IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 4759 of 2025
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1. Chairman, Central Board of Trustees, Employees Provident Fund Organization, Ministry of Labour, Government of India, Sharam Shakti Bhawan, Rafi Marg, P.O. & P.S.-New Delhi, New Delhi-110001.
2. Central Provident Fund Commissioner, Employees Provident Fund Organization (Ministry of Labour, Government of India), Head Office, Block-II, East Kidwai Nagar, New Delhi-110023.
3. Regional Provident Fund Commissioner-I, Employee's Provident Fund Organization, Government of India, Ministry of Labour and Employment, Regional Office, Ranchi, Bhavishya Nidhi Bhawan, Hinoo, P.O. & P.S.-Doranda, Ranchi-834002, Jharkhand, through Rakesh Kumar Sinha, s/o Arvind Kr. Sinha, aged about 41 years, Regional P.F. Commissioner-II (Legal), EPFO Regional Office, Bhavisya Nidhi Bhavan, P.O. & P.S.-Doranda, Dist.-Ranchi-834002.

… … Petitioners/Respondents

Versus

1. Deepak Tigga, aged about 65 years, son of Late Mahadev Tigga, Resident of Dibadih Girja Toli, Near Railway Line, P.O.-Doranda, P.S.-Doranda, District-Ranchi, Jharkhand.

… … Respondent/Applicant

2. Union of India, through the Secretary, Government of India, Ministry of Labour and Employment, Shram Shakti Bhawan, Rafi Marg, P.O. & P.S.-New Delhi, New Delhi-110001.

… … Proforma Respondent/Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioners : Mr. Rupesh Singh, Advocate
For the Resp. No.1 : Mr. J.J. Sanga, Advocate
Mr. Randhir Kumar Sharma, Advocate
Ms. Angel Khalkho, Advocate
For the UOI : Mr. Romit Kumar, AC to Mr. Prashant Vidyarthi, Adv.

CAV/Reserved on 13.08.2026 **Pronounced on: 11th September 2026**

1. The instant writ petition filed under Article 226 of the Constitution of India is directed against the order dated 29.10.2024 passed in O.A./051/00030/2023 by the learned Central Administrative Tribunal, Patna Bench, Circuit Sitting at Ranchi, whereby and whereunder, the orders dated 29.06.2021 and 20.04.2022 by which disciplinary authority imposed the penalty upon the applicant (respondent herein) and appeal

against the said penalty had been rejected respectively , have been quashed and set aside.

2. The brief facts of the case as per the pleading made in the writ petition having been enumerated from the original application needs to be referred here which reads as under.

2.1 The applicant (respondent herein) while functioning as Assistant Provident Fund Commissioner (APFC) at SRO Bhagalpur during the period from 24.08.2009 to 16.11.2010, was entrusted with an inquiry u/s 7C of the EPF & MP Act, 1952 in respect of M/S Katihar Medical College, Katihar carrying code number BR/6351.

2.2 Earlier through a 70 pages order dated 27.01.2006 communicated to the establishment vide letter no. BR/6351/BGP/7C dated 30.01.2006, a sum of Rs.56,12,483/- was assessed (in addition to the determined amount of Rs. 42,90,600/- under section 7B) by Shri Pankaj Raman, RPFC-II, Regional Office, Patna. The establishment moved the EPFAT and filed an appeal challenging the aforesaid 7C order dated 30.01.2006. The EPFAT vide order dated 07.08.2008, quashed the 7C order "being violative of the law and remanded the case back to the competent authority to re-initiate the proceeding for determination of escaped amount under Section 7C of the Act".

2.3 After receipt of the order dated 07.08.2008 passed by the EPFAT, Sri O. P. Dubey, the then APFC & Officer-In-Charge, SRO, Bhagalpur issued one notice u/s 7C to the establishment vide no. BGP/EB/BR/6351/873 dated 31.10.2008 directing the establishment to appear on 25.11.2008 along with the desired records.

2.4 As per the Daily Order Sheet dated 25.11.2008, Sri Arbind Kumar Singh, representative of the establishment appeared on behalf of the establishment and Sri V.K. Roy, EO appeared on behalf of the department and Sri Roy again took up/raised the decision of the Patna High Court vide L.P.A. No.340 of 2005 against which establishment had filed objections earlier which was already decided in a judicial forum i.e. EPFAT.

2.5 Against the above order dated 25.11.2008, establishment vide its application dated 30.12.2008 applied for review. Accordingly, SRO, Bhagalpur forwarded the order copy along with a note to the RPFC (C&R) Regional Office, Patna for necessary orders. Upon this, RPFC(L&R), RO, Patna vide his order dated 25.02.2008 (should be 25.02.2009) stated that as per the order dated 07.08.2008 of the EPFAT, case was remanded back to competent authority for determination of escaped amount u/s 7-C of the Act and EPFAT order made it clear that only the authority who had exercised the powers u/s 7-A and 7-B of the Act can exercise the power u/s 7-C of the Act.

2.6 Hence, APFC, SRO, Bhagalpur was to exercise the powers u/s 7-C of the Act. Accordingly, summons u/s 7C of the Act, for the period from 4/96 to 12/2000 was issued by Sri O. P. Dubey, APFC & OIC, SRO, Bhagalpur on 27.03.09 and the establishment was advised to appear on 20.04.2009.

2.7 On 20.04.2009, the representative of the establishment and Sri V.K. Roy, EO from the department side appeared and thereafter on the

basis of the petition filed by the establishment on 20.04.2009, it was found that the documents as filed by the establishment during earlier proceedings were required to be gone through and accordingly an adjournment up to 06.07.2009 was allowed.

2.8 In the meantime, since Shri O.P. Dubey, APFC was promoted to the post of RPFC (II), the proceedings were taken over by the applicant (respondent herein) and summons issued fixing 09.10.2009 as the next date of hearing. The proceedings were further adjourned to several dates. The establishment appeared on 09.10.2009 and filed preliminary objection petition dated 09.10.2009 in response to the notice dated 27.08.2009.

2.9 During the course of proceedings, the applicant & Assessing Officer directed Sri L.P. Gariban, Enforcement Officer vide letter no. BGP/EB/BR/6351/7C/856 dated 29.10.2010, to visit the establishment, to prepare counter comments on the rejoinder of the college/establishment.

2.10 A report was submitted by Sri L.P. Gariban, EO vide letter dated 29.10.2010. Shri Gariban, Enforcement Officer in his report also enclosed the documents, viz (i) copy of letter dated 22.08.2005, (ii) Section- 7B order sheet dated 08.01.2004, (iii) Copy of note sheet dated 03.12.1996 and (iv) copy of challans of Rs. 29,12,363/- and Rs. 13,78,237/-.

2.11 The applicant on the proceeding under Section 7-C of the Act after having covered the legal ground relating to the enquiry under Section 7-C for determination of the escaped amount had come to the

conclusion and passed an order dated 04.11.2010 holding that there is no reasonable ground to determine the amount as there is neither complaint from any of the members nor from the union of employees and dropping/closing the proceedings under Section 7-C.

2.12 Almost after two years the applicant received a memorandum from the CPFC dated 07.09.2012 whereby and whereunder the respondents (petitioner herein) proposed to hold an enquiry against the applicant and disciplinary proceeding was initiated against the applicant under Rule 10 of the EPF Staff (CCA) Rules, 1971 vide charge memorandum dated 17.09.2012 (Annexure-1) for acting negligently and recklessly in conducting and concluding the inquiry under Section 7 C of the EPF and MP Act, 1952 while functioning as APFC at Sub Regional Officer, Bhagalpur during the period 24.08.2009 to 16.11.2020 and vide order dated 29.06.2021 disciplinary authority imposed the penalty of "a cut in pension at the rate of 30% for a period of five years" against the applicant under Rule 9 of the CCS(Pension) Rules, 1972.

2.13 When a petition dated 06.08.2021 was preferred by the applicant against the said penalty it was rejected vide order dated 20.04.2022.

2.14 The respondent-applicant, being aggrieved thereof, has approached the learned Tribunal by filing original application being O.A. 051/00030/2023, whereby and whereunder, the orders dated 29.06.2021 and 20.04.2022 have been quashed and set aside, hence, the present writ petition has been filed by the appellant-respondent-EPFO against the order passed by the learned Tribunal.

3. It is evident from the factual aspect as has been referred hereinabove that the applicant while functioning as Assistant Provident Fund Commissioner (APFC) at SRO Bhagalpur during the period from 24.08.2009 to 16.11.2010, was entrusted with an inquiry u/s 7C of the EPF & MP Act, 1952 in respect of M/S Katihar Medical College, Katihar carrying code number BR/6351. Earlier through a 70 pages order dated 27.01.2006 communicated to the establishment vide letter no. BR/6351/BGP/7C dated 30.01.2006, a sum of Rs.56,12,483/- was assessed (in addition to the determined amount of Rs. 42,90,600/- under section 7B) by Shri Pankaj Raman, RPFC-II, Regional Office, Patna. The establishment moved the EPFAT and filed an appeal challenging the aforesaid 7C order dated 30.01.2006. The EPFAT vide order dated 07.08.2008, quashed the 7C order "being violative of the law and remanded the case back to the competent authority to re-initiate the proceeding for determination of escaped amount under Section 7C of the Act."

4. After receipt of the order dated 07.08.2008 passed by the EPFAT, Sri O. P. Dubey, the then APFC & Officer-In-Charge, SRO, Bhagalpur issued one notice u/s 7C to the establishment vide no. BGP/EB/BR/6351/873 dated 31.10.2008 directing the establishment to appear on 25.11.2008 along with the desired records. As per the Daily Order Sheet dated 25.11.2008, Sri Arbind Kumar Singh, representative of the establishment appeared on behalf of the establishment and Sri V.K. Roy, EO appeared on behalf of the department and Sri Roy again took up/raised the decision of the Patna High Court vide L.P.A. No.340 of 2005 against which

establishment had filed objections earlier which was already decided in a judicial forum i.e. EPFAT.

5. Against the above order dated 25.11.2008, establishment vide its application dated 30.12.2008 applied for review. Accordingly, SRO, Bhagalpur forwarded the order copy along with a note to the RPFC (C&R) Regional Office, Patna for necessary orders. Upon this, RPFC(L&R), RO, Patna vide his order dated 25.02.2008 (should be 25.02.2009) stated that as per the order dated 07.08.2008 of the EPFAT, case was remanded back to competent authority for determination of escaped amount u/s 7-C of the Act and EPFAT order made it clear that only the authority who had exercised the powers u/s 7-A and 7-B of the Act can exercise the power u/s 7-C of the Act. Hence, APFC, SRO, Bhagalpur was to exercise the powers u/s 7-C of the Act. Accordingly, summons u/s 7C of the Act, for the period from 4/96 to 12/2000 was issued by Sri O. P. Dubey, APFC & OIC, SRO, Bhagalpur on 27.03.09 and the establishment was advised to appear on 20.04.2009. On 20.04.2009, the representative of the establishment and Sri V.K. Roy, EO from the department side appeared and thereafter on the basis of the petition filed by the establishment on 20.04.2009, it was found that the documents as filed by the establishment during earlier proceedings were required to be gone through and accordingly an adjournment up to 06.07.2009 was allowed. In the meantime, since Shri O.P. Dubey, APFC was promoted to the post of RPFC (II), the proceedings were taken over by the applicant and summons issued fixing 09.10.2009 as the next date of hearing. The proceedings were further adjourned to several dates. The establishment appeared on 09.10.2009 and filed preliminary objection petition dated 09.10.2009 in

response to the notice dated 27.08.2009. During the course of proceedings, the applicant & Assessing Officer directed Sri L.P. Gariban, Enforcement Officer vide letter no. BGP/EB/BR/6351/7C/856 dated 29.10.2010, to visit the establishment, to prepare counter comments on the rejoinder of the college/establishment. A report was submitted by Sri L.P. Gariban, EO vide letter dated 29.10.2010. Shri Gariban, Enforcement Officer in his report also enclosed the documents, viz (i) copy of letter dated 22.08.2005, (ii) Section- 7B order sheet dated 08.01.2004, (iii) Copy of note sheet dated 03.12.1996 and (iv) copy of challans of Rs. 29,12,363/- and Rs. 13,78,237/-.

6. The applicant on the proceeding under Section 7-C of the Act after having covered the legal ground relating to the enquiry under Section 7-C for determination of the escaped amount of the Act had come to the conclusion and passed an order dated 04.11.2010 holding that there is no reasonable ground to determine the amount as there is neither complaint from any of the members nor from the union of employees and dropping/closing the proceedings under Section 7-C.

7. Thereafter, almost after two years the applicant received a memorandum from the CPFC dated 07.09.2012 whereby and whereunder the respondents proposed to hold an enquiry against the applicant and disciplinary proceeding was initiated against the applicant under Rule 10 of the EPF Staff (CCA) Rules, 1971 vide charge memorandum dated 17.09.2012 (Annexure-1) for acting negligently and recklessly in conducting and concluding an inquiry under Section 7 C of the EPF and MP Act, 1952 while functioning as APFC at Sub Regional Officer, Bhagalpur during the period 24.08.2009 to 16.11.2020 and vide order

dated 29.06.2001 disciplinary authority imposed the penalty of "a cut in pension at the rate of 30% for a period of five years" against the applicant under Rule 9 of the CCS(Pension) Rules, 1972. When a petition dated 06.08.2021 was preferred by the applicant against the said penalty it was rejected vide order dated 20.04.2022.

8. The respondent-applicant, being aggrieved, has approached the learned Tribunal by filing original application being O.A. 051/00030/2023, challenging the orders dated 29.06.2021 and 20.04.2022 by taking the grounds that the disciplinary proceeding initiated against the applicant-respondent is totally vague and is uncalled for and the procedure was not followed as evident from the order dated 29.06.2021 whereby penalty was imposed against the applicant. Further ground had been taken therein that there is no allegation of corruption against the applicant-respondent and referring to para-9 of Annexure-ll (Statement of Imputation of Misconduct or Misbehaviour) he submits that though the respondents (petitioners herein) have clearly mentioned about the fact that applicant failed to note such prejudicial and malafide action on the part of the Enforcement Officer Shri L.P. Gariban who had blatantly favoured the establishment, no action was taken against Shri L.P. Gariban which shows biasness against the applicant. It was further claimed that no departmental proceeding can be conducted against the applicant who passed order as a quasi-judicial authority. In support of this claim, reliance was placed upon the judgment of Delhi High Court dated 17.10.2023 in the case of ***Alka Rajvanshi Jain Vs. Union of India*** in ***W.P.(C) No. 10191/2022*** and CM. APPL. 29508/2022, particularly para 34 and 35 of the judgment.

9. The learned Tribunal had called upon the appellant-EPFO who had filed written statement and taken the plea that while issuing order under Section 7C of EPF and MP Act, 1952, the applicant neither applied his mind nor examined any records and case history of the establishment. He is thus responsible for issuance of an order based on/influenced by the limited aspects as disputed by the establishment in its petition dated 16.12.2009. Thus, according to the respondents the applicant had acted negligently and inefficiently.

10. The learned Tribunal after going through the pleading made on behalf of the parties and taking note of the fact that the respondent since has passed the order in course of discharging his duty of the quasi-judicial functionary as also there is no misconduct said to be committed in passing an order, has quashed and set aside the order of punishment which is under challenge in this writ petition.

Argument on behalf of the learned counsel for the petitioner:

11. Mr. Rupesh Singh, learned counsel for the petitioners has taken the following grounds:

    (i) It has been submitted that the order dated 29.10.2024, passed by the Central Administrative Tribunal, Patna Bench (Circuit Sitting at Ranchi), is ex-facie perverse, and liable to be set aside.

    (ii) It has been submitted that the Tribunal has erred in holding that there was no independent material to establish the respondent's culpable negligence. The Tribunal failed to appreciate that the respondent, being an Assessing Officer, was under a legal obligation to verify records independently instead of relying solely

on the report of the Enforcement Officer (EO). The failure to do so amounts to a gross dereliction of duty.

(iii) It has also been submitted that the Tribunal erroneously held that the respondent was not required to assume the role of the Enforcement Officer. However, as an Assistant Provident Fund Commissioner (APFC) discharging quasi-judicial functions, the respondent was duty-bound to examine relevant documents, call for necessary records, and ensure that the establishment was not wrongfully exonerated.'

(iv) It has further been submitted that the Tribunal failed to appreciate that the disciplinary proceedings were not merely based on the respondent's reliance on the EO's report but on his gross failure to exercise due diligence. The respondent did not seek any corroborative evidence, verify books of accounts, or examine payroll records, which was a serious lapse.

(v) It has been contended that the Tribunal's observation that there was no direct evidence of misconduct on the part of the respondent is erroneous, as the charge was one of negligence and reckless disregard of duty, which was duly established in the disciplinary proceedings. The misconduct in question pertains to negligence and failure to exercise due diligence, which was sufficient to warrant disciplinary action.

(vi) It has further been contended that the Tribunal failed to recognize that the scope of judicial review in disciplinary matters is limited to examining whether due process was followed and whether the

findings of the disciplinary authority are perverse. In the present case, the disciplinary authority conducted a full-fledged inquiry and arrived at a reasoned conclusion. The Tribunal, acting as an appellate authority, erroneously interfered with these findings without any cogent reason as also the Tribunal failed to appreciate that the respondent, as a public servant, was entrusted with a duty to safeguard the integrity of the EPF system. His failure to perform due diligence in the inquiry undermined public trust in the institution.

12. Learned counsel for the petitioners, based upon the aforesaid grounds, has submitted that the instant writ petition is, therefore, fit to be allowed by quashing the order dated 29.10.2024 passed in O.A./051/00030/2023 by the learned Central Administrative Tribunal, Patna Bench, Circuit Sitting at Ranchi.

Argument on behalf of the learned counsel for the respondent-applicant:

13. While on the other hand, Mr. J.J. Sanga, learned counsel for the respondent no.1/applicant has taken the following grounds in defending the impugned order:

(i) It has been submitted that the disciplinary proceeding initiated against the respondent-applicant is totally vague and is uncalled for and the procedure was not followed which is evident from the order dated 29.06.2021 whereby penalty was imposed against the applicant.

(ii) It has also been submitted that there is no allegation of corruption against the applicant and referring to para 9 of Annexure-II

(Statement of Imputation of Misconduct or Misbehaviour) annexed before the learned Tribunal, he submits that though the petitioners have clearly mentioned about the fact that respondent no.1 failed to note such prejudicial and malafide action on the part of the Enforcement Officer Shri L.P. Gariban who had blatantly favoured the establishment, no action was taken against Shri L.P. Gariban which shows biasness against the respondent-applicant.

(iii) It has been contended that no departmental proceeding can be conducted against the respondent-applicant who passed order as a quasi-judicial authority.

14. Learned counsel for the respondent no.1/applicant, based upon the aforesaid grounds, has submitted that the instant writ petition, therefore, lacks merit and as such, is liable to be dismissed.

Analysis:

15. This Court has heard the learned counsel for the parties.

16. This Court, after appreciating the argument advanced on behalf of the parties and after going through the pleading made on behalf of the parties as available, requires to consider as to whether the order passed by the learned Tribunal suffers from an error warranting any interference by this Court in exercise of power conferred under Article 226 of the Constitution of India as per the power of judicial review in view of the judgment rendered by the Hon'ble Apex Court in the case of ***L. Chandra Kumar vs. Union of India and Ors., (1997) 3 SCC 261.***

17. This Court, before considering the aforesaid issue, needs to refer herein that this Court is exercising the power conferred under Article 226 of the

Constitution of India which is by way of power of judicial review upon the order passed by the learned Tribunal as per the law laid down by the Hon'ble Apex Court in the case of ***L. Chandra Kumar vs. Union of India and Ors***. (supra).

18. The power which is to be exercised as per the position of law is to look into the legality and propriety of the order passed by the learned Tribunal only in a case error apparent on the face of the order or in a case of perversity of finding in exercise of power conferred under the power of judicial review as has been held by the Hon'ble Apex Court at paragraph-99 in the aforesaid judgment. The said paragraph is being referred as under:

> *"99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323- B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular*

Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated."

19. The power of judicial review has also been deliberated by the Hon'ble Apex Court, which is to be considered while exercising the said power only to the extent that if any order is being passed found to be having error on the face of the order or without jurisdiction or suffers from perversity. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised.

20. The Hon'ble Apex Court in the case of ***West Bengal Central School Service Commission vs. Abdul Halim, (2019) 18 SCC 39,*** has held at paragraph-30 that the power of judicial review must be exercised by the Court after determining that the impugned order is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under: -

"30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in ***Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137]*** *. ---."*

21. In the case of ***T.C. Basappa vs. T. Nagappa and Anr., (1955) 1 SCR 250***, their Lordship have held that the patent error in a decision can be corrected

by writ of certiorari, when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

> *"11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision. ...."*

22. Thus, on the basis of the aforesaid settled legal position it is evident that the power of judicial review can be exercised, if error on the face of the order impugned, challenged under the Article 226 of Constitution of India, appears to be there or suffers from perversity.

23. The word "perverse" has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence. The Hon'ble Apex Court in ***Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206*** while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

> ***"24.*** *The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on*

record or they are against the law or suffer from the vice of procedural irregularity.

25. *In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that "perverse finding" means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*

26. *In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey [106 NW 814] the Court defined "perverse" as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.*

27. *The expression "perverse" has been defined by various dictionaries in the following manner:*

1. Oxford Advanced Learner's Dictionary of Current English, 6th Edn.

"Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable."

2. Longman Dictionary of Contemporary English, International Edn.

Perverse.—Deliberately departing from what is normal and reasonable.

3. The New Oxford Dictionary of English, 1998 Edn.

Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)

Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

5. Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.

> *"Perverse.—A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.""*

24. Thus, from the aforesaid it is evident that if any order made in conscious violation of pleading and law then it will come under the purview of perverse order. Further "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. Thus, "perversity" refers to a finding or decision so unreasonable or irrational that no reasonable person acting judicially could have reached it. It signifies a gross and unreasonable assessment of evidence or law by a court.

25. Further Perversity is a high threshold for intervention, distinguishing it from a mere error of fact or law. The "safest approach on perversity is the classic approach on the reasonable man's inference on the facts but inadequacy of evidence or a different reading of evidence is not perversity, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Damodar Lal v. Sohan Devi, (2016) 14 SCC 197.***

26. It is thus evident from the interpretation of the word "perverse" that the erroneous finding without consideration of the fact will be said to be perverse order.

27. In the backdrop of the aforesaid settled position of law this Court is now proceeding to examine the factual aspect in order to come to the conclusion on the issue of legality and propriety of the order passed by the learned Tribunal.

28. The admitted fact herein is that while the respondent no.1 was functioning as Assistant Provident Fund Commissioner (APFC) at SRO Bhagalpur, he has passed an order in exercise of power conferred under Section 7C of the Employees' Provident Fund Organization and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the Act, 1952).

29. It needs to refer herein that the Act, 1952 confers power upon the authority concerned as referred under Section 7A to exercise the power of assessing authority. Section 7A, 7B and 7C are being referred as under:

*"**7A. Determination of moneys due from employers.**—[(1) The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order,—*

(a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and

(b) determine the amount due from any employer under any provision of this Act, the Scheme or the [Pension] Scheme or the Insurance Scheme, as the case may be, and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary];

(2) The officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

(3) No order shall be made under sub-section (1), unless [the employer concerned] is given a reasonable opportunity of representing his case. [(3A) Where the employer, employee or any other person required to attend the inquiry under sub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so, the officer conducting the inquiry may decide the applicability of the Act or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.]

[(4) Where an order under sub-section (1) is passed against an employer ex parte, he may, within three months from the date of communication of such order, apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from

appearing when the inquiry was held, the officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry:

Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the officer.

(5) No order passed under this section shall be set aside on any application under sub-section (4) unless notice thereof has been served on the opposite party.]

***7B. Review of orders passed under section 7A**.—(1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:*

Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

(2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be specified in the Scheme.

(3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

(4) Where the officer is of opinion that the application for review should be granted, he shall grant the same:

Provided that,—

(a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.

(5) No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

7C. Determination of escaped amount.—*Where an order determining the amount due from an employer under section 7A or section 7B has been passed and if the officer who passed the order—*

(a) has reason to believe that by reason of the omission or failure on the part of the employer to make any document or report available, or to disclose, fully and truly, all material facts necessary for determining the correct amount due from the employer, any amount so due from such employer for any period has escaped his notice;

(b) has, in consequence of information in his possession, reason to believe that any amount to be determined under section 7A or section 7B has escaped from his determination for any period notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the employer, he may, within a period of five years from the date of communication of the order passed under section 7A or section 7B, re-open the case and pass appropriate orders re-determining the amount due from the employer in accordance with the provisions of this Act:

Provided that no order re-determining the amount due from the employer shall be passed under this section unless the employer is given a reasonable opportunity of representing his case.

30. It is further evident that the provision of appeal has also been made as would be evident from the provision as contained in Section 7-I which is being referred as under:

"7-I. Appeals to Tribunal.—(*1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.*

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed."

31. It is thus evident that the Act, 1952 is a self-contained code conferring power upon the authority to exercise the quasi-judicial function having the forum of review as also the appeal.

32. In such circumstances of the statutory provision as contained in the Act, 1952, the admitted fact herein is that the respondent no.1 while functioning as Assistant Provident Fund Commissioner (APFC) has been conferred with the power to exercise the power conferred under Section 7C of the Act, 1952 in addition to the power conferred under Section 7A as also 7B thereof. The respondent no.1 has passed an order in exercise of the power conferred under Section 7C of Act 1952.

33. It is admitted fact that the order passed under Section 7B by the respondent no.1 has never been challenged by filing an appeal under the provision of Section 7-I of the Act, 1952.

34. However, it has been contended of the behalf of the petitioner that the order passed by the respondent no.1 under the conferment of power under Section 7C of the Act, 1952 had directly been challenged before the Patna High Court by filing writ petition wherein the order passed by the respondent-applicant has been quashed and set aside by remitting the matter before the authority to pass order afresh. Thereafter, the order has been passed afresh.

35. In the said background the department has decided to initiate a departmental proceeding against the respondent/applicant by framing the following charges:

> ***"STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SH. DEEPAK TIGGA, APFC, SRO, BHAGALPUR***

That the said Shri Deepgak Tigga, while functioning as APFC at SRO, Bhagalpur during the period from 24.08.2009 to 16.11.2010 had acted negligently and recklessly in conducting and concluding an inquiry u/s 7C of the EPF & MP Act 1952. He not only failed to exercise powers vested upon him to summon and examine the records of the establishment, but also failed to appreciate the case history of the establishment and relying only on a motivated and infructous report of the EO concluded the inquiry. This inefficiency and non-appreciation of full facts concerning the establishment led to reduction of the earlier assessed dues of more than Rs.56 lakhs to Zero which was ironical since Section 7C of the Act was precisely initiated to determine the escaped amount.

Thus, by the aforesaid acts of omission and commission, Shri Deepak Tigga, APFC has exhibited lack of devotion to duty and has acted in a manner unbecoming of an employee of Central Board of Trustees, E.P.F., thereby violated Rule 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964 which are mutatis-mutandis applicable to the employees of EPFO by virtue of Regulation 27 of EPF (Staff & Conditions of Service) Regulation, 1962 and Rule 18 & 22 of the EPF (Officers and Employees' Conditions of Service) Regulations, 2008."

36. The enquiry was conducted in which the enquiry officer has given the finding of charge having been proved. The said enquiry report has been accepted by the disciplinary authority and since the respondent in the meanwhile has retired from service and as such, under the deeming function of the departmental proceeding under the provision of CCS (Conduct) Rules, 1972, the order of punishment was passed of a cut in pension at the rate of 30% for a period of five years in exercise of power conferred under Section 9 of the CCS (Conduct) Rules, 1972.

37. The said order was challenged by the respondent no.1 before the learned Tribunal questioning the very basis of the authority as also that no impropriety has been committed by the respondent no.1 since the respondent no.1 has exercised the quasi-judicial function and while doing

so, it is not available for the employer to initiate a departmental proceeding.

38. The learned Tribunal has agreed to the submission made on behalf of the respondent no.1 and accordingly, has quashed and set aside the orders dated 29.06.2021 and 20.04.2022, which is the subject matter of the present writ petition.

39. In the backdrop of the aforesaid factual matrix, the seminal issue which arises for consideration before this Court is whether the finding recorded by the learned Tribunal that no departmental proceeding could be initiated against the applicant on the premise that he had acted in the capacity of a quasi-judicial authority while passing the order under Section 7-C of the Act constitutes a correct finding in the facts and circumstances of the present case, and further, whether such finding suffers from any element of perversity warranting interference.

40. It needs to refer herein that the issue of power which is to be exercised by the quasi-judicial functionary is well accepted notion by giving protection to the quasi-judicial functionary to pass an order independently by applying its independent mind. The matter is otherwise if the quasi-judicial functionary has passed an order involving the issue of integrity or moral turpitude, then, certainly the same will be amount to misconduct.

41. It is settled position of law that mistake of law or wrong interpretation of law done by a quasi-judicial officer while exercising lawful jurisdiction, cannot be made basis for initiating disciplinary proceedings and further the Charge Memorandum should have clearly revealed as to how the order passed by the petitioner could be treated as misconduct.

42. It is further settled position of law that initiation of disciplinary proceedings for carelessness, inadvertence or omission, whilst rendering orders, is not legally permissible, specifically when such an action is open to review by way of an appeal; further for initiating the departmental proceeding it has to be shown from the imputations, at least prima facie, that the petitioner has extraneously considered certain material(s) to pass the impugned order against which the Charge Memorandum has been issued or the petitioner has exercised her quasi-judicial powers dishonestly or the case in hand was of misconduct and not just erroneous decision of law or fact.

43. At this juncture, it becomes necessary to advert to the meaning of the expression *"misconduct."* The term has been judicially and lexically explained in various authoritative sources. As per ***Black's Law Dictionary*** and ***Aiyar's Law Lexicon*** misconduct denotes *"Thus it could be seen that the word 'misconduct' though not capable of precise definition, on reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude, it must be improper or wrong behaviour; unlawful behaviour, wilful in character; forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty; the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject-matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve."*

44. In the case of ***Union of India v. K.K. Dhawan [(1993) 2 SCC 56*** the respondent was working as an Income Tax Officer. A charge-memorandum was served on him that it was proposed to hold an enquiry against him under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. In the statement of article of charge framed against him, it was alleged that he completed assessment of nine firms in *"an irregular manner, in undue haste and apparently with a view to conferring undue favour upon the assessees concerned".* The Hon'ble Apex Court after examining the early decisions rendered by the Hon'ble Apex Court in ***V.D. Trivedi v. Union of India [(1993) 2 SCC 56; Union of India v. R.K. Desai [(1993) 2 SCC Union of India v. A.N. Saxena [(1992) 3 SCC 124*** and also in ***S. Govinda Menon v. Union of India [AIR 1967 SC 1274*** has held as under:

> *"28. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:*
>
> *(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;*
>
> *(ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;*
>
> *(iii) if he has acted in a manner which is unbecoming of a government servant;*

(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party;

(vi) if he had been actuated by corrupt motive, however small the bribe may be because Lord Coke said long ago 'though the bribe may be small, yet the fault is great'.

29. The instances above catalogued are not exhaustive. However, we may add that for a mere technical violation or merely because the order is wrong and the action not falling under the above-enumerated instances, disciplinary action is not warranted. Here, we may utter a word of caution. Each case will depend upon the facts and no absolute rule can be postulated."

45. In the case of ***Zunjarrao Bhikaji Nagarkar v. Union of India (1999) 7 SCC 409***, the Hon'ble Supreme Court was concerned with a case wherein the appellant while working as a Collector of Central Excise, Nagpur was issued a memorandum with allegations that he favoured the assessee therein, by not imposing penalty on it under Rule 173Q of the Central Excise Rules 1944, when he passed the order in Original No. 20/95 on March 2, 1995, despite holding that the assessee had clandestinely manufactured and cleared the excisable goods wilfully and evaded the excise duty and had ordered confiscation of the goods. In that case, the Supreme Court has also referred to its judgment in the case of K.K. Dhawan (supra), wherein the Supreme Court had highlighted the grounds on which the disciplinary proceedings can be initiated against a person discharging quasi-judicial functions. After considering K.K. Dhawan (supra) and various other judgments, the Supreme Court was of the view that merely because the penalty imposable was not imposed, it cannot be said that by not levying penalty, the appellant has favoured the assessee or shown undue favour to him. It was also held that if every error

of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi-judicial officer like the appellant therein. It further held that to maintain a charge-sheet against a quasi-judicial authority, something more has to be alleged than a mere mistake of law, e.g., in the nature of some extraneous consideration influencing the quasi judicial order. Since nothing of that sort was alleged against the appellant therein, the impugned charge- sheet was rendered illegal / quashed. For ready reference the relevant Paragraphs of the said judgment are being quoted as under:

> ***36.*** *The question is: if such a stance by the appellant was to "favour" the assessee or the officer was rightly of the view that it was not a case of levy of penalty. It is a quasi-judicial order. Merely because penalty imposable has not been imposed, which was obligatory for the officer to impose, could it be said that it was a case of misconduct and he is liable to be proceeded against? The officer did impose the excise duty and also ordered confiscation of the goods. What is the evidence before the authority to come to a prima facie view of levying the charge of misconduct on the officer? He was served with the memorandum dated 2-9-1997. It was accompanied with Annexure 1 (article of charge), Annexure II (statement of imputations of misconduct or misbehaviour in support of the article of charge), Annexure III (list of documents) and Annexure IV (list of witnesses). The article of charge we have reproduced above. The statement of imputations of misconduct or misbehaviour referred to the order-in-original passed by the officer and his explanation as to why he did not think it fit to impose penalty. The list of documents mentions only three documents, namely, (1) the order-in-original, (2) the order of the Board under Section 129 of the Act for filing appeal, and (3) the explanation dated 18-11-1996 of the officer. There is no witness mentioned in the list of witnesses. So the order-in-original, the explanation of the officer and the direction of the Board for filing appeal are the bases for the charge of misconduct or misbehaviour.*
>
> ***40.*** *When we talk of negligence in a quasi-judicial adjudication, it is not negligence perceived as carelessness, inadvertence or omission but as culpable negligence. This is how this Court in State of Punjab v. Ex-Constable Ram Singh [(1992) 4 SCC 54 : 1992 SCC (L&S) 793 : (1992)*

21 ATC 435] interpreted "misconduct" not coming within the purview of mere error in judgment, carelessness or negligence in performance of duty. In the case of K.K. Dhawan [(1993) 2 SCC 56 : 1993 SCC (L&S) 325 : (1993) 24 ATC 1] the allegation was of conferring undue favour upon the assessees. It was not a case of negligence as such. In Upendra Singh case [(1994) 3 SCC 357 : 1994 SCC (L&S) 768 : (1994) 27 ATC 200] the charge was that he gave illegal and improper directions to the assessing officer in order to unduly favour the assessee. The case of K.S. Swaminathan [(1996) 11 SCC 498] was not where the respondent was acting in any quasi-judicial capacity. This Court said that at the stage of framing of the charge the statement of facts and the charge-sheet supplied are required to be looked into by the court to see whether they support the charge of the alleged misconduct. In M.S. Bindra case [(1998) 7 SCC 310 : 1998 SCC (L&S) 1812] where the appellant was compulsorily retired this Court said that judicial scrutiny of an order imposing premature compulsory retirement is permissible if the order is arbitrary or mala fide or based on no evidence. Again in the case of Madan Mohan Choudhary [(1999) 3 SCC 396 : 1999 SCC (L&S) 700] which was also a case of compulsory retirement this Court said that there should exist material on record to reasonably form an opinion that compulsory retirement of the officer was in public interest. In K.N. Ramamurthy case [(1997) 7 SCC 101 : 1997 SCC (L&S) 1749] it was certainly a case of culpable negligence. One of the charges was that the officer had failed to safeguard government revenue. In Hindustan Steel Ltd. case [(1969) 2 SCC 627 : AIR 1970 SC 253] it was said that where proceedings are quasi-judicial penalty will not ordinarily be imposed unless the party charged had acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest or acted in conscious disregard of its obligation. This Court has said that the penalty will not also be imposed merely because it is lawful so to do. In the present case, it is not that the appellant did not impose penalty because of any negligence on his part but he said it was not a case of imposition of penalty. We are, however, of the view that in a case like this which was being adjudicated upon by the appellant imposition of penalty was imperative. But then, there is nothing wrong or improper on the part of the appellant to form an opinion that imposition of penalty was not mandatory. We have noticed that the Patna High Court while interpreting Section 325 IPC held that imposition of penalty was not mandatory which again we have said is not a correct view to take. A wrong interpretation of law cannot be a ground for misconduct.

Of course it is a different matter altogether if it is deliberate and actuated by mala fides.

41. *When penalty is not levied, the assessee certainly benefits. But it cannot be said that by not levying the penalty the officer has favoured the assessee or shown undue favour to him. There has to be some basis for the disciplinary authority to reach such a conclusion even prima facie. The record in the present case does not show if the disciplinary authority had any information within its possession from where it could form an opinion that the appellant showed "favour" to the assessee by not imposing the penalty. He may have wrongly exercised his jurisdiction. But that wrong can be corrected in appeal. That cannot always form a basis for initiating disciplinary proceedings against an officer while he is acting as a quasi-judicial authority. It must be kept in mind that being a quasi-judicial authority, he is always subject to judicial supervision in appeal.*

42. *Initiation of disciplinary proceedings against an officer cannot take place on information which is vague or indefinite. Suspicion has no role to play in such matter. There must exist reasonable basis for the disciplinary authority to proceed against the delinquent officer. Merely because penalty was not imposed and the Board in the exercise of its power directed filing of appeal against that order in the Appellate Tribunal could not be enough to proceed against the appellant. There is no other instance to show that in similar case the appellant invariably imposed penalty.*

43. If every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi-judicial officers like the appellant. Since in sum and substance misconduct is sought to be inferred by the appellant having committed an error of law, the charge-sheet on the face of it does not proceed on any legal premise rendering it liable to be quashed. In other words, to maintain any charge-sheet against a quasi-judicial authority something more has to be alleged than a mere mistake of law, e.g., in the nature of some extraneous consideration influencing the quasi-judicial order. Since nothing of the sort is alleged herein the impugned charge-sheet is rendered illegal. The charge-sheet, if sustained, will thus impinge upon the confidence and independent functioning of a quasi-judicial authority. The entire system of administrative adjudication whereunder quasi-judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings.

> ***44.*** *Considering whole aspects of the matter, we are of the view that it was not a case for initiation of any disciplinary proceedings against the appellant. The charge of misconduct against him was not proper. It has to be quashed.*

46. Thus, from the aforesaid deduction it is apparent that every error does not amount to misconduct. Treating a mere legal mistake as misconduct would undermine the independence of quasi-judicial officers. To sustain a charge-sheet against such an authority, allegations must go beyond error of law and disclose extraneous considerations or improper motives. Unless there are clear-cut allegations of misconduct, extraneous influences, gratification of any kind etc. disciplinary proceedings should not be initiated merely on the basis that wrong order has been passed by the Quasi-judicial authority. Thus, it is settled position of law that in absence of allegations of extraneous influence, departmental proceedings should not be initiated merely because a quasi-judicial order was incorrect.

47. In the case of ***K.K. Dhawan (supra) and Zunjarrao Bhikaji Nagarkar (supra)*** it has been observed by the Hon'ble Apex Court that to hold a mere charge of negligence or recklessness against an officer in passing an adjudicatory order in exercise of quasi-judicial functions unaccompanied by any further charge of extraneous considerations or quid pro quo in passing such order would not constitute a misconduct under the relevant rules to justify disciplinary proceedings against the quasi-judicial authority.

48. This Court, in order to verify as to whether any element of integrity or moral turpitude has been alleged in the memorandum of charge or not has gone through the memo of charge and has found that no such imputation has been made while framing the charge against the respondent no.1 rather

the charge is that the order passed by the respondent no.1 is on erroneous consideration but how it is on erroneous consideration, the same is not reflected in the memorandum of charge rather the punishment has only been imposed that the order passed under Section 7C of the Act, 1952 suffers from an error.

49. This Court is of the view that even accepting that any error was committed by the respondent no.1 while passing the order, then, the provision of appeal was there available to the petitioners but admittedly no appeal had been preferred.

50. The statute if takes cares by formulating a provision of review or appeal that itself amounts to have the feeling of protection in the mind of the quasi-judicial functionary to exercise the power independently unless any allegation of monetary transaction, integrity or moral turpitude is involved but no such allegation is there as per the memorandum of charge.

51. The other part which is admitted is that although the petitioners had not preferred any appeal under the provision of Section 7-I of the Act, 1952 but the order passed by the respondent no.1 was directly challenged by filing writ petition before the Patna High Court in which the order passed by the respondent no.1 has been quashed and set aside by remitting the matter before the authority to pass order afresh.

52. Additionally, at the time of passing the impugned order, it stood admitted that no record or allegation was available before the learned Tribunal to establish that any subsequent or different order had been passed against the establishment, namely Katihar Medical College. Thus, on the materials placed, it was evident that at the time of passing of impugned order by the

tribunal no other authority had, at any later stage, examined or adjudicated the same factual matrix so as to arrive at a different conclusion.

53. This Court, after having discussed the factual as also the legal aspect hereinabove and adverting to the order passed by the learned Tribunal, has found that the learned Tribunal has given the following reason while allowing the original application filed by the respondent no.1:

> *"**13.** The main allegation against the applicant is that he failed to note the prejudicial and malafide action on the part of E.O. who had blatantly favoured the establishment, revealed his report to the establishment even before reporting to the office. The further allegation against the applicant is that he did not verify any basic & essential records and relying on such infructuous & motivated report of the E.O. concluded the proceedings. In continuation it is further mentioned that the E.O. neither verified books of accounts of the establishment nor any salary/wages registers and gave a clean chit to the establishment that there existed no evasion, without even examining any of the basic record/documents.*
>
> ***14.** So, now the moot question before this tribunal is to decide as to what is the so called culpable negligence on the part of the applicant. In this imputation of the alleged misconduct the only charge against the applicant is that he relied on the report of E.O. Sri Gariban and passed an order accordingly. There is nothing on record to prove that the applicant APFC Sri Tigga was to assume the role of E.O. and conduct the enquiry himself. It is also not clarified as to what were the issues that he ignored. How is the imputation in support of the article of charge proving that there was non-application of mind?*
>
> ***15.** Additionally, there is nothing on record or the allegation that the applicant indulged in any corrupt practice or took bribe for taking this decision. There is no record or allegation before us to prove that any different order was passed at a later stage against the establishment that is Katihar Medical College. This means that no other authority as per available records delved into this question and decided that on the same very facts before this quasi-judicial functionary (applicant), any other decision could be taken or has been taken.*
>
> ***16.** In view of the discussions and observations made hereinabove the OA is allowed. Accordingly, orders dated 29.06.2021 (Annexure -2)*

> *and 20.04.2022 (Annexure-3) are quashed and set aside. The respondents are directed to refund the amount that has been deducted from the pension of the applicant by way of penalty with statutory interest within a period of three months from the date of receipt of this order. No order as to cost."*

54. It is evident from the finding so recorded in the impugned order, as quoted and referred hereinabove, that the learned Tribunal while passing the order has taken into consideration that the concerned authority/respondent herein has decided the issue as a quasi-judicial functionary in exercise of power conferred under Section 7-C of the Act, 1952.

55. It has further been considered that the provision of appeal is also there but the concerned authority has not chosen to prefer appeal as per the provision of Section 7-I of the Act, 1952. Moreover, there is no allegation of any moral turpitude or any element of fraud or embezzlement of money against the respondent/applicant rather the allegation reflects that while discharging the duty as a quasi-judicial functionary, the respondent-applicant has acted negligently and inefficiently.

56. The law is well-settled by the Hon'ble Apex Court as has been referred hereinabove that to hold a mere charge of negligence or recklessness against an officer in passing an adjudicatory order in exercise of quasi-judicial functions unaccompanied by any further charge of extraneous considerations or quid pro quo in passing such order would not constitute a misconduct under the relevant rules to justify disciplinary proceedings against the quasi-judicial authority.

57. Moreover, the admitted fact herein is that the order passed by the delinquent employee, the respondent herein, has not been challenged by

filing appeal but the writ court was directly approached, i.e., Patna High Court wherein the order passed by the respondent-applicant has been quashed and set aside by remitted the matter before the authority exercising the power conferred under Section 7-C for deciding the issue afresh.

58. Further, the learned Tribunal has duly noted that, at the time of passing the impugned order, it stood admitted that no record or allegation was available before it to indicate that any subsequent or distinct order had been passed against the establishment, namely Katihar Medical College. Consequently, on the materials placed, it was manifest that, at the relevant time, no other authority had, at any later stage, examined or adjudicated upon the same factual matrix so as to arrive at a divergent conclusion.

59. Thus, it is evident that the Tribunal while taking note of these facts since has recorded the finding as referred in paragraphs-13, 14, 15 and 16 as referred and quoted above in the preceding paragraph, as such, this Court is of the view that there is no element of perversity or any error apparent on the face of the order.

60. This Court, in view thereof, is of the view that the order dated 29.10.2024 passed in O.A./051/00030/2023 by the learned Central Administrative Tribunal, Patna Bench, Circuit Sitting at Ranchi does not require any interference.

61. This Court in view of the entirety of facts and circumstances and based upon the reasons as referred hereinabove, is of the view that the writ petition lacks merit and is fit to be dismissed.

62. Accordingly, the instant writ petition stands dismissed.

63. Pending interlocutory application(s), if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

I Agree,

(Pradeep Kumar Srivastava, J.)

(Pradeep Kumar Srivastava, J.)

11th September , 2026

Saurabh/-

A.F.R.

Uploaded on: 14.09.2026