



\$~R-525.

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

+ **Date of Decision: 05.08.2022.**

% W.P.(C) 6822/2011

RAM KISHAN

..... Petitioner

Through: Mr. Shanker Raju, Mr. Nilansh Gaur,  
Mr. Rajesh Sachdeva, Advocates

versus

GOVT. OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Satyakam, ASC for the State with  
Mr. Alok Raj, Advocate and SI  
Surender Singh, Parvi Officer, New  
Delhi District

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**SATISH CHANDRA SHARMA, C.J. (ORAL)**

1. The present Petition is arising out of an order dated 27.01.2011 passed in Original Application No. 147/2008 by the Central Administrative Tribunal (CAT) dismissing the Original Application which was preferred against the dismissal order dated 06.06.2007 and the order rejecting the plea dated 07.12.2007.

2. The facts of the case reveal that the Petitioner before this Court who was serving on the Post of Constable in the Delhi Police establishment allegedly on 30.04.2006 while posted at PS Parliamentary Street, stopped a



vehicle and demanded bribe from the vehicle owner. However, at the same time Inspector Satya Pal Singh, SHO Tilak Marg, reached the spot and the Petitioner immediately permitted the driver of the Maruti Van to leave the place and he also fled away from the spot on his Government Motorcycle.

3. The driver finally lodged a report in the matter with the Police and a preliminary enquiry took place. In the preliminary enquiry, the Enquiry Officer found the Petitioner guilty on 05.10.2006, and in those circumstances, the competent Disciplinary Authority took a decision on 22.12.2006 to hold a regular Departmental Enquiry keeping in view Delhi Police (Punishment & Appeal) Rules, 1980.

4. A charge-sheet was issued to the Petitioner, and the Petitioner did submit a reply to the charges levelled against him

5. In the Departmental Enquiry, the driver of the vehicle to whom demand was made, was examined in detail as PW-5. The Station House Officer who was also present at the spot was examined as PW-6, and other witnesses were also examined. Not only this, the defense witnesses were also examined in the matter, and the Enquiry Officer has held the Petitioner guilty of the misconduct.

6. The findings of the Enquiry Officer are reproduced as under:

**“DISCUSSION OF EVIDENCE**

*All the depositions made by the PW/DWs defence statement given by Const. Ram Kishan No. 1200/ND and other evidence adduced during the enquiry were examined carefully.*



*According to the statements of PWs, PW -1 proved that const. Ram Kishan had stopped a Maruti Van on 30.04.06 in the morning and on seeing SHO/Tilak Marg he ran away on Govt. motorcycle. The driver of the Maruti Van told that this Const. Ram Kishan is teasing them. PW-2 proved that Const. Ram Kishan had demanded Rs. 50/- from him and PW -2 was ready to give Rs. 50/- but on seeing SHO/Tilak Marg he ran away on yellow motorcycle. PW-3 has proved that a PE under rule 15(ii) Delhi Police (Punishment & Appeal) Rules 1980 was conducted by her and final report sent to senior officer which is exhibited as PW -3/A. In the report PW-3 has proved the demand of Rs. 50/- from the Maruti van driver Chander Pal by Const. Ram Kishan o. 1200/ND. PW -4 has proved the patrolling duty of Const. Ram Kishan on motorcycle No. DL -1SN -0813 on Ferozshah Road and Ashok Road on 30.04.06. He was called by SHO/Tilak Marg and departure was made vide DD No. 8-B dated 30.04.06 exhibited as Ex. PW-4/A and copy of duty roster exhibited as Ex. PW 4/B. PW -5 has proved that as per orders of SHO/Tilak Marg he enquired the matter and Const. Ram Kishan had admitted his fault in writing and during enquiry the driver of the Maruti Van No. DL-CC-816, Chander Pal proved that Const. Ram Kishan has demanded Rs. 50/- as bribe in lieu of loaded small goats. In this connection a enquiry report was sent to senior officer which is exhibited as Ex. PW -6/A. PW -6 proved that Const. Ram Kishan stopped the Maruti Van driver Chander Pal and demanded Rs. 50/- from him. Const. Ram Kishan was using yellow colour motorcycle No. DL-ICC-8316 by loading small goats.*

*I have also considered the defence produced by the defaulter Const. Ram Kishan. DW-1 and DW -2 both are the Constables of Delhi Police force and were produced by him in his defence and both have stated in their statements that SI Rajender Prashad PW -5 during conducting formal enquiries put pressure on the Const. Ram Kishan to admit his fault as per SHO's directions seems to be fabricated one as per the situation which was seen by SHO himself on 30.04.06 when Const. Ram Kishan stopped the Maruti Van for taking money as bribe from*



*the driver Chander Pal. Hence the contentions made by both the DWs are not worth reliance. The other contention made in his defence statements from Sl. No. 1 to 6 is not sufficient to prove that Const. Ram Kishan has not demanded any-money from Chander Pal.*

*Taking into consideration the totality of facts and circumstances and evidence on record it is clearly established that Const. Ram Kishan No. 1200/ND while posted at PS Pt. Street on 30.04.06 stopped Maruti Van No. DL -1CC-8316 at 9.00 AM while plying Govt. motorcycle No. DL-1SN-0813 with malafide intention and demanded Rs. 50/- as illegal gratification in lieu of four small goats which were loaded in (he said Maruti Van at Copernicus Marg near Baroda House. Inspr. Sat Pal Singh the then SHO/Tilak Marg noticed the whole incident and as soon as Inspr. Sat Pal Singh reached there to verify the facts Const. Ram Kishan No. 1200/ND fled away from the spot. The driver of Maruti Van Chander Pal was ready to pay Rs. 50/- to Const. Ram Kishan who was threatening him with one pretext or other but on seeing the SHO/Tilak Marg the defaulter Const. Ram Kishan could not be able to accept the demanded money of Rs. 50/- from Maruti Van driver Chander Pal. Hence the defaulter Const. Ram Kishan misuse his official power on 30.04.06 when he stopped Maruti Van at 9.00 AM with ulterior motives. In view of this the probability of the demand of Rs. 50/- from the Maruti. Van driver Chander Pal has been confirmed from the statements of PWs/DWs. Const. Ram Kishan is found guilty of engaging in corruption by demanding Rs. 50/- from the driver of Maruti Van and not found performing his duty properly as public servant. Such type of activities demoralize the position of the police force in the eyes of the public. As per the evidence on record the preponderance of probability of guilt can not be ruled out.*

### **CONCLUSION**



*From the evidence on record, the charge against Const. Ram Kishan No 1200/D for demanding Rs. 50/- from the driver of Marti Van Chander Pal stands proved beyond any doubt.”*

7. The report of the Enquiry Officer was served to the Petitioner, and he did submit a representation in respect of the findings arrived at by the Enquiry Officer, and the Disciplinary Authority by an order dated 06.06.2007 after minutely scanning the entire evidence has inflicted punishment of dismissal from service, against which, an Appeal was preferred and the Appellant Authority has affirmed the order of punishment by dismissing the Appeal on 07.01.2007.

8. The Petitioner being aggrieved by the order passed by the Disciplinary Authority and the Appellant Authority had approached the CAT by filing an Original Application, and the CAT has dismissed the Original Application. Paragraphs 11 to 18 of the order passed by CAT reads as under:

*“11. It is a well settled legal position that the authority lower than the Appointing Authority cannot take any decision in the matter of disciplinary action. But there is no prohibition in law that the higher authority should not take decision or impose the penalty as the primary authority in the matter of disciplinary action. Only because the name of the Joint Commissioner was not mentioned in the Rule keeping in view the fact that the Joint Commissioner had been exercising all the powers and functions of the Additional Commissioner of Police, the statutory function exercised by him cannot be said to be non-est in the eye of law.*

*12. In a batch of OAs (OA No.577/2007; OA No.1426/2006; OA No.2282/2006; OA No.655/2007; and OA No.1634/2008) a Full Bench of this Tribunal was constituted to consider the*



*issue "Whether obtaining of prior approval of the joint Commissioner of Police concerned instead of the Additional Commissioner of Police, would meet the requirement of Rule 15(2) of the Delhi Police (Punishment & Appeal) Rules, 1980" and after detailed consideration of the law on the subject decided the controversy in the orders dated 26th May, 2010 as follows:*

*"13. In this view of the matter, it is also significant to note that the Constitution of India is the supreme law in the country. Article 311(1) affords protection against dismissal or removal by an authority subordinate to the appointing authority and reads as under:-*

*Article 311. (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed."*

*If the Joint Commissioner of Police is stated to be equal if not higher in rank to the Additional Commissioner of Police, he can exercise disciplinary powers with respect to the Constitutional guarantee provided in Article 311, it cannot be said that he should be held incompetent to take a decision in terms of Rule 15(2) of the Rules, which carries no Constitutional guarantee and is only one of the Rules of procedure forming part of a disciplinary proceedings and in the nature of a guideline to prevent likelihood of harassment and for enforcement of supervision against possible misuse sometimes by officers at lower levels. In this situation, it would not be of assistance to rely upon the law that action must be taken within the four corners of the statute, as contended on behalf of the Applicant. The reference made by the Division Bench was therefore decided by the Full Bench as follows:-*

*"Obtaining of prior approval of the Joint Commissioner of Police concerned instead of the Additional*



*Commissioner of Police would meet the requirement of Rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980."*

13. We perused the judgments relied on by Shri Singal on the above issue and note that Full Bench decision as stated above is the latest and final law laid by this Tribunal. Hence, considering the above legally settled position, we conclude the main issue that the Joint Commissioner of Police is competent to accord prior approval for initiating DE against the Applicant.

14. Now we advert to other contentions raised by Shri Singal. He pointed out that Defence Statement of the Applicant was not considered by the Disciplinary Authority. We have taken the extract of the relevant paragraph of the penalty order at Paragraph 2 above which clearly manifests that the Disciplinary Authority has considered Applicant's defence statement on the E's Report.

15. Another issue raised in the OA relates to the EO's finding not weighing the evidence advanced by 2 DWs. It is seen from the EO's report that he has considered DWS evidence but has accepted the evidence which the EO found just and proper. We do not find any infirmity on this issue in the EO's report.

16. Regarding non-examination of Mahesh Kumar who was accompanying the Driver Chander Pal, the Applicant if felt him to be relevant and material witness to come to his defence, he should have called him as DW. But he did not do so. Just for the purpose of corroboration of evidence tendered by the Driver Chander Pal, the Respondent considered it not necessary to take Mahesh Kumar as a PW. Our perusal of the enquiry proceeding gives us the understanding that all PW have supported the charge against the Applicant. We do not subscribe to the Applicant's ground that the SHO Inspector Satya Pal has fabricated and concocted the case. What mala fide intention the SHO could possibly have against the



*Applicant? There is not even whisper of malafide or ill will against the SHO. The only point raised against the SHO is that he has not challenged the Driver and has not impounded the Vehicle, Respondents have defended in stating that carrying 4 small goats in a private Maruti Van is not a cognizable offence. Even all these contentions, the Applicant fails to convince us.*

*17. The learned Counsel relied on many judgments in support of the contentions raised. We have gone through these judgments. We are not analyzing each of them. But we must indicate that in our above analysis we did not find any support from those judgments.*

*18. Having carefully considered the facts and circumstances of the case and guided by the judicial precedents, we come to the considered conclusion that the Applicant has failed miserably to establish his case. Resultantly, the Original Application being devoid of merits is dismissed. There is no order as to costs.”*

9. Learned Counsel for the Petitioner has vehemently argued before this Court that the present case is a case of no evidence, and the driver of the vehicle at no point of time has made a statement against him in the Departmental Enquiry. It has also been argued that the statement of the driver – which was recorded during the preliminary enquiry, has been made to be the basis of the establishment of the misconduct.

10. It is a well settled position of law that the High Court cannot re-appreciate the evidence, and interference can be done only if there is a procedural irregularity or that principles of natural justice and fair-play have been violated.

11. In the present case, as it was argued that it is a case of no evidence



and the driver i.e. PW-5, has not stated against the Petitioner.

12. The record of the Departmental Enquiry was summoned and the Statement of the driver, namely Chander Pal, has been looked into. He has categorically stated that a demand of Rs. 50 was made by the Petitioner who was serving as a Police Constable. Not only this, the other corroborative evidence of other independent witnesses also establishes the demand made by the Petitioner, and, therefore, the present case is not a case of no evidence.

13. The present case is also not a case where the authority lower than the appointing authority has inflicted a punishment. The present case is not a case where Department has not followed the prescribed procedure, nor the present case is a case where principles of natural justice and fair-play have been violated.

14. The misconduct of demand regarding the illegal gratification is a very serious misconduct, and the same was proved based upon the statement made by the witnesses before the Enquiry Officer.

15. In the considered opinion of this Court, the question of interference in the peculiar facts and circumstances of the case does not arise.

16. The scope of judicial interference, in case of a Departmental Enquiry is quite limited (See – *Apparel Export Promotion Council V. A. K. Chopra*, (1999) 1 SCC 759, *State of A. P. V. S. Sree Rama Rao*, (1964) 3 SCR 25, *Union of India V. P. Gunasekaran*, (2015) 2 SCC 610, *State of Karnataka V. N. Gangaraj*, (2020) 3 SCC 423, *Director General of Police, Railway*



*Protection Force and Others V. Rajendra Kumar Dubey*, 2020 SCC OnLine SC 954, *Superintendent of Police, Keonjhar & Ors V. Judhistirail and Ors.*, 2017 SCC OnLine ORI 318, *Sher Singh V. Union of India and Others*, 2016 SCC OnLine HP 471).

17. It has been held by the Hon'ble Supreme Court as well as High Courts in the aforesaid cases that re-appreciation of evidence is not permissible, and interference can be done with the conclusion of the enquiry, in case, the same has not been conducted in accordance with law or there is a violation of principles of natural justice and fair-play.

18. The Hon'ble Supreme Court in a recent judgment in the case of *State of Bank of India and Another Vs. K. S. Vishwanath* has taken a similar view and has held in Paragraphs 27, 28 and 29 as under:

*“27. Recently in the case of Nand Kishore Prasad (Supra) after considering other decisions of this Court on judicial review and the power of the High Court in a departmental enquiry and interference with the findings recorded in the departmental enquiry, it is observed and held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is further observed and held that the High Court 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. It is further observed that if there is some evidence, that 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 under Article 226 of the*



*Constitution of India to review/reappreciate the evidence and to arrive at an independent finding on the evidence. In paragraphs 9 to 14, this Court had considered other decisions on the power of the High Court on judicial review on the decisions taken by the Disciplinary Authority as under:*

*“9. In State of A.P. v. S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, AIR 1963 SC 1723], a three-Judge Bench of this Court has held that the High Court is not 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. The Court held as under : (AIR pp. 1726-27, para 7)*

*“7. ... 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.”*

*10. In B.C. Chaturvedi v. Union of India [B.C. Chaturvedi v. Union of India, (1995) 6 SCC*



749 : 1996 SCC (L&S) 80], again a three-Judge Bench of this Court has held that power of 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 eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under : (SCC pp. 759-60, paras 12-13)

“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 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 the 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 reappreciate 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. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappraise the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel [Union of India v. H.C. Goel, (1964) 4 SCR 718 : AIR 1964 SC 364], this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”*

*11. In High Court of Bombay v. Shashikant S. Patil [High Court of Bombay v. Shashikant S. Patil, (2000) 1 SCC 416 : 2000 SCC (L&S) 144], this Court held that interference with the decision of departmental authorities is permitted if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry while exercising*



*jurisdiction under Article 226 of the Constitution. It was held as under : (SCC p. 423, para 16)*

*“16. The Division Bench [Shashikant S. Patil v. High Court of Bombay, 1998 SCC OnLine Bom 97 : (2000) 1 LLN 160] of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the enquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed under Article 226 of the Constitution.”*

*12. In State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya [State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721], this Court held 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 ground for interfering with the findings in departmental enquiries. The Court held as under : (SCC pp. 587-88, paras 7 & 10)*

*“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. The 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 [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80], Union of India v. G. Ganayutham [Union of India v. G. Ganayutham, (1997) 7 SCC 463 : 1997 SCC (L&S) 1806] and Bank of India v. Degala Suryanarayana [Bank of India v. Degala Suryanarayana, (1999) 5 SCC 762 : 1999 SCC (L&S) 1036], High Court of Bombay v. Shashikant S. Patil [High Court of Bombay v. Shashikant S. Patil, (2000) 1 SCC 416 : 2000 SCC (L&S) 144].)*



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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 proceeding 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.”

13. In another judgment reported as *Union of India v. P. Gunasekaran* [*Union of India v. P. Gunasekaran*, (2015) 2 SCC 610 : (2015) 1 SCC (L&S) 554], this Court held that while reappreciating evidence the High Court cannot act as an appellate authority in the disciplinary proceedings. The Court held the parameters as to when the High Court shall not interfere in the disciplinary proceedings : (SCC p. 617, para 13)

“13. Under Articles 226/227 of the Constitution of India, the High Court shall not:



- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence; (v) interfere, if there be some legal evidence on which findings can be based.*
- (vi) correct the error of fact however grave it may appear to be;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.”*

*14. On the other hand the learned counsel for the respondent relies upon the judgment reported as Allahabad Bank v. Krishna Narayan Tewari [Allahabad Bank v. Krishna Narayan Tewari, (2017) 2 SCC 308 : (2017) 1 SCC (L&S) 335], wherein this Court held that if the disciplinary authority records a finding that is not supported by any evidence whatsoever or a finding which is unreasonably arrived at, the writ court could interfere with the finding of the disciplinary proceedings. We do not find that even on touchstone of that test, the Tribunal or the High Court could interfere with the findings recorded by the disciplinary authority. It is not the case of no evidence or that the findings are perverse. The finding that the respondent is guilty of misconduct has been interfered with only on the ground that there are discrepancies in the evidence of the Department. The discrepancies in the evidence will not make it a case of no evidence. The inquiry officer has appreciated the evidence and returned a finding that the respondent is guilty of misconduct.”*



*28. That thereafter this Court has observed and held in paragraph 7, 8 and 15 as under:*

*“7. The disciplinary authority has taken into consideration the evidence led before the IO to return a finding that the charges levelled against the respondent stand proved.*

*8. We find that the interference in the order of punishment by the Tribunal as affirmed by the High Court suffers from patent error. The power of judicial review is confined to the decision-making process. The power of judicial review conferred on the constitutional court or on the Tribunal is not that of an appellate authority.*

*xxx xxx xxx*

*15. The disciplinary authority agreed with the findings of the enquiry officer and had passed an order of punishment. An appeal before the State Government was also dismissed. Once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by reappreciating evidence as if the courts are the appellate authority. We may notice that the said judgment has not noticed the larger Bench judgments in S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, AIR 1963 SC 1723] and B.C. Chaturvedi [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] as mentioned above. Therefore, the orders passed by the Tribunal and the High Court suffer from patent illegality and thus cannot be sustained in law.”*

*29. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has committed a grave error in*



*interfering with the order passed by the disciplinary authority dismissing the respondent - delinquent officer from service. The High Court has erred in reappreciating the entire evidence on record and thereafter interfering with the findings of fact recorded by the Enquiry Officer and accepted by the disciplinary authority. By interfering with the findings recorded by the Enquiry Officer which as such were on appreciation of evidence on record, the order passed by the High Court suffers from patent illegality. From the findings recorded by the Enquiry Officer recorded hereinabove, it cannot be said that there was no evidence at all which may reasonably support the conclusion that the Delinquent officer is guilty of the charge.”*

19. In the light of the aforesaid, the question of interference in respect of the order of dismissal which is based upon a Departmental Enquiry, does not arise.

20. The present case not a case of no evidence, nor the findings arrived at by the Enquiry Officer can be said to be perverse findings. There is no procedural irregularities in the matter.

21. Learned Counsel has lastly argued before this Court that the punishment is shockingly disproportionate to the misconduct. In the considered opinion of this Court, the charge of demanding bribe/ illegal gratification itself is a very serious charge. He demanded bribe from the owner of the vehicle and the same fact has been established in the Departmental Enquiry. It is a matter of chance that he fled from the spot after he noticed the SHO – who had also reached the spot, and, therefore, as the misconduct relates to demand of bribe, the punishment of dismissal is not certainly shockingly disproportionate to the guilt of the charged official.



22. This Court does not find reason to interfere with the order passed by the Central Administrative Tribunal, and the Writ Petition is, accordingly, dismissed.

**SATISH CHANDRA SHARMA, CJ**

**SUBRAMONIUM PRASAD, J.**

**AUGUST 05, 2022**

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