

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**CWPOA No.1155 of 2020**  
**Decided on: 28<sup>th</sup> July, 2026**

Paras Ram  
...Petitioner

versus

State of H.P. and others  
...Respondents

*Coram*  
***Hon’ble Mr.Justice Jiya Lal Bhardwaj, Judge.***  
***Whether approved for reporting?<sup>1</sup> Yes***

**For the petitioner:                      Dr. Lalit K. Sharma, Advocate.**  
**For the respondents:                  Mr. Vishav Deep Sharma,**  
**Additional Advocate General.**

**Jiya Lal Bhardwaj, Judge (Oral)**

By way of present petition, the petitioner has  
prayed for the following substantive reliefs:-

- “(i)      *That the impugned orders contained in Annexure A-11 dated 24.03.2014, Annexure A-13 dated 19.12.2014, Annexure A-15 dated 04.07.2015 and Annexure A-17 dated 23.06.2016 passed by the Respondent Nos. 4, 3, 2 and 1 respectively may kindly be quashed and set-aside with all consequential benefits.*
- (ii)      *That the respondents may also be directed to reinstate in service with continuity in service and back due & admissible salary from the date of dismissal till the date of joining the service. The seniority of the applicant may also be kept intact.*
- (iii)     *That the respondents may also be directed to pay the arrears of pay & allowances flowing out of his reinstatement along-with interest @ 9% per annum.”*

<sup>1</sup> *Whether the reporters of Local Papers may be allowed to see the judgment?*

2. The facts as emerge from the pleadings are that the petitioner was deployed as Constable in the respondent-Department. On 06.11.2012, an FIR bearing No. 80/2012 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short "NDPS Act") was registered at Police Station Swarghat, District Bilaspur, against a person, who was caught red-handed with 26.150 kilograms charas. It has been averred that the petitioner, being an Investigating Officer along with other police officials, went to a place known as 'Talara' on the basis of secret information for raiding under the NDPS Act on 06.11.2012, but it was alleged that he through his mobile phone informed in advance to the suspected person, who was involved in Case No. 80/2012, who succeeded in absconding from the place i.e. Talara. The petitioner was put under suspension vide office order dated 07.11.2012 (Annexure A-1) by respondent No.4. Thereafter, the memo of charges were served upon him, vide order dated 08.11.2012 (Annexure A-2) and one Shri Pankaj Sharma, the then Deputy Superintendent of Police, Headquarter, Kullu (in short 'Dy.SP'), was appointed as Enquiry Officer. However, on his transfer, the enquiry was entrusted to one Shri Sanjay

Kumar Sharma, Dy.SP, HQ Kullu, vide office order dated 14.03.2013. The allegations against the petitioner were that he had disclosed the information to one Dile Ram, suspect in the FIR lodged at Police Station Swarghat through one Shri Padam Singh, who fled away from the spot. After conducting the enquiry, the Enquiry Officer submitted his report on 11.10.2013 (Annexure A-4), which was supplied to the petitioner, who filed representation dated 17.10.2013 (Annexure A-5), denying the allegations and further stated that he had not divulged the information. He also stated that during his service period, he has been issued 13 commendation certificates by the higher officers. During enquiry, no document could be furnished, which suggests that the petitioner had ever furnished the said information. The petitioner neither knows said Dile Ram nor he has ever talked to him. In Ext. PW-5/B i.e., voice recording CD, it was not his voice.

3. After receipt of the representation (Annexure P-5), respondent No.4, being the Appointing and Disciplinary Authority, passed an order on 24.03.2014 (Annexure A-11), and imposed penalty of removal of the petitioner from service for his proved grave misconduct. It was also observed in the

order that he had gone through the enquiry report submitted before him along with all relevant evidence on record as well as audio recording CD received from State CID Headquarter and he was fully convinced. All these records clearly establish and prove the involvement of the petitioner with criminals in NDPS Act. His retention and continuation in service in Police Department will not only adversely affect the morale of other police officers/officials of the district, but also boost the morale of criminals to increase criminal activities under the NDPS cases.

4. The petitioner feeling aggrieved by the order of removal of his service had preferred the statutory appeal before respondent No.3, who vide order dated 19.12.2014 (Annexure A-13) dismissed the same. While dismissing the appeal, the Appellate Authority had noted that the accused in FIR No.80/2012 during interrogation had disclosed that the recovered charas was purchased from one Shri Dile Ram, son of Shri Dole Ram, resident of village Dharbotli (Talara), District Kullu, H.P. The Sub Divisional Police Officer (in short SDPO) Naina Devi Ji, informed the then Additional Superintendent of Police, Kullu to detain Shri Dile Ram. As per CDR of cell phone bearing No. 94186-61315 which

belongs to the petitioner and the cell phone holder bearing No. 96251-33768, it has been proved to be contacted from cell phone of the petitioner and one Shri Padam Singh son of Alam Chand, was using the SIM of cell phone 96251-33768. The petitioner had talked with Shri Padam Singh on 06.11.2012 at about 07:29 P.M. The remarks of voice recording printout of CD mobile phones has been found "Convey to Dile Ram to run away not to phone me; I will ring you." Besides, it has been proved from the print out of CD mobiles that the petitioner had talked to a person bearing mobile No. 96251-33768 two to three times and remarks found were that "Police team has come here in his search, run away." The above remarks clearly show that he had the information and he passed the said information to the suspect Dile Ram to facilitate his escape.

5. The petitioner feeling aggrieved by the order of dismissal of his appeal preferred a revision petition under Rule 16.32 of the Punjab Police Rules before respondent No.2, who vide order dated 03/04.07.2015 (Annexure A-15) dismissed the same and affirmed the orders passed by the Disciplinary Authority and Appellate Authority.

6. The petitioner thereafter filed a review petition before respondent No.1, which came to be dismissed on 23.06.2016 (Annexure A-17), observing that since respondent No.2 had passed an order in revision petition, hence further appeal does not lie to the State Government.

7. The petitioner feeling aggrieved by the impugned orders passed by the respondents, has approached this Court *inter alia* on the grounds that before proceeding against the petitioner departmentally, no prior concurrence of the District Magistrate has been obtained as required under Rule 16.38 of the Punjab Police Rules applicable to the State of Himachal Pradesh. Further, the enquiry has not been conducted as per the procedure. The findings returned by the Enquiry Officer do not germane from the statements of the witnesses recorded. The Disciplinary Authority has not assigned cogent reasons while imposing the penalty of removal of the petitioner from service and further, the Appellate Authority, being a statutory authority, has not dealt with the points raised by the petitioner in the appeal. It has further been averred that as per the information received under the Right to Information Act, no prior sanction was obtained from the District Magistrate before initiating departmental enquiry

against the petitioner. No record of audio recording and the conversation exchanged between the petitioner and Padam Singh was available in the office of respondent No.4 and further, no record with respect to cell number used by suspect Dile Ram on 06.11.2012 was put under observation by the Department, including the information that from which date it was kept under observation. The punishment awarded by the Disciplinary Authority and affirmed by the Appellate Authority as well as the Revisionary Authority is de hors the procedure and thus, the same is illegal, violative of principles of natural justice as well as Articles 14, 16, and 21 of the Constitution. The petitioner has also averred in the petition that the Disciplinary Authority did not apply its mind inasmuch as relied upon the SHO Bhuntar, whose investigations were not proved, but the efforts were made by him to get the petitioner punished, as he had not good terms with him and as such, sought quashing of the impugned orders passed by the respondents.

8. The respondents filed reply to the petition and averred that the petitioner was dismissed from service on the basis of proven misconduct after conducting regular departmental enquiry in accordance with the provisions of

Punjab Police Rules 16.24 as applicable to the State of H.P. During the course of departmental enquiry, the petitioner was afforded due opportunity to defend himself or to disprove the allegations levelled against him. There is no violation of Article 311 (2) of the Constitution of India as well as the principles of natural justice. The punishment imposed as well as the revisionary orders are well-reasoned and are speaking orders and the same have been passed in view of the nature of misconduct and evidence brought on record during the course of departmental enquiry. It has also been averred that the charges levelled against the petitioner were proved during the course of enquiry and also the involvement with criminals of NDPS Act was manifestly and clearly established, which was a grave act of misconduct. Therefore, the punishment of removal from service awarded by the competent authority on the basis of proven misconduct is legal, fair and just and the same needs to be upheld. It has further been submitted that as per the facts of the case, one Shri Dile Ram, was suspect in FIR No.80 of 2012, dated 06.11.2012 registered at Police Station Swarghat, District Bilaspur, under Section 20 of the Act and 26.150 kg. charas was recovered from the accused. During the investigation,

the accused had disclosed that the recovered charas was purchased by him from one Dile Ram son of Shri Dole Ram, resident of village Dharbotli (Talara) District Kullu, H.P. The SDPO, Shri Naina Devi Ji, informed the then Additional SP, Kullu, to detain Dile Ram. On 06.11.2012, at 7.35 p.m., the SHO, Police Station Bhuntar (where the petitioner was posted as Investigating Officer at that post), along with other staff, left for Talara (village of Dile Ram), in search of Dile Ram, but the petitioner became instrumental in conveying in advance the information, in facilitating the escape of suspect Dile Ram and resultantly, he could not be nabbed as per CDR of cell phone bearing number 94186-61315, which belongs to the petitioner. Cell holder bearing number 96251-33768 had been proved to be contacted from cell number of the petitioner and one Shri Padam Singh, son of Shri Alam Chand, was using the same. The audio voice record of mobile phone of the petitioner also received during the course of departmental enquiry. It has been proved from the printout of CDR of mobile of the petitioner that he had talked to the person bearing mobile No. 96251-33768 two or three times and the remarks by the petitioner were that "Convey to Dile Ram to run away, not to phone me, I will ring you". The other

remarks were found that the phone of the petitioner from ASI Bhuntar "Police team came here in his search, saying to run away and not phone me."With regard to the other detailed remarks, PW5 Constable Vijay Chand in his statement, has proved the chain of conversation made with regard to suspect Dile Ram, to facilitate his escape. Thus, it was clearly proved that the petitioner was well aware about the information and he passed the same to the suspect Dile Ram to facilitate his escape. Resultantly, said Dile Ram succeeded to run away well before the search conducted by the police at his home. The petitioner was holding an official position of trust, but he failed to keep the same maintained, which amounted to the act of gravest misconduct. Therefore, the punishment of removal from service is commensurate to the proven misconduct, being a member of disciplined force. So far as the plea taken by the petitioner that the prior concurrence of the District Magistrate was not obtained, it has been averred that there was no necessity to obtain such concurrence. With regard to the information sought by the petitioner under the RTI to supply the record of authorization to interpret the conversation from local dialect to English, it has been averred that the statement of PW-5 Vijay Chand was recorded during

the course of departmental enquiry and the same shall be produced before the Court as and when directed.

9. The petitioner filed rejoinder to the reply and controverted the averments made in the reply.

10. I have heard the learned counsel for the parties and also perused the record carefully.

11. Before delve on the issue, it is apt to discuss the judicial power of this Court to interfere with the order passed by the Disciplinary Authority while imposing penalty. This Court can interfere only when, the enquiry is conducted by an authority not competent in that behalf, the proceedings have not been conducted as per the procedure of law and the principles of natural justice are not followed. Further 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 this Court in a petition for a writ under Article 226 of the Constitution of India to review the evidence and to arrive at an independent finding on the evidence. Reference in this regard is made to a three-Judge Bench decision of the Hon'ble Supreme Court in **State of Andhra Pradesh versus S. Sree**

**Rama Rao**, AIR 1963 SC 1723 and the relevant para reads as under:

*“7. There is no warrant for the view expressed by the High Court that in considering whether a public officer is guilty of the misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court, must be applied, and if that rule be not applied, the High Court in a petition under Art. 226 of the Constitution is competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not constituted in a proceeding under Art. 226 of the Constitution 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 Art. 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 Art. 226 of the Constitution.”*

12. Further, while adjudicating the matter by the Enquiry Officer, neither the technical rules of Evidence Act nor proof of fact or evidence as defined therein apply to the disciplinary proceedings. The High Court while exercising the judicial review is not to act as an Appellate Court to reappreciate the evidence and to arrive at its own independent findings on the evidence. Reference in this regard is made to a three-Judge Bench decision of the Hon’ble Supreme Court in **B.C. Chaturvedi versus Union of India and others**, (1995) 6 SCC 749 and the relevant para reads as under:

*“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual*

*receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to re- appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry 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, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.”*

13. Now, keeping in view the above principles in mind, the Court has to decide the dispute raised in the present petition. Dr. Lalit Kumar Sharma, learned counsel representing the petitioner, has vehemently argued that since the petitioner has been proceeded without the prior concurrence of the District Magistrate, which is mandatorily to be followed as per the provisions of Rule 16.38 of the Punjab Police Rules, 1934, the entire proceeding on this sole ground deserves to be quashed. He further elaborated the points raised in the petition, as mentioned above, and, therefore, to not repeat the same, the Court is proceeding to deal the same one by one.

14. So far as the first plea taken by the learned counsel representing the petitioner that the enquiry proceedings initiated against the petitioner stands vitiated since the prior concurrence of the District Magistrate, as required, was not obtained is concerned, the same was not required in the present case for the reason that the petitioner was not booked for the commission of the offence in respect of an FIR No.80 of 2012, dated 06.11.2012, lodged at Police Station Swarghat, District Bilaspur. The *ibid* provision would

have been attracted and made applicable in case the petitioner, had he been also named in the aforesaid FIR.

15. Learned counsel for the petitioner has drawn the attention of this Court to the judgment passed by a coordinate Bench of this Court in CWPOA No. 634 of 2020, titled, ***Sucha Singh versus State of Himachal Pradesh and another***. However, the said judgment is not applicable in the facts of the present case for the reason that the facts in that case were different for the reason that the petitioner was also being tried for the commission of an offence in the FIR and the judicial prosecution was pending.

16. Learned counsel for the petitioner has vehemently argued that there is flagrant violation of the procedure while conducting the enquiry. It has been argued that the record with respect to interpretation of conversation exchanged between the petitioner and Padam Singh was not placed on record and further when he had sought the information regarding the same under the RTI, no such record was available in the office. The petitioner was being dealt with disciplinary proceedings, and once in the enquiry report, it has come that the petitioner had disseminated the information to one Padam Singh, which has been proved by

the CDRs exhibited as Ext. PW-5/A to Ext.PW-5/C, it cannot be said that the same has not been proved. Further, the proof in the departmental proceedings is not as required in proving the criminal case beyond the reasonable doubt. In the departmental proceedings, the matter is decided on the principles of preponderance of probabilities and strict proof as required in criminal case is not required. The petitioner has not disputed the fact that he was using the cell phone number 94186-61315. The information was given from his cell number 94186-61315 to another cell phone number 96251-33768, though being used by Padam Singh. But the conversation, as mentioned above, was relating to the person who was to be nabbed by the police after getting the information from the SDPO Naina Devi Ji. The enquiry simply at the instance of the petitioner, cannot be said to be vitiated in case the information sought by him was not supplied.

17. Learned counsel for the petitioner has also vehemently argued that as per the provisions of Section 65-B of the Indian Evidence Act (now Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 (in short “BSA”), the said conversation could have been believed only in case it was

proved in accordance with law. As already held above, in departmental proceedings, the strict proof, as is required in the case of proving a civil case or bringing home the guilt in the criminal case is not required to be proved.

18. Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in **Pooranmal vs. The State of Rajasthan and another**, 2026 LiveLaw (SC) 227 to contend that Section 65-B of the Evidence Act mandates that every electronic evidence in the form of a computer output can only be admitted in evidence after satisfaction of the mandatory conditions prescribed under Section 65-B(4) of the Evidence Act and since the CDRs have not been proved, the enquiry report submitted on the basis of the evidence, which is not proved cannot be believed. However, the said judgment is not applicable in the facts of the present case for the reason that in the said case, it was a criminal case and as already observed above, the strict proof is required only while proving the case under the criminal law and not for the purpose of culminating the departmental enquiry.

19. Learned counsel for the petitioner has further argued that the Disciplinary Authority, before passing the

impugned order, has not cared to consider the representation made by the petitioner and in a slip shod manner, has passed the impugned order dated 24.03.2014. It is by now settled in a plethora of judgments that where the charges are proved against the delinquent officer and the findings have been returned by the Enquiry Officer, the Disciplinary Authority is not supposed to give detailed or elaborate reasons, while imposing the penalty. Reference in this regard is made to the judgment by a three-Judge Bench of the Hon'ble Supreme Court in **Boloram Bordoloi versus Lakhimi Gaolia Bank**, (2021) 3 SCC 806 and the relevant para reads as under:

*“11. We are of the view that the judgment of this Court in ECIL is not helpful to the case of the appellant. Further, it is well settled that if the disciplinary authority accepts the findings recorded by the enquiry officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further elaborate reasons are required to be given by the disciplinary authority. As the departmental appeal was considered by the Board of Directors in the meeting held on 10-12-2005, the Board's decision is communicated vide order dated 21-12-2005 in Ref. No.LGB/I&V /Appeal/31/02/2005-06. In that view of the matter, we do not find any merit in the submission*

*of the learned counsel for the appellant that orders impugned are devoid of reasons.”*

20. In the case at hand, the order passed by respondent No.4 if perused, clearly shows that the reasons have been recorded. It has been stated that he has personally gone through the report submitted by the Enquiry Officer, all relevant evidence on record as well as audio recording received from State CID headquarters. He is fully convinced and all these records clearly establish and prove the involvement of the petitioner with criminals in NDPS cases. He has further recorded that the retention of the petitioner and continuing in service in such Department would not only adversely affect the morale of the police officers/officials of the district, but also boost the morale of criminals to increase the criminal activities under NDPS cases. Thus, no illegality can be said to have been committed by respondent No.4 while imposing the penalty of removal of service of the petitioner. The Appellate Authority has also passed a detailed order, after noticing the fact that during the course of departmental enquiry, it has been proved that the petitioner had not directly talked to suspect Dile Ram and there was indirect

conversation from his cell phone to cell phone holder bearing number 96251-33768.

21. So far as the talking of voice samples and analysis of CD from Forensic Lab is concerned, the voice of the petitioner has been proved to be identified during the conduct of the departmental enquiry, and hence there is no reason to disbelieve the CD recording and the plea taken by the petitioner was rejected. The order passed by the Disciplinary Authority is well-reasoned. Thereafter, the Revisional Authority, while dismissing the revision petition on 04.07.2015, has also passed a detailed order and no infirmity is found with the order passed by the Revisional Authority, inasmuch as the punishment awarded to the petitioner is commensurate with the charges levelled against him.

22. Learned counsel for the petitioner has argued that Station House Officer was inimical to him. However, the said plea cannot be believed for the reason that when the representation was made by the petitioner on 17.10.2013, it was not his case before the Disciplinary Authority. Once the said plea was not taken at the initial stage of the proceeding, the plea now being taken by the petitioner that SHO was inimical towards him cannot be believed. Had it been the

case of the petitioner that he was not using the mobile number 94186-61315, his plea could have been accepted that he has been falsely roped in. Once he accepts that he is the holder of the mobile phone and further so far as the relation with Padam Singh is concerned, it has also not been disputed by him that Shri Padam Singh was related to him and he is his nephew. The petitioner, instead of directly disseminating the information to Dile Ram, adopted the route through Padam Singh and thus, the punishment imposed upon the petitioner cannot be said to be disproportionate to the charges.

23. The Hon'ble Supreme in the recent judgment in **State of Rajasthan and others versus Bhupendera Singh**, AIR 2024 SC 4034 has again reiterated the scope of judicial review and also that the strict proof of evidence while conducting the enquiry by the Enquiry Officer is not required. The relevant paras of the judgment read as under:-

*“28. Turning our gaze back to the facts herein, we find that the learned Single Judge and the Division Bench acted as Courts of Appeal and went on to re-appreciate the evidence, which the above-enumerated authorities caution against. The present coram, in Bharti Airtel Limited v A.S. Raghavendra, (2024) 6 SCC 418: (AIR 2024 SC 2744) has laid down:*

*‘29. As regards the power of the High Court to reappraise the facts, it cannot be said that the same is*

completely impermissible under Articles 226 and 227 of the Constitution. However, there must be a level of infirmity greater than ordinary in a tribunal's order, which is facing judicial scrutiny before the High Court, to justify interference. We do not think such a situation prevailed in the present facts. Further, the ratio of the judgments relied upon by the respondent in support of his contentions, would not apply in the facts at hand.'

(emphasis supplied)

29. Evidently, while reappraisal of facts and evidence is not impermissible by the High Court, the infirmity in the underlying order has to be greater than ordinary. It is not the respondent's case that due to omissions by the appellants in substantive and/or procedural compliances, prejudice has ensued to him. Let us examine the aspect independently too. The facts reveal that an earlier removal order was quashed, and a copy of the Enquiry Report alongwith the RPSC's opinion was supplied to the respondent. The respondent, thereafter, received an opportunity to submit a written representation, which he availed of. Further, he was afforded an opportunity of hearing as well. In this view, we are unable to find any violation of the principles of natural justice."

24. Consequently, I do not find any merit in the present petition and same is accordingly dismissed. No order as to costs. Pending applications, if any, also stand disposed of.

28<sup>th</sup> July, 2026  
(naveen)

( **Jiya Lal Bhardwaj** )  
**Judge**