

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6409 of 2016

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Anuj Kumar Singh Yadav Son of Late Ramashray Yadav resident of Village
P.O. - Naya Bhojpur, P.S. - Dumron, District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Home Department Prison and Reforms Services
Government of Bihar, Patna.
3. Joint Secretary-cum-Director Administration, Prison and Reforms Services,
Home Department, Government
4. Inspector General, Prison and Reforms Services, Home Department,
Government of Bihar, Patna.
5. Deputy Inspector General, Prison and Reforms Services, Home Department,
Government of Bihar, Patna.
6. Superintendent, Central Jail, Motihari.
7. Superintendent, Divisional Jail, Sitamarhi.
8. District Magistrate, Sitamarhi.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shanti Pratap, Advocate
For the Respondent/s : Mr. Prabhat Ranjan, AC to GP-6

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 23-11-2023

The present writ petition has been filed for quashing the order dated 13.03.2015 passed by the Inspector General Prison & Reforms Services, Home Department, Government of Bihar, Patna i.e. the respondent no. 4, whereby and whereunder the petitioner has been inflicted with the punishment



of dismissal from service and it has been further postulated that nothing shall be payable to the petitioner for the period of suspension except the subsistence allowances. The petitioner has also prayed for quashing of the appellate order dated 24.01.2016 passed by the Principal Secretary, Home Department, Prison & Reforms Services, Govt. of Bihar, Patna i.e. the respondent no. 2. Consequently, it has been prayed to reinstate the petitioner and make payment of all the consequential benefits.

2. The brief facts of the case, according to the petitioner, are that the petitioner was initially appointed as Warder by an order issued by the Superintendent, Central Jail, Buxar, whereafter he had joined his duties in the year 1984. During the course of time, the petitioner was transferred and posted at the District Jail, Sitamarhi. While the petitioner was posted at the District Jail, Sitamarhi, four prisoners had escaped from the jail on 17.03.2014, out of whom two of them had escaped from Ward Nos. 1 to 4. The petitioner was, at that



time, in-charge of Ward Nos. 1 to 4 and was being assisted by one Mr. Indrajeet Prasad, who was the Ward In-Charge. Thereafter, the respondent no. 4 had issued a show cause dated 22.03.2014 to the petitioner and he was directed to submit his explanation within 48 hours as to why a departmental proceeding be not initiated against him for dereliction in duty, indiscipline & irregularities committed by him in discharge of his duties. The Superintendent, Divisional Jail, Sitamarhi, had also directed the petitioner to submit his explanation within 48 hours, vide letter dated 22.03.2014, whereafter the petitioner had filed his explanation before the respondent no. 4 through the Superintendent, Divisional Jail, Sitamarhi on 3.7.2014 denying all the charges, levelled against him and had further prayed for exonerating him from all the charges. The petitioner was then placed under suspension vide Memo dated 05.04.2014, issued by the respondent no. 4. The disciplinary authority had then framed charges in Prapatra-“Ka”, which was served upon



the petitioner vide letter dated 17.05.2014, *inter alia* alleging therein that on the alleged date and time of occurrence, when the petitioner was in-charge of Ward Nos. 1 to 4, the B.M.P. constables had entered the ward of the prisoners and after beating them had come out, whereupon, though the petitioner was required to count the prisoners and close Ward Nos. 1 to 4 from outside and put locks, however, the same was not done resulting in the prisoners coming out of the ward and engaging in rowdy behavior, enabling the prisoners taking advantage of the said situation and succeeding in escaping from the prison, which depicts gross negligence, indifferent attitude and dereliction in duties on the part of the petitioner.

3. The respondent no. 4 had then, vide memo dated 02.06.2014 initiated departmental proceedings against 10 persons including the petitioner herein and had also appointed the Conducting Officer as well as the Presenting Officer. Thereafter, the petitioner had filed his written statement of defence on 03.07.2014,



before the Conducting Officer and had made request for supply of relevant documents as also had mentioned the names of the witness, which he wanted to examine during the course of the departmental proceeding. The petitioner had also pointed out that since the situation was beyond the control of jail authorities and the prisoners had created unruly scene as also had engaged in scuffle, four prisoners had escaped from the jail. The Enquiry Officer had then submitted his enquiry report dated 14.10.2014 finding the charges levelled against the petitioner to have been proved. The disciplinary authority, i.e the Deputy Inspector General, Prison & Reforms Services, had then served a second show cause notice dt. 17.12.2014 upon the petitioner, enclosing a copy of the findings of the Enquiry Officer and directing him to submit his reply within a period of 15 days. The petitioner had then filed his reply on 06.01.2015, however, the disciplinary authority i.e. the respondent no. 4, without appreciating the issues raised by the petitioner had, vide memo



dated 13.03.2015 inflicted the punishment of dismissal from service. The petitioner had then filed an appeal against the aforesaid order of punishment dt. 13.03.2015, however, the same has also been dismissed by the respondent no. 2.

4. The learned counsel for the petitioner has submitted that no regular departmental proceeding has been held, before inflicting a major punishment, which is in contravention of the provisions contained in the Bihar Govt. Servants (Classification, Control & Appeal) Rules, 2005. It is also submitted that relevant documents were also not supplied to the petitioner and no opportunity of examining the witnesses was granted to the petitioner, hence it is submitted that the order of punishment dated 13.03.2015 and the appellate order dated 24.01.2016 are fit to be set aside. The Ld. counsel for the petitioner has submitted that in any view of the matter, quantum of punishment inflicted upon the petitioner is disproportionate to the gravity of the charges levelled against him, hence on this count as well, the order of



punishment dated 13.03.2015 and the appellate order dated 24.01.2016 are fit to be set aside.

5. Per contra, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit filed in the present case, that while the petitioner was posted as Warder at Divisional Jail, Sitamarhi on 17.03.2014, four prisoners had escaped from the jail premises during the duty hours of the petitioner. The Director, Probation and the Superintendent, Shahid Khudiram Bose Central Jail, Muzaffarpur had enquired into the matter and submitted a report on 21.03.2014, wherein it had been found that the occurrence in question had taken place on account of gross negligence of the Warders on duty including the petitioner. In fact, thereafter another team comprising of Deputy Development Commissioner, Sub-Divisional Officer and Sub-Divisional Police Officer, Sitamarhi had also enquired into the matter and found gross negligence on the part of the Jail Warders including the petitioner and to the said effect an enquiry



report dated 19.03.2014 was submitted which was sent to the authorities by the District Magistrate, Sitamarhi vide letter dated 21.03.2014 and an explanation was asked from the Warders including the petitioner, by the I.G., Prisons vide Memo dt. 22.03.2004, to which the petitioner had submitted his reply dated 03.07.2014. On being dissatisfied with the reply submitted by the petitioner, he was suspended by an order dated 05.04.2014, issued by the I.G. Prisons, whereafter charges were framed in Prapatra-Ka against the petitioner on 17.5.2014 & a departmental proceeding was initiated against him vide Memo dt. 2.6.2014 as also a Conducting Officer and a Presenting Officer were appointed. After a full-fledged departmental enquiry, the Conducting Officer had submitted his enquiry report dated 14.10.2014 holding the petitioner guilty of the allegations levelled against him, whereafter a second show cause notice dated 17.12.2014 was issued to the petitioner, to which the petitioner had submitted his explanation on 06.01.2015.



6. The learned counsel for the respondent-State has further submitted that the disciplinary authority, after perusing all the documents and reports as also the enquiry report dated 14.10.2014, submitted by the Conducting Officer, apart from taking into account the reply submitted by the petitioner and upon application of mind had then passed the order of punishment of dismissal from service dated 13.03.2015, wherein it has also been postulated that the petitioner shall not be entitled to anything else except the subsistence allowance for the period of suspension. Thereafter, the petitioner had filed an appeal before the Principal Secretary (Home), Bihar, Patna which has stood dismissed by an order dated 24.01.2016, as communicated to the petitioner vide Memo dt. 27.01.2016. It is also submitted that the petitioner has himself admitted the charges levelled against him, not only before his Controlling Officer but also before this Hon'ble Court as would be apparent from paragraphs no. 10 & 20 to the writ petition. It is also submitted that there is no procedural



irregularity in conduct of the disciplinary proceeding, hence this Court would not sit in appeal and re-appreciate the evidence, thus considering the fact that there are ample materials on record to suggest the complicity of the petitioner in the alleged occurrence, no sympathy ought to be shown to the petitioner.

7. I have heard the learned counsel for the parties and perused the materials on record, from which it is clear that the departmental proceedings has been conducted in accordance with law, hence, this Court can neither appreciate the evidence nor interfere with the conclusion of the enquiry. Moreover, this Court finds that not only the enquiry has been held by the competent authority and in accordance with the procedure established by law but the enquiry officer has also found sufficient evidence to arrive at a finding of guilt qua the petitioner. Since, in the present case, this Court does not find any infirmity in the procedure followed by the disciplinary authority as also it does not find that there has been any



violation of the principles of natural justice, this Court does not find any reason to interfere with the disciplinary proceedings in question. Thus, there being no illegality in the conduct of the departmental proceedings, there is no occasion to interfere with the conclusion of the disciplinary authority.

8. At this juncture, this Court would refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Union of India & Ors. vs. P. Gunasekaran***, reported in ***(2015) 2 SCC 610***, paragraph nos. 12, 13, 14, 15, 16, 20 & 21 whereof are reproduced herein below:-

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its



powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

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. In one of the earliest decisions in **State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723]**, many of the above principles have been discussed and it has been concluded thus:

“7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution as 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.”

15. *In State of A.P. v. Chitra Venkata Rao [(1975) 2 SCC 557], the principles have been further discussed at paras 21-24, which read as follows: (SCC pp. 561-63)*

“21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723]. First, there is no warrant for the view that in considering whether a public officer is guilty of 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. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental



enquiry against a public servant. The 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. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted & 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 to review the evidence and to arrive at an independent finding on the evidence. The High Court may 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. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is 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.

22. Again, this Court in **Railway Board v. Niranjan Singh [(1969) 1 SCC 502]** said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In *Niranjan Singh* case **[(1969) 1 SCC 502]** this Court held that the High Court exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shutdown of an air compressor at about 8.15 a.m. on 31-5-1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group



of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ 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. Again 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. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a 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.

(See Syed Yakoob v. K.S. Radhakrishnan).

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there



is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."

16. These principles have been succinctly summed up by the living legend and centenarian V.R. Krishna Iyer, J. in *State of Haryana v. Rattan Singh* [(1977) 2 SCC 491]. To quote the unparalleled and inimitable expressions:

"4. ... in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities & administrative tribunals must be careful in evaluating such material and should



not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor textbooks, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good.”

20. Equally, it was not open to the High Court, in exercise of its jurisdiction under Articles 226/227 of the Constitution of India, to go into the proportionality of punishment so long as the punishment does not shock the conscience of the court. In the instant case, the disciplinary authority has come to the conclusion that the respondent lacked integrity. No doubt, there are no measurable standards as to what is integrity in service jurisprudence but certainly there are indicators for such assessment. Integrity according to Oxford Dictionary is “moral



uprightness; honesty". It takes in its sweep, probity, innocence, trustfulness, openness, sincerity, blamelessness, immaculacy, rectitude, uprightness, virtuousness, righteousness, goodness, cleanness, decency, honour, reputation, nobility, irreproachability, purity, respectability, genuineness, moral excellence, etc. In short, it depicts sterling character with firm adherence to a code of moral values.

21. The impugned conduct of the respondent working as Deputy Office Superintendent in a sensitive department of Central Excise, according to the disciplinary authority, reflected lack of integrity warranting discontinuance in service. That view has been endorsed by the Central Administrative Tribunal also. Thereafter, it is not open to the High Court to go into the proportionality of punishment or substitute the same with a lesser or different punishment. These aspects have been discussed at quite length by this Court in several decisions including B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749], Union of India v. G. Ganayutham [(1997) 7 SCC 463], Om Kumar v. Union of India [(2001) 2 SCC 386], Coimbatore District Central Coop. Bank v. Employees Assn. [(2007) 4 SCC 669], Coal India Ltd. v. Mukul



Kumar Choudhuri [(2009) 15 SCC 620] and the recent one in Chennai Metropolitan Water Supply [Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108].”

9. As regards the issue about documents having not been supplied to the petitioner and the petitioner having not been granted opportunity to examine witnesses, this Court finds that the petitioner has failed to produce any proof to the effect that he had made any application with regard to the same separately, nonetheless, another aspect of the matter is that the petitioner has also failed to show as to what prejudice has been caused to him in case any document had not been made available to him, hence the petitioner cannot derive any benefit on this score. This Court also finds that the findings arrived at by the Conducting/Enquiry Officer in his enquiry report dated 14.10.2014 are not patently perverse or grossly incompatible with the facts and circumstances of the case, hence no interference is warranted. In this connection, it would be relevant



to refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Union of India & Ors. vs. Subrata Nath***, reported in ***2020 SCC Online SC 1617***.

10. It is a well settled law that departmental enquiries are not like trials being conducted by the Civil Courts and only documentary evidence, copies whereof have already been supplied to the delinquent can definitely be the basis of the findings of the Enquiry Officer/disciplinary authority. Reference in this connection be had to a judgment rendered by the Hon'ble Apex Court in the case of ***Tara Chand Vyas vs. Chairman and Disciplinary Authority & Ors.***, reported in ***(1997) 4 SCC 565***. It is equally a well settled law that when the genuineness of the documents is not questioned by the delinquent, there is no need to examine witnesses in support thereof. In this connection, reference be had to a judgment rendered by the Hon'ble Apex Court in the case of ***Director General, Indian Council of Medical Research & others vs. Dr. Anil Kumar Ghosh***



and another, reported in **(1998) 7 SCC 97**.

11. As regards the contention of the learned counsel for the petitioner, to the effect that the punishment of dismissal from service is harsh, this Court finds that the petitioner is a member of a disciplined Force, hence, he was expected to follow the rules and any abrasion and/or deviation in discharge of his duties would definitely entail a punishment of dismissal and the same cannot be stated to be shocking to the conscience of the Court, hence, there is no scope of interference as far as the quantum of punishment is concerned. In this regard, this Court would refer to a judgment, rendered by the Hon'ble Apex Court in the case of **Union of India & Others vs. Diler Singh**, reported in **(2016) 13 SCC 71**, paragraphs no. 22 to 27, whereof are reproduced herein below:-

"22. The aforesaid analysis reveals that the Division Bench has clearly held that the delinquent employee, being a member of the Force, could not have left the camp without prior permission. It has also opined that when a personnel is posted in a camp, he is not



free to move as per his choice even during the period when he is not on duty. However, as is manifest, the Division Bench has opined that the imposition of dismissal as a punishment, which is a major one, could not have been imposed by the disciplinary authority. The said opinion has been expressed without referring to the position of law that has been clearly laid down in Ghulam Mohd. Bhat [(2005) 13 SCC 228]. Thus, the basic premise is erroneous.

23. In the impugned order, the writ court has, after reproducing the passage from Akhilesh Kumar, opined that the controversy is covered by the judgment rendered by the High Court of Calcutta. It is extremely significant to note that the learned Single Judge has not even made an effort to appreciate the decision in Ghulam Mohd. Bhat though the same was relied upon by the learned first appellate Judge. Thrust of reasoning of the first appellate court was that a major punishment of dismissal could be imposed in law. It is quite unfortunate that the High Court has dislodged the finding without any analysis but reproducing a passage from the Calcutta High Court which had not referred to the ratio laid down by a two-Judge Bench of this Court in Ghulam Mohd. Bhat case [(2005) 13 SCC



228]. Thus, the conclusion arrived at by the High Court is wholly unsustainable.

24. The learned counsel for the respondent has submitted that even if the charges have been proven, the punishment of dismissal in the obtaining factual matrix is absolutely harsh and shocking to the conscience. It is his submission that the punishment is disproportionate. The respondent was a part of the disciplined force. He has left the campus without prior permission, proceeded to the market, consumed liquor & quarrelled with the civilians. It has been established that he had consumed liquor at the market place, and it has been also proven that he had picked up quarrel with the civilians. It is not expected of a member of the disciplined force to behave in this manner. The submission, as has been noted earlier, is that the punishment is absolutely disproportionate. The test of proportionality has been explained by this Court in *Om Kumar v. Union of India* [(2001) 2 SCC 386], *Union of India v. G. Ganayutham* [(1997) 7 SCC 463] and *Union of India v. Dwarka Prasad Tiwari* [(2006) 10 SCC 388] .

25. In *Dwarka Prasad Tiwari*, it has been held that unless the punishment imposed by the disciplinary authority or the appellate



authority shocks the conscience of the court/tribunal, there is no scope for interference. When a member of the disciplined force deviates to such an extent from the discipline and behaves in an untoward manner which is not conceived of, it is difficult to hold that the punishment of dismissal as has been imposed is disproportionate & shocking to the judicial conscience.

26. We are inclined to think so as a member of the disciplined force, the respondent was expected to follow the rules, have control over his mind and passion, guard his instincts and feelings and not allow his feelings to fly in fancy. It is not a mild deviation which human nature would grant some kind of lenience. It is a conduct in public which has compelled the authority to think and, rightly so, that the behaviour is totally undisciplined. The respondent, if we allow ourselves to say so, has given indecent burial to self-control, diligence and strength of will power. A disciplined man is expected, to quote a few lines from Mathew Arnold:

*“We cannot kindle when we will
The fire which in the heart resides,
The spirit bloweth and is still,
In mystery our soul abides:*



*But tasks in hours of insight will'd
Can be through hours of gloom fulfill'd."*

*Though the context is slightly different, yet
we have felt, it is worth reproducing.*

*27. Consequently, the appeal is allowed, the
judgment and decree [Diler Singh v. Union of
India, 2012 SCC OnLine P&H 19043] passed
by the High Court is set aside and that of the
first appellate court is restored and the suit
instituted by the respondent-plaintiff stands
dismissed. In the facts and circumstances of
the case, there shall be no order as to costs."*

12. Consequently, this Court finds that in the present case, the charge levelled against the petitioner is grave, as can be culled out from the preceding paragraphs, which has stood proved, hence such indiscipline cannot be viewed lightly, thus this Court finds that the punishment inflicted upon the petitioner is not disproportionate to the charges levelled against him, hence this aspect of the matter is answered against the petitioner.

13. Having regard to the facts and circumstances of the case and having gone through the materials on record, this Court does not find any infirmity in



the procedure followed by the disciplinary authority as also it does not find that there has been any violation of the principles of natural justice, hence there is no reason to interfere with the disciplinary proceedings in question, especially in view of the well settled law to the effect that under Articles 226 & 227 of the Constitution of India, neither evidence can be re-appreciated nor interference can be made with the conclusion of the enquiry proceedings, if the same has been conducted, in accordance with law nor this Court can go into the reliability/ adequacy of evidence or interfere, if there is some legal evidence, on which findings are based and on the contrary, this Court can only consider whether the enquiry has been held by the competent authority and whether the same has been held in accordance with the procedure established by law. Thus, there being no illegality in the conduct of the departmental proceedings, there is no occasion to interfere with the conclusion of the disciplinary authority, consequently this Court does not find any illegality



in the impugned order of punishment dated 13.03.2015. As far as the appellate order dated 24.01.2016 is concerned, the same is also a just and a well-reasoned order, which has appropriately dealt with the issues raised by the petitioner, hence the same also does not require any interference.

14. Considering the facts and circumstance of the case, discussed in the preceding paragraphs and for the reasons mentioned herein above, this Court does not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	12.10.2023
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