

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.633 of 2019

Decided: 22nd August, 2026

Nonender Singh

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹ **Yes**

For the petitioner: Mr. Sanjeev Bhushan, Senior Advocate with
Mr. Sohail Khan, Advocate.

For the respondents: Mr. Amandeep Sharma, Additional
Advocate General.

Jiya Lal Bhardwaj, Judge *(Oral)*

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

“(i) That writ in the nature of certiorari may be issued and Annexures P-7 dated 2.1.2010, P-9 dated 16.3.2010 and P-10 dated 6.10.2010 may be quashed and set aside with further directions to the respondents to restore all the benefits of the petitioner as if he was never penalized, with all consequential benefits of pay, arrears, seniority etc. etc. along with requisite interest as this Hon'ble Court deems fit in the circumstances.”

2. The facts as emerged from the pleadings are that

¹ Whether reporters of Local Papers may be allowed to see the judgment?

on 02.06.2009, the police of Police Post Kachha Tank in District Sirmour at Nahan, had arrested brother of the petitioner under Sections 107 and 151 of the Code of Criminal Procedure (in short "Cr.P.C."). On arrest of his brother, the petitioner went to the Police Post, hurled abuses and misbehaved with the Assistant Sub Inspector (in short "ASI") Ram Nath, who was the Incharge of Police Post Kachha Tank. He also told him that he will see him. Not only this, when ASI Ram Nath went to record the statements of the witnesses at Mohalla Govindgarh, Nahan, the petitioner again misbehaved with him and threatened him with dire consequences. He further told ASI to run away from there, else he will make him suffer and also send him away naked. The petitioner who was posted in Traffic Police at Kala Amb was deputed to collect MLC from Zonal Hospital, Nahan, but instead of collecting the MLC, he indulged in the unlawful activities. Since the petitioner had obstructed the police from discharging official work, an FIR No. 120/09 dated 02.06.2009 under Sections 143,

186 and 506 of the Indian Penal Code (in short "IPC") was registered against him.

3. On the basis of the aforementioned facts, the Additional Superintendent of Police, District Sirmaur, had put the petitioner under suspension on 02.06.2009 and respondent No.3 had approved the said suspension order on 05.06.2009 (Annexure P-1) who had also proposed to hold a departmental enquiry against him. Thereafter, articles of charge were served upon the petitioner vide memorandum dated 22.06.2009 (Annexure P-2) to the effect that he had abused and misbehaved with ASI Ram Nath and further obstructed him while performing the official work. He had gathered a group of people when ASI went to record statements at Mohalla Govindgarh and threatened, misbehaved, started assaulting and also told him to run away from there, else they will make him suffer and also send him away naked.

4. On receipt of the articles of charge, the petitioner

submitted his reply on 24.06.2009 (Annexure P-3), denying the same. He submitted that the charges are wrong and false and further the enquiry cannot be initiated against him on the basis of allegations shown in the articles of charge since an FIR has already been registered against him at Police Station Nahan and the same is under investigation. It was further submitted that the prosecution in respect of the said offences is likely to be instituted in the Court of law and both the departmental enquiry and criminal case cannot be instituted on the same allegations. Since the reply filed by the petitioner did not find favour with respondent No.3, a regular enquiry was initiated against him on the articles of charge.

5. The petitioner preferred an application for stay of the departmental proceedings on 17.07.2009 (Annexure P-4). However, the said request was turned down in view of the law laid down by the Hon'ble Apex Court that there is no bar to conduct a departmental enquiry during the pendency of a criminal case registered against the delinquent officer and

the departmental enquiry may be initiated and finalised within a period of three months.

6. The Enquiry Officer, who was appointed, conducted the enquiry and submitted his report dated 05.12.2009. On receipt of the enquiry report, respondent No.3 issued a show cause notice dated 17.12.2009 (Annexure P-6) to the petitioner along with enquiry report and asked him to submit a representation/reply within seven days from its receipt.

7. The petitioner submitted his representation/reply to the show cause notice. However, respondent No.3 after careful study of the response/representation filed by the petitioner found the same to be completely unsatisfactory. Though as per the show cause notice dated 17.12.2009, a penalty of dismissal from service was proposed, but considering the remaining years of service left for the petitioner, a lenient view was taken while imposing penalty of forfeiture of approved service of five years with cumulative

effect vide office order dated 31.12.2009 (Annexure P-7).

8. The petitioner feeling aggrieved by the order of penalty dated 31.12.2009 (wrongly mentioned as 02.01.2010), filed a statutory appeal before the Deputy Inspector General of Police, Southern Range, Himachal Pradesh, Shimla, stating therein that he had not misbehaved with ASI or threatened him, rather he had advised him to leave the place safely. It was also averred that a criminal case was registered against him and it is a settled law that when a criminal case is instituted against the delinquent officer on the same facts, a departmental enquiry should not be initiated. He placed reliance upon provisions of Rule 16.38 of the Punjab Police Rules (in short "PPR"), which stipulate that either criminal case is to be registered or departmental enquiry is to be held, both proceedings cannot go simultaneously.

9. However, the Appellate Authority after going through the submissions made by the petitioner in the appeal, came to the conclusion that the approach and

objective in criminal and departmental proceedings are altogether distinct and different, as the two proceedings operate in different fields and have a different objective and degree of proof. It was further noticed that as per the judgment passed by the Hon'ble Supreme Court in ***Hindustan Petroleum Corporation versus Survesh Berry***, (2004) 10 Scale (page-340), it was held that it is not desirable to lay down any guidelines as in flexible Rules, in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case is required to be considered in the backdrop of its own facts and circumstances and there would be no bar to proceed simultaneously with the departmental enquiry and trial of the case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. The provisions of Rule 16.38 of the PPR do not put any bar to hold departmental enquiry and in view of this, the appeal preferred by the petitioner was dismissed on 16.03.2010

(Annexure P-9).

10. The petitioner still feeling aggrieved by the order passed by the Appellate Authority preferred a revision petition (Annexure P-8) (wrongly mentioned appeal) before respondent No.2. It was averred in the revision petition that the petitioner had never misbehaved or threatened the ASI as evident from the statement of HHG Narayan Dutt. The Appellate Authority had rejected his plea. No departmental enquiry could have been initiated against him in view of the registration of the case at Police Station, Nahan, on the same facts and circumstances. While rejecting the plea, reliance was placed upon the judgment passed by the Hon'ble Supreme Court in ***Hindustan Petroleum Corporation's*** case (supra), however, the said ruling is averred to be not applicable to the instant case, because there is a special provision in shape of Rule 16.38 of the PPR for protection of the delinquent police officer, which provides special protection to the police officer. However, the Revisional

Authority, after considering the entire matter, came to the conclusion that in the enquiry the charges were proved against the petitioner. Thereafter, the Disciplinary Authority had agreed with the enquiry report and issued a show cause notice to the petitioner proposing the punishment of dismissal from service. However, taking a lenient view, the Disciplinary Authority imposed the punishment with due process of law. The enquiry against the petitioner was conducted in accordance with the provisions contained in Rule 16.24 of the PPR, as applicable to the State of H.P. The charges were proved and impugned punishment has been awarded to him following the due process of law and a specific finding was given that the provisions of Rule 16.38 of the PPR were not applicable as the act of the petitioner was not in relation to his official duty. The punishment awarded to the petitioner is commensurate with the misconduct and deserves no leniency and dismissed the revision petition.

11. The petitioner feeling aggrieved by the impugned

orders, whereby the penalty of forfeiture of five years' service with cumulative effect was imposed and thereafter the orders passed in appeal and revision, has assailed the same, *inter alia*, on the grounds that he was not supplied with the enquiry report. Further, the enquiry was conducted completely in contravention of Rule 16.38 of the PPR, which is mandatory in nature. Since the petitioner was not supplied with the enquiry report as well as the procedure as contemplated under Rule 16.38 of the PPR was not followed, the impugned orders deserve to be quashed and set aside with further directions to the respondents to restore all the benefits, as if he was never penalized with all consequential benefits.

12. The respondents filed reply to the petition and averred that there is no legal bar to hold the departmental action when the criminal case is registered against an employee. The approach and objective in criminal proceedings and the disciplinary proceedings are altogether

distinct and different, as two proceedings operate in different fields and have a different objective and degree of proof. It has also been averred that the petitioner at the relevant time was posted at Kala Amb and was deputed to visit District Hospital, Nahan to collect MLC. He not only misbehaved and threatened the police, but also raised obstacles in the process of law. Thus, the action of the respondent-Department is legal, just and needs to be upheld. It has further been averred that the enquiry against the petitioner was conducted in accordance with the provisions contained in Rule 16.24 of the PPR and he was supplied with the enquiry report.

13. It has further been averred that the provisions of Rule 16.38 of the PPR, do not put any bar to hold departmental enquiry when a criminal case is registered. The enquiry was conducted against the petitioner for departmental misconduct, being a member of a disciplined force, which was unbecoming of a police officer. The appeal and revision were examined on merits and the same were

rejected by passing speaking orders and as such prayed for dismissal of the petition.

14. The petitioner did not file rejoinder to controvert the contentions raised in the reply.

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

16. Mr. Sanjeev Bhushan, learned Senior Advocate duly assisted by Mr. Sohail Khan, Advocate representing the petitioner vehemently argued that the petitioner was not supplied with the copy of the enquiry report, rather a show cause notice was directly given to him. However, the said contention is contrary to record. The petitioner was supplied with the copy of the enquiry report of two pages when the show cause notice dated 17.12.2009 was issued to him. The petitioner had replied to the show cause notice and respondent No.3 had carefully considered the same and found the same to be unsatisfactory. Though as per the show cause notice dated 17.12.2009 (Annexure P-6), penalty of

dismissal from service for the gross misconduct was proposed, but taking a lenient view and also keeping in view the future service left by the petitioner, a penalty of forfeiture of five years' service with cumulative effect was imposed upon him vide order dated 31.12.2009 (Annexure P-7).

17. The petitioner, who was supplied with the enquiry report along with show cause notice dated 17.12.2009, has not approached this Court with clean hands and misrepresented the facts. It is settled law that a prerogative remedy is not a matter of course. The jurisdiction under Article 226 of the Constitution of India is extraordinary, equitable and discretionary. A Court of law is also a Court of equity. If there is suppression of material facts on the part of the petitioner or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition. Therefore, the petitioner who approaches the Writ Court must come with clean hands, put forth all the relevant facts without concealing or suppressing anything. However, in the

present case the petitioner has wrongly averred in para 6 of the writ petition that he has not been supplied with the enquiry report, whereas the same was supplied to him and he had filed reply thereto, which was considered while passing the order of penalty imposed by respondent No.3. Hence, his petition deserves to be dismissed even without considering the merit of the case. Reference in this regard is made to the judgment of the Hon'ble Supreme Court in ***Prestige lights Ltd. Versus State Bank of India***, (2007) 8 SCC 449 and the relevant paras are reproduced as under:-

"33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.

34. The object underlying the above principle has been succinctly stated by Scrutton, L.J., in R. v. Kensington Income

Tax Commrs., in the following words:

"[I]t has been for many years the rule of the court, and one which it is of the greatest importance to maintain, that when an applicant comes to the court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts - facts, not law. He must not misstate the law if he can help it - the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts, and the penalty by which the court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the court will set aside, any action which it has taken on the faith of the imperfect statement."

(emphasis supplied)

35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a writ court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, the court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

18. A similar view has again been taken in ***K.D.***

Sharma versus Steel Authority of India Limited and others,

(2008) 12 SCC 481 and relevant paras are reproduced

hereunder:

"34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

35. The underlying object has been succinctly stated by Scrutton, L.J., in the leading case of R. V. Kensington Income Tax Commrs. in the following words: (KB p. 514).

"... it has been for many years the rule of the court, and one which it is of the greatest importance to maintain, that when an applicant comes to the court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts-it says facts, not law. He must not misstate the law if he can help it - the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts; and the penalty by which the court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the court will set aside any action which it has taken on the faith of the imperfect statement."

(emphasis supplied)

36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false

statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, "We will not listen to your application because of what you have done." The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it."

19. In the recent judgment passed in ***Kusha Duruka versus State of Odisha***, (2024) 4 SCC 432, the same view has been reiterated. Thus, the petitioner, who has not approached the Court with clean hands and has misrepresented the facts, is not entitled to discretionary relief under Article 226 of the Constitution of India. Even on merits, there is no case made out by the petitioner.

20. Learned senior counsel for the petitioner argued that since respondent No.3 had already made up his mind before serving the show cause notice, to impose penalty, the order on this short ground must go. However, the said contention cannot be accepted for the reason that respondent No.3 after receipt of the reply filed by the petitioner, had considered the same, and found it

unsatisfactory, instead still did not pass the order of dismissal of his services, but imposed penalty of forfeiture of five years' service with cumulative effect, demonstrating that he had already not made up his mind. A similar issue was dealt by the Hon'ble Supreme Court in ***Boloram Bordoloi versus Lakhimi Gaolia Bank and others***, (2021) 3 SCC 806, wherein it was held that merely because a show cause notice is issued, indicating the proposed punishment, the same cannot be said that the disciplinary authority has taken a decision. Relevant para of the judgment reads as under:

"10. Though the learned counsel for the appellant has argued that even before tentative conclusion is arrived at by the disciplinary authority, the enquiry report has to be served upon him, but there is no such proposition laid down in the judgment of this Court in ECIL. In the aforesaid judgment of this Court it is held that the delinquent employee is entitled to a copy of the enquiry report of the enquiry officer before the disciplinary authority takes a decision on the question of guilt of the delinquent. Merely because a show cause notice is issued by indicating the proposed punishment it cannot be said that the disciplinary authority has taken a decision. A perusal of the show cause notice dated 30.07.2005 itself makes it clear that along with the show cause notice itself enquiry report was also enclosed. As such, it cannot be said that the procedure

prescribed under the rules was not followed by the respondent Bank.

21. From a perusal of the above paragraph, it is clear that merely mentioning the penalty cannot be a ground to quash the penalty. In the present case, as already observed above, instead of passing an order of dismissal, penalty of forfeiture of five years' service has been imposed and, thus, the contention raised by the learned senior counsel that the order of penalty is bad, is without any substance and hence rejected.

22. Learned senior counsel for the petitioner further argued that since the petitioner was booked for commission of offence punishable under Sections 143, 186 and 506 of the IPC, the disciplinary proceedings could not have been initiated against him. However the said contention cannot be accepted in view of the judgment passed by three-Judge Bench of the Hon'ble Supreme Court in ***Depot Manager, A.P. State Road Transport Corporation***

versus Mohd. Yousuf Miya and others, (1997) 2 SCC 699, wherein it has been held that the purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. There is no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. The above proposition has again been followed in ***Shashi Bhushan Prasad versus Inspector General, Central Industrial Security force and others***, (2019) 7 SCC 797, thus the argument advanced by the learned senior counsel for the petitioner does not hold good and hence the same is rejected.

23. Learned senior counsel for the petitioner further

argued that the enquiry was conducted in contravention of Rule 16.38 of the PPR, which was to be mandatorily complied with, but the Appellate Authority as well as Revisional Authority have overlooked such aspect of the matter and furthermore, misunderstood and misconstrued the Rule. Before advertng to the said submission, it would be relevant to quote the provisions of Rule 16.38 of the PPR, which reads as under:-

“Rule 16.38 for Punjab

16.38. Criminal offences by police officers and strictures by Courts - Procedure regarding.-

(1) Immediate information shall be given to the District Magistrate of any complaint received by the Superintendent of Police, which indicates the commission by a police officer of a criminal offence in connection with his official relations with the public. The District Magistrate will decide whether the investigation of the complaint shall be conducted by a police officer, or made over to a selected [Executive Magistrate]

(2) When investigation of such a complaint establishes a prima facie case, a judicial prosecution shall normally follow; the matter shall be disposed of departmentally only if the District Magistrate so orders for reasons to be recorded. When it is decided to proceed departmentally the procedure prescribed in rule 16.24 shall be followed. An officer found guilty on a charge of the nature referred to in this rule shall ordinarily be dismissed.

(3) Ordinarily a Magistrate before whom a complaint

against a police officer is laid proceeds at once to judicial enquiry. He is, however, required to report details of the case to the District Magistrate, who will forward a copy of this report to the Superintendent of Police. The District Magistrate himself will similarly send a report to the Superintendent of Police in cases of which he himself takes cognizance.

(4) The Local Government has prescribed the following supplementary procedure to be adopted in the case of complaints against police officers in those districts where abuses of the law with the object of victimising such officers or hampering investigation is rife. The District Magistrate will order that all petitions against police officers shall be presented to him personally. If he considers that these petitions are of a frivolous or factious nature, it is within his discretion to take no action on them. When he considers an enquiry to be necessary he will use his discretion whether to send the papers to the Superintendent of Police or to a Magistrate for judicial enquiry.

In the case of formal criminal complaints, the District Magistrate will arrange for all cases to be transferred from other courts to his own.

(5) Orders have been issued by the Hon'ble Judges of the High Court making it obligatory on all civil and criminal courts, whenever they make strictures on the personal character or professional conduct of the police officer, to send a copy of the judgment to the executive authorities. In the case of the High Court itself the copies will be forwarded to the Local Government. In the case of all other courts (including Courts of Sessions), the copies will be sent by the Judges and Magistrates concerned to the District Magistrate.

(6) In cases in which strictures are passed on the conduct of the police by a Sessions Court or by a Magistrate's Court and no specific recommendation is made by the Court making such strictures that an enquiry should be made, the District Magistrate will decide whether an investigation into the

matter in necessary, and if so, whether it shall be conducted by a police officer or by a selected [Executive Magistrate]. If he decides that an investigation shall be made, the procedure subsequent to such investigation shall be that laid down in sub-rule (2) above. In cases in which the court passing strictures on the conduct of the police suggests that an enquiry should be made, the District Magistrate will comply with such request in accordance with the procedure prescribed in paragraphs (1) and (2) above.

When strictures on the conduct of the police are made by the High Court and communicated to the Local Government direct in accordance with paragraph (5) above, the instructions of Government as to the action to be taken by the local authorities will be communicated to them through the ordinary channels. In cases in which the High Court suggests that an enquiry should be made the Local Government will give orders accordingly.

(7) Rules 24.14 and 24.15 provide for reports of all serious charges against the police being communicated to the Local Government by a special report. In cases where such serious charges arise from strictures passed by criminal courts, the Superintendent of Police and the District Magistrate should communicate, either in the report itself or in a covering letter, the procedure which they propose to adopt and any information or notes in connection with the case which they consider should be brought to the notice of Government. Rule 24.15 provides the opportunity for Deputy Inspectors-General and Commissioners similarly to communicate their comments to the local Government."

24. A perusal of sub-rule (1) of the aforesaid Rule clearly envisages that immediate information shall be given to the District Magistrate only when any complaint received

by the Superintendent of Police indicates the commission by a police officer of a criminal offence in connection with his official relations with the public. In the present case, the petitioner was booked for the commission of the offences under Sections 143, 186 and 506 of the IPC, which cannot be said to be committed by him in connection with his official relations with the public. He had obstructed the public officer to discharge his official work, hurled abuses and misbehaved with him, and thus the said provision of Rule 16.38 of the PPR is not attracted to the case of the petitioner.

25. Learned senior counsel for the petitioner has placed reliance upon the judgment passed by a coordinate Bench of this Court in CWP No.12782 of 2025, titled, ***Lalit Kumar versus Director General of Police, Himachal Pradesh and others***, to canvass that, in similar facts and circumstances, the Court had come to the conclusion that since the proceedings were initiated in violation of Rule 16.38 of the PPR, the disciplinary proceedings initiated against the

petitioner including the enquiry report and show cause notice were quashed and set aside and a direction was given to conduct a fresh enquiry. However, the said judgment is not attracted to the facts of the present case, for the reason that, in the said case, the petitioner had demanded the alleged bribe, in his capacity as Station House Officer of the Police Station, and as such, the Court had come to the conclusion that the provisions of Rule 16.38 of the PPR, which were required to be adhered to, were not followed. However, in the present case, as stated above, the petitioner was not booked for the commission of the offence, while discharging the official duties or demanding bribe, and thus, the provisions of Rule 16.38 of the PPR were not required to be complied with before proceeding against the petitioner.

26. Learned senior counsel for the petitioner has vehemently argued that even on the facts, the charges levelled against the petitioner were not proved and, therefore, keeping in view the fact that harsh penalty has

been imposed upon the petitioner, the same may kindly be reduced. However, the said contention cannot be accepted for the reason that this Court, while considering the plea raised by the petitioner could interfere with the punishment imposed upon him only if 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 consideration extraneous to the evidence, as per the law laid down by the three-Judge Bench of the Hon'ble Supreme Court in ***State of Andhra Pradesh and others versus S. Sree Rama Rao***, AIR 1963 SC 1723. The relevant para of the judgment 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 Article 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 Article 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 Article 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 Article 226 of the Constitution."

27. From a perusal of the aforesaid judgment passed

by the Hon'ble Supreme Court, which has consistently been followed till date, it is clear that this Court while exercising the powers under Article 226 of the Constitution of India, cannot see adequacy or reliability of the evidence and it can interfere only if proceedings against the delinquent have been held in a manner inconsistent with the Rules of natural justice or in violation of the statutory Rules prescribing the mode of enquiry. Since in the present case, the authorities have passed the orders after scanning the evidence and the proper procedure was followed while conducting the enquiry, I do not see any reason to interfere with the findings and the penalty imposed by the Disciplinary Authority.

28. After the order of penalty passed by the Disciplinary Authority, the petitioner had filed the statutory appeal, which came to be dismissed and thereafter, the Revisional Authority also concurred with the view taken by the Disciplinary Authority and affirmed the order passed by the Appellate Authority. Therefore, even on merits, the petitioner

has not made out a case and as such, this Court while exercising the extraordinary jurisdiction under Article 226 of the Constitution of India, cannot interfere with the findings recorded by the said authorities, and as such, I do not find any merit in the present petition and the same fails even on merits.

29. Consequently, the present petition is dismissed on both counts of not approaching the Court with clean hands and also on merits. Pending applications, if any, also stand disposed of. No order as to costs.

22nd August, 2026
(*ankit*)

(Jiya Lal Bhardwaj)
Judge