

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 130 of 2017**Reserved on 28.04.2017Delivered on 10.05.2017

Chhedi Lal Ratre S/o late Shri Arjun Lal Ratre, aged about 65 years, Ex-Co-Operative Inspector in the Office of Joint Registrar Co-Operative Society, Bilaspur Division, R/o Jarha Bhatha, near Kinetic Honda show room, Raipur Raod, Bilaspur, Chhattisgarh

---- Appellant**Versus**

1. State of Madhya Pradesh through Secretary, Co-Operative Department, Government of M.P, Vallabh Bhawan, Bhopal at present State of Chhattisgarh, through: the Secretary, Cooperative Department, Government of Chhattisgarh, Mahanadi Bhawan, new Raipur, District Raipur, Chhattisgarh
2. The Commissioner and Registrar, Co-Operative Society, Madhya Pradesh, Vindhacyal Bhawan, Bhopal (M.P.) at present Commissioner and Registrar Cooperative Society Mahanadi Bhawan, New Raipur, District- Raipur, Chhattisgarh

---- Respondents

For Appellant	:	Shri C. B. Kesharwani, Advocate
For Respondent/State	:	Shri B. Gopa Kumar, Dy. Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****CAV JUDGEMENT****Per P. Sam Koshy, Judge.**

We have heard the learned counsel for the writ Appellant who is the writ Petitioner. We have also heard the learned Deputy Advocate General.

2. The instant writ appeal has been preferred assailing the order dated 31.01.2017 passed in WPS No.2214 of 2005 whereby the learned Single Judge has dismissed the writ petition filed by the petitioner challenging the order of penalty passed by the employer dated 30.04.1996.

3. Facts in nutshell relevant for proper appreciation of the case are that the appellant while working as a Co-operative Inspector under the respondents, was served with a charge sheet on 30.09.1991. In all, there were 13 charges levelled against the appellant. In due course of time, a departmental enquiry was conducted and finally, the Enquiry Officer gave a report mentioning that the charges levelled against the appellant stand proved. Accordingly, the employer vide its order dated 30.04.1996 imposed penalty of reduction from the post of Co-operative Inspector to the next lower post of Sub-auditor and also placed the appellant on the lower stage of pay on the post of sub-auditor. The appellant preferred an appeal before the State Govt. which was partly allowed vide order dated 03.02.1997 in as much as the order of reversal to the next lower post was confirmed. However, placement of the appellant at the lower stage of pay on the post of Sub-auditor was set aside. It was this order of the appellate Authority which was challenged by the appellant before the State Administrative Tribunal under Section 19 of the said Act where, the case was registered as O.A. No. 205 of 1997. Subsequently, on abolition of the Tribunal, the matter stood transferred to the High Court where the case was registered as WPS No. 2214/2005.

4. The appellant assailed the order passed by the appellate Authority on the following grounds:

- i) The punishment order has a permanent effect which would be contrary to Rule 10 of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules.
- ii) The charges levelled against the appellant were of the period prior to his joining the Society on deputation.
- iii) The principle of natural justice was not followed in the course of conducting enquiry in as much as the witnesses requested by the petitioner were not examined and the Enquiry Officer seems to be biased against him.

5. The writ Court, while deciding the petition, has elaborately dealt with all the issues and has negated the contentions put forth on behalf of the appellant. The writ Court has also taken due care of verifying the records particularly the enquiry proceedings while deciding the writ petition and finally, vide impugned order dated 31.01.2017 dismissed the petition holding that it does not have any substance.

6. The appellant has raised the same grounds in this appeal also while assailing the impugned order passed by the learned Single Bench. This Bench also went through the records including the enquiry report as also the articles of charges levelled against the appellant. We find that the finding given by the learned Single Bench is proper, legal and justified and does not warrant any interference.

7. One must not forget the fact that the learned Single Judge has exercised the powers conferred upon it under Article 226 of the Constitution of India which by itself is an extraordinary discretionary jurisdiction. It is by now well settled proposition of law that the writ Court would not sit over a proceeding drawn in a departmental enquiry which has also been subjected to a departmental appeal as if it were an appellate Court. The writ Court would not convert itself as an appellate Court while deciding disciplinary action. It is also by now well settled that the writ Court would not conduct a threadbare roving enquiry to decide as to whether the punishment imposed upon the appellant-employee was justified or not unless, there is blatant perversity in the findings of the enquiry officer or the authority passing the order was incompetent or without authority.

8. In spite of the aforesaid settled legal position, we traversed into the documents enclosed along with the writ petition as well as the writ appeal i.e. charge sheet, the memo of appeal, the order passed by the appellate authority and found that the authorities concerned had taken due care while considering the submissions put forth by the appellant before the disciplinary authority at the time of passing of the impugned order of punishment. The appellate Authority

has also taken care of all these facts. In addition, the writ Court has also considered all these objections while deciding the writ petition.

9. A perusal of the charge sheet would clearly reflect that the allegation of charges levelled against the appellant being prior to the date of his posting was found to be incorrect. Further contention of the appellant that the punishment is a permanent nature is also does not have merit for the reason that the rules governing the field also do not show that in case of a particular punishment, it has to be for a specific period of time. So far as the contention of the violation of the principle of natural justice is concerned, it appears that the appellant-delinquent was given sufficient opportunity for leading evidence and it so happened that the appellant himself was not able to adduce his witnesses. In addition, the appellant has also not been able to show as to what prejudice has been caused on account of the said alleged lapse.

10. In **B. C. Chaturvedi v. Union of India & Ors.**, AIR 1996 SC 484, the Supreme Court after examining various its earlier decisions observed that in exercise of the powers of judicial review, the Court cannot “normally” substitute its own conclusion or penalty. However, if the penalty imposed by an authority “shocks the conscience” of the court, it would appropriately mould the relief directing the authority to reconsider the penalty imposed.

11. The role of the court in the matter of departmental proceedings is very limited and the court cannot substitute its own views or findings by replacing the findings arrived at by the authority on detailed appreciation of the evidence on record.

The court must keep in mind that judicial review is not akin to adjudication on merit by re-appreciating the evidence as an appellate authority. Thus, the court is devoid of the power to re-appreciate the evidence and come to its own conclusion on the proof of a particular charge, as the scope of judicial review is limited to the process of making the decision and not against the decision itself and in such a situation the court cannot arrive on its own independent finding.

(See: **High Court of Judicature at Bombay through its Registrar v. Udaysing S/o Ganpatrao Naik Nimbalkar & Ors.**, AIR 1997 SC 2286; **Government of Andhra Pradesh & Ors. v. Mohd. Nasrullah Khan**, AIR 2006 SC 1214; and **Union of India & Ors. V. Manab Kumar Guha**, (2011) 11 SCC 535).

12. Thus, we are of the opinion that the order passed by the learned Single Judge is a well reasoned order and the same does not warrant any interference by this Bench. It would be beyond the scope of the writ Appellate Court to again venture into the factual matrix of the case and reappraise the entire evidence threadbare to reach to a conclusion other than what has been arrived at by the writ Court. Since the appellant has not been able to show any sort of perversity, lack of competence or jurisdiction on the part of the disciplinary authority as well as any illegality or infirmity in the order passed by the Single Bench, we find it difficult to interfere with the order under challenge in this writ appeal.

13. In the result, the Writ Appeal fails and the same is accordingly dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE