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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010067302022

+ **W.P.(C) 2664/2022**

DELHI DEVELOPMENT AUTHORITY AND ORS.

.....Petitioners

Through: Ms. Manika Tripathy SC for
DDA, Mr. Ashutosh Kaushik, Mr Aman
Kumar and Mr. Chirag Sharma, Advs.

versus

GURNAM CHAND.

.....Respondent

Through: Mr. Shadab Husain Khan, Ms.
Syed Naiyla Hamdani and Mr. H. A. Khan,
Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT (ORAL)

% **17.08.2026**

C. HARI SHANKAR, J.

1. *Twenty years* after the respondent was alleged, while working as Assistant in the SFS (Housing) Branch, in the Delhi Development Authority¹, to have arranged forged and fabricated challans on the basis of which certain flats were allotted, resulting in financial loss to the petitioner DDA, the respondent was visited with Memorandum dated 1 February 2017 under Rule 9 of the Central Civil Services

¹ "DDA" hereinafter



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(Pension) Rules, 1972², purposing to initiate disciplinary action against him.

2. In the meanwhile, on the same charges, criminal proceedings were initiated against the respondent *vide* FIR dated 29 January 1998, which culminated in an order of acquittal passed by the learned Special Judge, Central Bureau of Investigation, on 7 November 2014.

3. During this period, the respondent superannuated on 31 March 2007.

4. The following time chart, therefore, emerges:

- Alleged misconduct committed in 1997.
- Respondent placed under suspension on 13 January 1998.
- FIR registered on 29 January 1998.
- Respondent superannuated on 31 March 2007.
- Respondent acquitted by the learned Special Judge, CBI on 7 November 2014.
- Charge-sheet issued on 1 February 2017.

5. Following the charge-sheet, disciplinary proceedings commenced.

6. The respondent approached the Central Administrative Tribunal³ by way of OA 3147/2017 seeking quashing and setting aside of the chargesheet. Among the contentions which were advanced by the respondent before the Tribunal was breach, on the part of the

² “the Pension Rules” hereinafter



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petitioner, of Rule 9(2)(b)(ii)⁴ of the Pension Rules, inasmuch as the incident forming subject matter of charge against the respondent predated the issuance of the charge sheet by more than four years. This, contended the respondent, was impermissible under Rule 9(2)(b)(ii) of the CCS(Pension) Rules.

7. Mr. Shadab Husain Khan, learned Counsel for the respondent, has reiterated this ground before us.

8. However, without referring to Rule 9(2)(b)(ii), the Tribunal has, by judgment dated 21 October 2021, quashed and set aside the disciplinary proceedings commencing with the issuance of the chargesheet on the ground of inordinate and unexplained delay in its issuance more than twenty years after the alleged misconduct in 1997 and more than two years after the acquittal of the respondent by the CBI on 7 November 2014.

9. Mr. Ashutosh Kaushik, learned Counsel for the petitioner, submits that the delay in institution of the proceedings took place because the respondent was facing criminal proceedings on the same ground. He points out that, in para 41 of his judgment dated 7 November 2014, the learned Special Judge, CBI noted that there was gross negligence on the part of the respondent and had directed

³ “the Tribunal” hereinafter

⁴ 9 (2) **Right of President to withhold or withdraw pension**

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment,

(ii) shall not be in respect of any event which took place more than four years before such institution.



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initiation of departmental action against him on that ground.

10. We may note that, after doing so, para 42 of the judgment of the learned Special Judge concludes thus:

“42. For the foregoing reasons as discussed above, prosecution has established its case beyond reasonable doubt against accused Gurdas and Raju Aggarwal. Accused Gurdas is accordingly convicted of offences u/s 120B r/w Section 420, 467, 468 & 471 IPC AND Section 420, 467 & 468 IPC and Section 13(2) r/w Section 13(1)(d) of PC Act, 1988. Further, accused Raju Aggarwal is convicted of offences u/s 120B r/w Section 420, 467, 468 & 471 IPC AND for substantive offences u/s 420, 467, 468, 471 & 420 r/w 511 IPC.

However, prosecution has failed to bring home the charge against accused V.P. Anand, S.K. Kaushik and Gurnam Chand beyond reasonable doubt and they are accordingly acquitted of the charges framed against him.”

11. As has been correctly submitted by Mr. Shadab Husain Khan, learned Counsel for the respondent, the case is one of clean acquittal, inasmuch as the learned Special Judge has held that the offence against the respondent could not be proved beyond reasonable doubt, which is the basic standard of proof in any criminal action is proof beyond reasonable doubt. Mr. Khan is correct in his submission that there is a distinction between acquittal on “benefit of doubt” and on the ground that the prosecution could not prove the case “beyond reasonable doubt”. Acquittal on the ground that the case was not proved beyond reasonable doubt is a clean acquittal, as the requirement of proving the charge beyond reasonable doubt constitutes the *sine qua non* for any order of conviction to follow.

12. On the standards applicable to criminal cases, therefore, the learned Special Judge completely acquitted the respondent of any



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complicity in the alleged offence.

13. Rule 9(2)(b)(ii), we may note, would not be available to the respondent in view of Rule 9(6)(a)⁵ which deems departmental proceedings to have commenced on the date when the office is placed under suspension. In the present case, the respondent was placed under suspension on 13 January 1998, which was prior to his superannuation and shortly after the alleged incident forming subject matter of the charge-sheet had taken place. As such, the respondent cannot seek sanctuary behind Rule 9(2)(b)(ii).

14. At the same time, there is really no reasonable explanation as to why the petitioner waited for 20 years before issuing the chargesheet to the respondent. Though Mr. Ashutosh Kaushik, learned Counsel for the petitioner submits that the petitioner was awaiting the outcome of the proceedings before the learned Special Judge, CBI, that cannot constitute a reasonable basis for waiting for 20 years to institute disciplinary proceedings. It is well settled that the standard of proof in disciplinary proceedings and in criminal case is distinct and different.

15. Though mere delay is not always fatal to institution of disciplinary proceedings, where the delay is gross and inordinate and is not based on any reasonable explanation, the employee cannot be

⁵ 9 **Right of President to withhold or withdraw pension**

(6) For the purpose of this rule, -

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date.



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subjected to such proceedings decades after the incident in question has taken place.

16. In the present case, the alleged misconduct took place in 1997, whereas the chargesheet was issued in 2017. In the interregnum, the respondent himself superannuated in 2007. It would be harsh and unrealistic to expect the respondent to be able to defend disciplinary proceedings at such a belated stage.

17. We are in the present exercising jurisdiction under Article 226 of the Constitution of India. We would not, in exercise of such jurisdiction, substitute our subjective satisfaction for the satisfaction of the learned Tribunal. The parameters of certiorari jurisdiction are well delineated in the following passages from *Syed Yakoob v. K S Radhakrishnan*⁶:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a*

⁶ AIR 1964 SC 477



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writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide **Hari Vishnu Kamath v Syed Ahmad Ishaque**⁷, **Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam**⁸ and **Kaushalya Devi v Bachittar Singh**⁹).

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior

⁷ (1954) 2 SCC 881

⁸ AIR 1958 SC 398

⁹ AIR 1960 SC 1168



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Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

(Emphasis supplied)

18. Within the aforesaid parameters, we find the view adopted by the Tribunal, to the effect the disciplinary proceedings ought not to be permitted to continue, having been instituted 20 years after the alleged incident had taken place, to be reasonable and not justifying of interference.

19. Without, therefore, commenting on the correctness of the allegations against the respondent, we decline to interfere with the impugned judgment in exercise of our jurisdiction under Article 226 of the Constitution of India.

20. The writ petition is accordingly dismissed.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

AUGUST 17, 2026/dsn