shockingly disproportionate to the nature and gravity of charges against respondent, which is condition precedent for interfering with quantum of punishment.

7. In support of his first contention, learned State Counsel has placed reliance upon the judgment rendered by Hon'ble Supreme Court in the case of **State Bank of India and another Vs. K.S. Vishwanath, (2022) 15 SCC 190**. Paragraph nos.20 and 21 of the said judgment are extracted below:-

“20. That thereafter this Court has observed and held in paras 7, 8 and 15 as under: (N. Gangaraj case [State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423: (2020) 1 SCC (L&S) 547] , SCC pp. 426 & 430)



“7. The disciplinary authority has taken into consideration the evidence led before the IO to return a finding that the charges levelled against the respondent stand proved.

8. We find that the interference in the order of punishment by the Tribunal as affirmed [State of Karnataka v. N. Gangaraj, 2011 SCC OnLine Kar 4510] by the High Court suffers from patent error. The power of judicial review is confined to the decision-making process. The power of judicial review conferred on the constitutional court or on the Tribunal is not that of an appellate authority.

15. The disciplinary authority agreed with the findings of the enquiry officer and had passed an order of punishment. An appeal before the State Government was also dismissed. Once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by reappreciating evidence as if the courts are the appellate authority. We may notice that the said judgment has not noticed the larger Bench judgments in S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, 1963 SCC OnLine SC 6 : AIR 1963 SC 1723] and B.C. Chaturvedi [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] as mentioned above. Therefore, the orders passed by the Tribunal and the High Court [State of Karnataka v. N. Gangaraj, 2011 SCC OnLine Kar 4510] suffer from patent illegality and thus cannot be sustained in law.”

21. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has committed a grave error in interfering with the order passed by the disciplinary authority dismissing the respondent delinquent officer from service. The High Court has erred in reappreciating the entire evidence on record and thereafter interfering with the findings of fact recorded by the enquiry officer and accepted by the disciplinary authority. By interfering with the findings recorded by the enquiry officer which as such were on appreciation of evidence on record, the order passed by the High Court suffers from patent illegality. From the findings recorded by the enquiry officer recorded hereinabove, it cannot be said that there was no evidence at all which may reasonably support the conclusion that the Delinquent officer is guilty of the charge.”

[Emphasis Supplied]



8. In support of second submission of learned State Counsel that interference of Courts/Tribunal on the quantum of punishment is permissible only when the punishment imposed was shockingly disproportionate to the nature and gravity of charge, learned State Counsel has placed reliance on various judgments which shall be discussed hereinafter.

9. Law is well settled that Courts should not interfere with the decision taken by an Administrative Authority unless it is shown that the decision is illogical or suffers from procedural impropriety or is shocking to the conscience of Court, in the sense that it is in defiance of logic or moral standards, and Courts would not go into the correctness of decision made by Administrative Authority nor should they substitute its decision to that of an Administrative Authority. The scope of judicial review is limited to the deficiency in the decision making process and not the decision itself.

10. Learned State Counsel also relied upon another judgment rendered by the Hon'ble Supreme Court in the case of ***Lucknow Kshetriya Gramin Bank and another Vs. Rajendra Singh*** reported in ***(2013) 12 SCC 372***. Paragraph nos.15 and 19 of the said judgment are extracted below:-

“15. As is clear from the above that the judicial review of the quantum of punishment is available with a very limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a decision afresh and it is not for the court to substitute its decision by prescribing the quantum of punishment.

16.....

17....

18....



19. The principles discussed above can be summed up and summarised as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

[Emphasis Supplied]

11. In the case of **Indian Oil Corporation Limited Vs. Rajendra D. Harmalkar (2022) 17 SCC 361**, Hon’ble Supreme Court considered and discussed various judgments on the scope of judicial review of punishment order passed in disciplinary proceedings. Paragraph nos.19, 20, 21 and 29 of the said judgments are reproduced below:

“19. In *Om Kumar (2001) 2 SCC 386*, this



Court, after considering the *Wednesbury* principles and the doctrine of proportionality, has observed and held that the question of the quantum of punishment in disciplinary matters is primarily for the disciplinary authority to order and the jurisdiction of the High Courts under Article 226 of the Constitution or of the Administrative Tribunals is limited and is confined to the applicability of one or other of the well-known principles known as “*Wednesbury* principles”. In *Wednesbury Case*, it was said that when a statute gave discretion to an administrator to take a decision, the scope of judicial review would remain limited. Lord Greene further said that interference was not permissible unless one or the other of the following conditions was satisfied, namely, the order was contrary to law, or relevant factors were not considered, or irrelevant factors were considered, or the decision was one which no reasonable person could have taken.

20. In *B.C. Chaturvedi v. Union of India* (1995) 6 SCC 749, in para 18, this Court observed and held as under: (SCC p. 762).

“18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.”

“21. In *Lucknow Kshetriya Gramin Bank v. Rajendra Singh*, in para 19, it was observed and held as under: (SCC p. 382)

“19. The principles discussed above can be summed up and summarised as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the



function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

29. In any case in the facts and circumstances of the case and for the reasons stated above and considering the charge and misconduct of producing the fake and false SSLC Certificate proved, when a conscious decision was taken by the disciplinary authority to dismiss him from service, the same could not have been interfered with by the High Court in exercise of powers under Article 226 of the Constitution of India. The High Court has exceeded in its jurisdiction in interfering with the order of punishment imposed by the disciplinary authority while exercising its powers under Article 226 of the Constitution of India.”

12. In the case of ***State of Tamil Nadu and Another Vs. M. Mangayarkarasi and Others (2019) 15***



SCC 515, Hon'ble Supreme Court reiterated that *"the imposition of a penalty in disciplinary proceeding lies in the sole domain of the employer. Unless the penalty is found to be shockingly disproportionate to the charges which are proved, the element of discretion which is attributed to the employer cannot be interfered with"*.

13. In the case of **U.P. State Road Transport Corporation, Dehradun Vs. Suresh Pal (2006) 8 SCC 108**, the Hon'ble Supreme Court in paragraph no.8 held as under:-

"8. Normally, the courts do not substitute the punishment unless they are shockingly disproportionate and if the punishment is interfered or substituted lightly in the punishment in exercise of their extraordinary jurisdiction then it will amount to abuse of the process of court. If such kind of misconduct is dealt with lightly and the courts start substituting the lighter punishment in exercising the jurisdiction under Article 226 of the Constitution then it will give a wrong signal in the society. All the State Road Transport Corporations in the country have gone in red because of the misconduct of such kind of incumbents, therefore, it is time that misconduct should be dealt with an iron hand and not leniently."

14. In the present case there is no finding by learned Tribunal that the punishment imposed upon the respondent is shockingly disproportionate to the gravity of charge.

15. Learned Tribunal has pointed out certain mitigating circumstances for imposing lesser punishment upon the respondent, however, there is no finding that the punishment imposed by the Disciplinary Authority was shockingly disproportionate to the nature and gravity of charges. The course adopted by learned Tribunal is not available to Court or Tribunal exercising power of judicial review. Thus, in view of the law of the



land, as discussed above, the impugned judgment is unsustainable. Moreover, a Court or Tribunal can remit the matter back to the Disciplinary Authority for imposing appropriate penalty, if it comes to the conclusion that punishment imposed is shockingly disproportionate, but a Court cannot itself decide the punishment to be given.

16. Mr. A.S. Rawat, learned Senior Counsel appearing for respondent contended that the scheme in question, namely, Accelerated Irrigation Benefit Scheme, was looked after by the Assistant Engineer of the concerned Sub-division, Gram Pradhan and Up-Pradhan of the concerned village and his client had nothing to do with the said scheme and he was charge-sheeted merely because he happened to be Executive Engineer of the concerned Division.

17. Learned counsel for the petitioners, however, submits that this contention raised by learned Senior Counsel for respondent is contrary to pleadings made in paragraph no.11 of the counter affidavit.

18. Be that as it may, while exercising power of judicial review in such matters, this Court does not sit in appeal over the punishment order by reassessing evidence and this Court has to examine as to whether disciplinary inquiry was held, as per the applicable rules, or the charge-sheeted employee was given reasonable opportunity of defending himself. This Court will not examine evidence so as to ascertain the extent of culpability of the petitioners, in its writ jurisdiction.

19. As discussed above, impugned judgment nowhere indicates that the punishment of withholding of increments with cumulative effect is shockingly



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disproportionate to nature and gravity of charges. No reason has also been indicated for interfering with the quantum of punishment except that it is excessive. For the reasons indicated above, impugned judgment dated 29.05.2020 deserves to be set aside and the same is accordingly set aside.

20. Claim Petition No.71/DB/2019 is restored to the file of learned Tribunal. Learned Tribunal shall decide the claim petition filed by respondent, on merits afresh.

21. Pending applications, if any, also stand disposed of.

(Vivek Bharti Sharma, J.)

(Manoj Kumar Tiwari, J.)

05.03.2025

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