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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 190 of 2020****Judgment reserved on 13.01.2020****Judgment delivered on 04.03.2020**

- A.K. Raja son of Late Shri Purshottam Singh Raja, aged about 59 years, Ex. sub Post Master, Byron Bazar(PO) Raipur, resident of L-1, Karamchari Society, Sector-3, Pandit D.D. Nagar, Raipur, District Raipur Chhattisgarh.

-----Petitioner**VERSUS**

1. Union of India, through the Secretary, Ministry of Communication, Department of Posts, Dak Bhavan, New Delhi, 110001
2. The Director (Postal Service), Chhattisgarh Circle, CPMG Office, M.G. Road, Raipur 492001
3. The Sr. Superintendent of Post Office, Raipur Division, Station Road, Raipur C.G.

-----Respondents

For Petitioner	:	Mr. Amrito Das, Advocate
For Respondent-UOI	:	Mr. B.Gopa Kumar, Assistant Solicitor General

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****CAV Order****Per Parth Prateem Sahu, J.**

1. Declined to interfere with the order of punishment of dismissal from services by the Central Administrative Tribunal (C.A.T.) is put to test by the petitioner in this writ petition.
2. Facts of the case in nutshell are that the petitioner was posted as Sub-Post Master at post office Byron Bazar, Raipur from 09-08-2008 till 12-01-2010. During the period of his posting at post office, Byron Bazar, Raipur some irregularities in maintaining various Recurring Deposit (RD) accounts of the account holders were found leading to misappropriation of an amount of Rs. 1,55,100/- in total. Being so, the appellant was placed under suspension contemplating departmental enquiry. Charge memorandum was issued for

major penalty, specifically mentioning therein that the petitioner has committed irregularities while discharging his official duties for the period from 17-12-2008 to 31-12-2009.

3. The allegations were that the petitioner in connivance with the postal agents namely Smt. Heena Nagpal, Kumari Santosh Nagpal and Mr. Deepak Nagpal, misappropriated amount to the tune of Rs. 1,55,100/-. After appointment of inquiry Officer and Presenting Officer, departmental enquiry was concluded and the inquiry Officer found the charges levelled against the petitioner to be proved and submitted the enquiry report before the disciplinary authority. The disciplinary authority upon considering overall facts of the case and also the material available in the departmental enquiry proceeding has imposed punishment of dismissal from service. The order of punishment of dismissal from service was challenged by the petitioner by way of appeal before the Director, Postal Service, Chhattisgarh Circle, Raipur, who after considering the facts in issue and grounds urged therein dismissed the appeal. The petitioner, thereafter, also preferred Mercy Petition before the Chief Post Master General, Chhattisgarh Circle, Raipur which also came to be dismissed.
4. After availing all the remedies available to him under the Service Rules, the petitioner filed Original Application (OA) before the C.A.T. on the grounds mentioned therein. The Central Administrative Tribunal, after considering the pleadings made in the OA along with the documents annexed thereto, considering the reply submitted by the department with supporting documents and also considering the submissions made by the learned counsel for the respective parties, dismissed the OA by an impugned order.
5. Mr. Amrito Das, learned counsel appearing for the petitioner submits that the petitioner has not committed any wrongful act as alleged against him in the charge-sheet. He being a Sub Post Master has to make entry and to prepare ledger on the basis of deposits made by the Postal Assistants, the amount so

deposited is required to be sent to the head Post Office on daily basis along with the ledger, but at no point of time, the accountant or any other officials raised any objection or pointed out any mistake. None of the depositors have complained about the money deposited by them was not deposited to their accounts even the allegations of connivance with the postal agents has not been proved. The inquiry officer has committed error in holding that the charges levelled against the petitioner are proved. He further argued that one of the postal agents in his statement has admitted about the act of mistake of his misconduct. Lastly, he submits that looking to his long continuous service of 33 years and the material available in the enquiry report of the inquiry officer, wherein the mistake was accepted by the postal agents, major penalty should not have been imposed. Learned counsel for the petitioner also submitted that so far as the finding recorded that the petitioner has deposited Rs. 4 Lac to correct the balance amount so misappropriated along with the deposits made by the postal agents is only under the threat that if the loss/misappropriated amount is not deposited, a criminal case be registered against him along with the postal agents who were alleged to be in connivance with the petitioner. The learned counsel for the petitioner has also taken a ground that the departmental enquiry has not been conducted in accordance with law.

6. Per contra, learned counsel for the respondent-Department submits that the departmental enquiry was initiated in accordance with law and the procedure prescribed for conducting the enquiry, there is no violation of principle of natural justice. The allegations which were subsequently found to be proved against the petitioner are very serious in nature, therefore, punishment of dismissal from services has been imposed by the disciplinary authority. Punishment imposed on the petitioner is in proportionate of the misconduct committed by him, as the petitioner himself accepted the mistake to be committed by him. Learned counsel submits that the C.A.T. has considered all

the grounds in detail, raised by the petitioner and thereafter dismissed the OA which do not call for any interference.

7. We have heard learned counsel for the petitioner as well as learned counsel appearing for respondent-Department.
8. The petitioner has filed copy of the enquiry report along with this writ petition, wherein the inquiry Officer, after conclusion of the inquiry, has found the charges levelled against the petitioner to be proved, mentioning that the petitioner had accepted the list submitted by the postal agent Deepak Nagpal, as it was without scrutinizing the list and taken into account that there was no account in the name of Deepak Nagpal, but he has been permitted to deposit the amount in the RD accounts of account holders, signed over the documents like 'Lot list', MPR and SB103 without there being any written application on behalf of female agent. The amount which has been shown to be deposited in the RD accounts to be more than the receipt produced before the inquiry Officer and the inquiry Officer also found that the petitioner has not stated anything about the irregularities pointed out from the documents produced and marked exhibits. During the course of enquiry proceedings, the inquiry Officer arrived at a finding that the petitioner has not followed Saving Bank Rules 93(i) and F.H.B. part-I and found the allegations/ charges levelled against him to be proved. The petitioner was holding a public office and was entrusted with the public money to be deposited in the accounts of the account holders, but he had not discharged his duties with utmost care and responsibility. The disciplinary authority, after taking note of the facts and circumstances of the case, evidence available on the enquiry proceedings, finding recorded by the inquiry Officer, passed the order of removal from service.
9. The scope of the judicial review in the matters of punishment based on the disciplinary proceedings initiated against any Government servant is very limited, only the decision making process by the disciplinary authority is

required to be seen or whether there is violation of principle of natural justice and whether inquiry officer followed the rules and procedure prescribed for holding the departmental inquiry. The Courts cannot substitute its view or interfere with the punishment imposed by the disciplinary authority until and unless it is found to be shockingly disproportionate against the misconduct by the employee. The C.A.T. while dismissing the claim application had observed so:-

“7. From the pleadings it is clear that the charge sheet dated 30.12.2011 (Annexure A/1) has been served upon the delinquent and the applicant has made the representation. Thereafter the respondent-department has appointed the inquiry officer and presenting officer. Departmental enquiry was completed. A copy of inquiry report vide order dated 03.04.2013 was made available to the applicant. In the said inquiry report, in the conclusion, the inquiry officer has concluded that both the charges were proved against the applicant. The applicant had submitted his representation dated 16.04.2013 to disciplinary authority. Ultimately the disciplinary authority vide Annexure A/4 dated 08.05.2013, has imposed punishment of dismissal from service. The applicant submitted his appeal against the order of dismissal from service vide Annexure A/5 dated 27.05.2013. The appellate authority after considering the points raised by the applicant, has rejected the appeal vide Annexure A/6 dated 31.07.2014 and the penalty passed by the disciplinary authority was upheld. Though the applicant has raised some of the points in the appeal i.e. no proper appreciation of statement of witness, satisfactory and unblemished services of 33 years, but the appellate authority has considered each and every aspect regarding the points raised by the applicant. This is very clear as per Annexure A/6. In the said Annexure at Page 83 of the O.A., there is reference of those points and in the conclusion portion, the appellate authority has decided those points and ultimately upheld the punishment awarded by the disciplinary authority. Moreover, the applicant has failed to point out any prejudice caused to the applicant or any violation of natural justice or any contravention of the statutory rules as per Central Civil Services (Classification, Control and Appeal) Rules, 1965.

8. The Hon'ble Supreme Court in the matters of Union of India and another vs. B.C. Chaturvedi, (1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44 has held 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.

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18. A review of the above legal position would establish that the disciplinary authority, and on appeal, the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.'

9. Though the applicant has placed on record the acquittal order passed by 2nd Additional Sessions Judge, Raipur in Criminal Appeal No. 79 & 85 of 2016 qua the applicant but the settled law is that in the disciplinary proceedings, for proving the charges is on the basis of preponderance of probability on evidence with proceedings, the charges against the applicant has

been duly proved and the inquiry officer has dealt with the statement of witnesses and evidences on record in detail. In Annexure A/2, the inquiry officer has dealt with all the defense put forth by the applicant at Page 41 to 43 of the inquiry report. The said finding of the inquiry officer has been accepted by the disciplinary authority and the penalty has been imposed. Moreover, the appellate authority has dismissed the appeal by upholding the punishment passed by the disciplinary authority.”

10. The petitioner has not raised any ground of violation of principle of natural justice nor able to substantiate that the disciplinary proceedings have been initiated contrary to the procedure prescribed for it. In fact the petitioner himself admitted that due to heavy work without any clerical hand in the post office, some procedure lapse occurred on his part.
11. The Hon'ble Supreme Court in the matter of **State Bank of Bikaner and Jaipur v. Nemichand Nalwaya** reported in **(2011) 4 SCC 584** has held as under:

“7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide *B. C. Chaturvedi v. Union of India*, 1995 (6) SCC 749, *Union of India v. G. Gunayuthan*, 1997 (7) SCC 463, *Bank of India v. Degala Suryanarayana*, 1999 (5) SCC 762, and *High Court of Judicature at Bombay v. Shahsi Kant S. Patil*, 2001 (1) SCC 416).

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10. The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed

disciplinary proceedings invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non-challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him.”

Recently, the Hon'ble Supreme Court in the matter of **Prem Nath Bali v. Registrar, High Court of Delhi and another** reported in **(2015) 16 SCC 415** has held thus:

“20. It is a settled principle of law that once the charges levelled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.”

12. In view of the above discussion and rulings of the Hon'ble Supreme Court, this Court in exercise of the supervisory jurisdiction do not find any perversity or infirmity in the order passed by learned C.A.T. The writ petition being devoid of any substance which is liable to be and is hereby dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge