

APOT /9/2020
IA No. GA/1/2020
(Old No. GA/372/2020)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Original Side

SOUMENDRA RAY.
-Versus-
UNION OF INDIA AND ORS..

Appearance:
Mr. Mahapatra, Advocate
For the appellant
Mr. Siddhartha Lahiri, Advocate
For Union of India.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

The Hon'ble JUSTICE M. V. MURALIDARAN

Date: November 22, 2023.

THE COURT: This appeal is directed against a judgment and order dated December 10, 2019, whereby the appellant's writ petition being WPO/66/2019 was dismissed by a learned Judge of this Court.

The relevant facts of the case, briefly stated, are that the appellant/writ petitioner is a member of Central Industrial Security Force (in short CISF). Sometime in June, 2016, the Authority proposed to hold an enquiry against the appellant

under Rule 36 of the CISF Rules, 2001. Accordingly, a letter dated June 21, 2016, was issued to the appellant under the signature of the Deputy Inspector General, CISF, AP (E&NE), HQRS, Kolkata. A statement of articles of charge framed against the appellant was appended to the said letter. The two articles of charge read as under:

“Article of Charge-I

On 25/01/2016, No. 003210167 SI/Exe Soumendra Ray of ASG Guwahati (Presently posted at ASG (Kolkata) was detailed in “B” Shift duty at SHA while posted at ASG Guwahati. On direction of Insp/Exe. S.K. Jha I/C SHA he unauthorizedly logged in the ID of ASI/Exe J. S Yadav for dated 18/01/2016 to check for any image of baggage containing gold bars in the login ID of ASI/Exe J. S Yadav dated 18/01/2016. On finding some image like one asked by SHA I/C he deliberately tried to tamper with it and tried to delete the image. This act on the part of SI/Exe Soumendra Ray shows his gross misconduct and misuse of official procedure and doubtful integrity which is unbecoming of a member of disciplined Force. Hence, the charge.

Article of Charge-II

No.003210167 SI/Exe Soumendra Ray of ASG Guwahati (Presently posted at ASG Kolkata) while on “B”Shift duty at SHA Guwahati on

25/01/2016, misused the login ID of ASI/Exe J. S Yadav dated 18/01/2016 in violation of standing procedure in vogue. Hence, the charge.”

An enquiry was duly held. The enquiry officer's report was considered by the Disciplinary Authority. He agreed with the finding of the enquiry officer that the appellant was guilty of the charges framed against him. The operative portion of the order dated January 27, 2017 passed by the Disciplinary Authority reads as follows:

“06. After taking into account of all the above aspects I agree with the findings of the enquiry officer and the charged official is found guilty of the charges framed against him. However, as he was asked to do it by his senior through, unlawful, I take lenient view in awarding the punishment and to give him chance to improve himself. Therefore, I the undersigned in exercise of power conferred upon me under Rule 32 read in connection with schedule-I and with rule 34(v) of CISF Rules, 2001 award the punishment of “Withholding of One (01) increment of pay for a period of two (02) year which will not have the effect of postponing his future increment of pay”to No. 003210167 SI/Exe-Soumendra Ray of CISF Unit NSCBIA Kolkata with immediate effect.

07. A copy of this order be served upon No. 003210167 SI/Exe Soumendra Ray of CISF Unit NSCBIA Kolkata free of cost. Further CISF No. 003210167 SI/Exe Soumendra Ray may prefer an appeal in writing against the above order to Inspector General,

APS Hqr New Delhi, if he desires so, within 30 days from the date of receipt of this order.”

The appellant/writ petitioner preferred a departmental appeal against the said order. By an order dated September 14, 2017, the Appellate Authority dismissed the appeal. The operative portion of the said order reads as follows:

*“However, I am not inclined to enhance the punishment with a view that the appellant would take it as an opportunity and be more careful and vigilant in future and not repeat such type of misconduct. Hence, I do not find any cogent reason to interfere with the order of the penalty passed by the Disciplinary Authority. The appeal petition of the appellant is, therefore, considered and **rejected** being devoid of merit.”*

The appellant herein preferred a Revisional Application against the order of the Appellate Authority. By an order dated November 26, 2018 such application was dismissed by the Director General/ CISF.

Aggrieved by the orders of the Disciplinary Authority, Appellate Authority and Revisional Authority, the appellant

approached the learned single Judge challenging all the three orders.

The learned Judge dismissed the writ petition observing, inter-alia, as follows:

“If the petitioner was at all authorized to access the login the ID of ASI/Exe J. S. Yadav he ought to have done it in his presence or at least in the presence of any superior officer. Accessing someone else’s ID in his absence raises doubt about the integrity of the person concerned.

It does not appear that there has been any lapse on the part of the authority in conducting the disciplinary proceedings. The principle of natural justice has been duly complied with. There is enough evidence to come to the conclusion that the petitioner used the login ID in the absence of the lawful user. In a departmental proceeding strict rules of evidence is not required to be followed and the charge is proved upon preponderance of probabilities. It is not for the Writ Court to re-appreciate evidence. The scope of judicial interference is extremely limited.

The employer is the best authority to decide upon the quantum of punishment to be imposed upon the employee in case his guilt is proved. Until and unless the same shocks the

conscience of the court the same is not required to be interfered with.”

Being aggrieved, the writ petitioner is before us by way of this appeal.

Appearing for the appellant, Mr. Mahapatra, learned Advocate strenuously argued that there is no evidence at all in support of the charge that the appellant logged in to the system by using someone else's login ID. He referred to the order of the Disciplinary Authority and submitted that none of the two witnesses, who are mentioned in the list of witnesses appended to the articles of charge, deposed in support of the charge. He further submitted that the evidence of CW (Court Witness) cannot be taken into consideration. The same is contrary to the Note below Rule 36(16) of the CISF Rules, 2001.

Mr. Mahapatra then submitted that the appellant merely acted on the instruction of a senior officer. Hence, he was not at fault in any manner. In this connection learned Advocate referred to Sections 10 and 21 of the CISF Act, 1968.

Learned Advocate then relied on the decision of the Hon'ble Supreme Court in the case of Narinder Mohan Arya vs. United India Insurance Co. Ltd. and others reported at (2006) 4 SCC 713, and in particular paragraph 26 thereof, which reads as follows:

“ 26. In our opinion the learned Single Judge and consequently the Division Bench of the High Court did not pose unto themselves the correct question. The matter can be viewed from two angles. Despite limited jurisdiction a civil court, it was entitled to interfere in a case where the report of the enquiry officer is based on no evidence. In a suit filed by a delinquent employee in a civil court as also a writ court in the event the findings arrived at in the departmental proceedings are questioned before it, it should keep in mind the following: (1) the enquiry officer is not permitted to collect any material from outside sources during the conduct of the enquiry. (See State of Assam v. Mahendra Kumar Das) (2) In a domestic enquiry fairness in the procedure is a part of the principles of natural justice. (See Khem Chand v. Union of India and State of U.P. v. Om Prakash Gupta.) (3) Exercise of discretionary power involves two elements – (i) objective, and (ii) subjective and existence of the exercise of an objective element is a condition precedent for exercise of the subjective element. (See

K.L. Tripathi v. State Bank of India). (4) It is not possible to lay down any rigid rules of the principles of natural justice which depend on the facts and circumstances of each case but the concept of fair play in action is the basis. (See *Sawai Singh v. State of Rajasthan*.) (5) The enquiry officer is not permitted to travel beyond the charges and any punishment imposed on the basis of a finding which was not the subject matter of the charges is wholly illegal. [See *Director (Inspection & Quality Control) Export Inspection Council of India v. Kalyan Kumar Mitra*.] Suspicion or presumption cannot take the place of proof even in a domestic enquiry. The writ court is entitled to interfere with the findings of the fact of any tribunal or authority in certain circumstances. (See *Central Bank of India Ltd. v. Prakash Chand Jain*, *Kuldeep Singh v. Commr. of Police*.)”.

Learned Advocate finally submitted that the decision of the Disciplinary Authority, not being based on any evidence, is perverse and ought to have been set aside by the learned single Judge. He submitted that this appeal should be allowed and the impugned order along with the orders that were challenged in the writ petition should be set aside.

Appearing for the Union of India, Mr. Lahiri, learned Advocate drew our attention to annexure –III to the

Memorandum dated June 21, 2016, whereby the appellant was informed that an enquiry was proposed to be held against him. The said annexure is the list of documents relied upon by the authorities in support of the charges framed against the appellant. The fourth item under that annexure is described as “Images of bag containing gold dated 18/01/2016 retrieved from the login ID of ASI/Exe J S Yadav.”

Learned Advocate submitted that the aforesaid would indicate that the incident of gold bar having been detected in the baggage of a passenger was on January 18, 2016. The appellant logged in on January 25, 2016 by using another officer's login ID. Even assuming that he acted as per his superior's instruction, such instruction was not lawful and therefore Section 21 of the CISF Act would not come to his rescue.

Mr. Lahiri further submitted with reference to the order of the Appellate Authority that all the contentions of the present appellant were considered and rejected with cogent reasons. The Writ Court would not sit in appeal over the

decision of the Appellate Authority. The scope of judicial review in a scenario like the present one is extremely limited. Judicial review is not concerned with the correctness or otherwise of the decision brought before the Writ Court but with the manner in which the decision has been arrived at. If principles of natural justice have been observed and proper procedure has been followed in arriving at a decision, then the Writ Court will not interfere. He submitted that in the present case there is no procedural impropriety or other infirmity in the order of the Disciplinary Authority or order of the Appellate Authority as would persuade the Writ Court to set aside such orders.

Learned Advocate relied on two decisions of the Hon'ble Supreme Court. The first decision is in the case of *Mukesh Kumar Raigar vs. Union of India (UOI) and Ors* reported at AIR 2023 SC 482; and the second is the case of *Union of India vs. (UOI) and Ors vs. Subrata Nath* reported at (2023) 2 AWC 1959 = 2022/INSC/1221.

We have given our anxious consideration to the rival contentions of the parties.

Learned Advocate for the appellant referred to Sections 10 and 21 of the CISF Act. The said sections read as follows:

“10. Duties of members of the Force – It shall be the duty of every member of the Force-

- (a) promptly to obey and execute all orders lawfully issued to him by his superior authority;*
- (b) to protect and safeguard the industrial undertakings owned by the Central Government together with such other installations as are specified by that Government to be vital for the carrying on of work in those undertakings, situate within the local limits of his jurisdiction:*

Provided that before any installation not owned or controlled by the Central Government is so specified, the Central Government shall obtain the consent of the Government of the State in which such installation is situate;

- (c) to protect and safeguard [any joint venture, private industrial undertaking and] such other industrial undertakings and installations for the protection and security of which he is deputed under section 14;*
- (d) to protect and safeguard the employees of the industrial undertakings and installations referred to in clauses (b) and (c);*
- (e) to do any other act conducive to the better protection and security of the industrial undertakings and installations referred to in clauses (b) and (c) and the employees referred to in clause (d)]*

- (f) *to provide technical consultancy services relating to security of any private sector industrial establishments under section 14-A;*
- (g) *to protect and safeguard the organisations owned or funded by the Government and the employees of such organisations as may be entrusted to him by the Central Government;*
- (h) *any other duty [within and outside India] which may be entrusted to him by the Central Government from time to time.]*

21. *Protection of acts of members of the Force-* (1) *In any suit or proceeding against any member of the Force for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under the orders of a competent authority.*

(2) *Any such plea may be proved by the production of the order directing the act, and if it is so proved, the member of the Force shall thereupon be discharged from any liability in respect of the act so done by him notwithstanding any defect in the jurisdiction of the authority which issued such order.*

(3) *Notwithstanding anything contained in any other law for the time being in force, any legal proceeding, whether civil or criminal, which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder shall be commenced within three months*

after the act complained of shall have been committed and not otherwise; and notice in writing of such proceeding and of the cause thereof shall be given to the person concerned and his supervisory officer at least one month before the commencement of such proceeding.”

Referring to the aforesaid two Sections learned Advocate submitted that the appellant was under a duty to act in terms of his superior's direction. Hence, he could not be blamed in any manner.

We are not impressed with such argument. We are of the view that those two sections enjoin a duty on an officer to carry out an order of a superior officer only if such order is lawful. Any instruction that might have been given by a superior officer to the appellant to login to the system by using some other officer's login ID, could not have been a lawful instruction. In our considered view, none of the aforesaid two sections can come to rescue the appellant.

In so far as the Note beneath Rule 36(16) of the CISF Rules is concerned, we are of the view that court witness was not called to fill up any gap in the evidence. Even if the

deposition of the court witness is discounted, still the evidence of the prosecution witnesses would remain. It is not for the Writ Court to assess the quantum or quality of evidence recorded by the enquiry officer or disciplinary authority. It is enough if some evidence is there. The writ court will not analyse the evidence to ascertain whether or not the same sufficiently proves the charge framed against that delinquent officer/employee. Only in a case of there being no evidence at all, the writ court may be justified in interfering since in such a case the finding based on no evidence would be an arbitrary and perverse finding. That is not the case here.

As regards the decision relied upon by learned Advocate for the appellant, we do not see how the same advances the case of the appellant. The paragraph relied upon by the learned Advocate, which has been extracted above, merely indicates certain guidelines to be kept in mind by a court hearing a suit or writ application filed by a delinquent employee questioning the finding arrived at in the departmental proceeding. One of the guidelines is that the

writ court is entitled to interfere with the finding of facts of any person or authority in certain circumstances. However, we are of the considered view that the circumstances of the present case are not such as would justify the writ court to interfere with the finding of the disciplinary authority or appellate authority.

The scope of judicial review in cases where departmental proceedings are assailed, has been discussed in various decisions of the Hon'ble Supreme Court. In this context, we deem it appropriate to refer to the decision of the Hon'ble Apex Court in the case of Union of India vs. Subrata Nath, (supra), wherein at paragraphs 15 to 20 and 22 of the reported judgement, the Hon'ble Supreme Court observed and held as follows:

“15. It is well settled that courts ought to refrain from interfering with findings of facts recorded in a departmental inquiry except in circumstances where such findings are patently perverse or grossly incompatible with the evidence on record, based on no evidence. However, if principles of natural justice have been violated or the statutory Regulations have not been adhered to or there are malafides attributable to the Disciplinary Authority, then the courts can certainly interfere.

16. In the above context, following are the observations made by a three-Judge Bench of this Court in B.C. Chaturvedi (supra):

*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 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 coextensive power to reappreciate 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/MANU/SC/0271/1963: (1964) 4 SCR 718 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.

17. In *State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya* MANU/SC/0411/2011 : (2011) 4 SCC 584, a two Judge Bench of this Court held as below:

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 MANU/SC/0118/1996: (1995) 6 SCC 749, *Union of India v. G. Ganayutham* MANU/SC/0834/1997: (1997) 7 SCC 463, *Bank of India v. Degala Suryanarayana* MANU/SC/0399/1999: (1999) 5 SCC 762 and *High Court of Judicature at Bombay v. Shashikant S. Patil* MANU/SC/0603/1999: (2000) 1 SCC 416).

18. In *Chairman & Managing Director, V.S.P. and Ors. v. Goparaju Sri Prabhakara Hari Babu* MANU/SC/7289/2008: (2008) 5 SCC 569, a two Judge Bench of this Court referred to several precedents on the Doctrine of Proportionality of the order of punishment passed by the Disciplinary Authority and held that:

21. Once it is found that all the procedural requirements have been complied with, the courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. The superior courts only in some cases may invoke the doctrine of proportionality. If the decision of an employer is found to be within the legal parameters, the jurisdiction would ordinarily not be invoked when the misconduct stands proved.

19. Laying down the broad parameters within which the High Court ought to exercise its powers Under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two Judge Bench of this Court in *Union of India and Ors. v. P. Gunasekaran* MANU/SC/1068/2014: (2015) 2 SCC 610 held thus:

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.

20. In *Union of India and Ors. v. Ex. Constable Ram Karan* MANU/SC/1049/2021: (2022) 1 SCC 373, a two Judge Bench of this Court made the following pertinent observations:

23. The well-ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to the delinquent employee. Keeping in view the seriousness of the misconduct committed by such an employee, it is not open for the courts to assume and usurp the function of the disciplinary authority.

24. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The scope of judicial review on the quantum of punishment is available but with a limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a call and it is not for the court to substitute its decision by prescribing the quantum of punishment. However, it is only in rare and exceptional cases where the court might to shorten the litigation may think of substituting its own view as to the quantum of punishment in place of punishment awarded by the competent authority that too after assigning cogent reasons.

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22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in

mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor.”

Similarly, in the case of Mukesh Kumar Raigar, (supra), at paragraphs 9 to 12 of the reported judgement, the Hon’ble Supreme Court observed as follows:

“9. Having regard to the guiding principles, laid down in case of Avtar Singh (supra) and in case of Satish Chandra Yadav (supra), this Court has no hesitation in holding that the Single Bench of the High Court had committed an error in interfering with the order passed by the Respondents-authorities. The Respondents-authorities had after taking into consideration the decision in case of

Avtar Singh terminated the services of the Petitioner holding inter-alia that while the Petitioner was appointed in CISF, a criminal case was pending against him at the time of his enrolment in the force, but he did not reveal the same and that there was deliberate suppression of facts which was an aggravating circumstance. It was also held that CISF being an armed force of Union of India, is deployed in sensitive sectors such as airports, ports, department of atomic energy, department of space, metro, power and steel, for internal security duty etc., and therefore, the force personnel are required to maintain discipline of the highest order; and that the involvement of the Petitioner in such grave offences debarred him from the appointment. Such a well-reasoned and well considered decision of the Respondent-authorities should not have been interfered by the Single Bench in exercise of its powers Under Article 226 of the Constitution, more particularly when there were no allegations of malafides or of non-observance of Rules of natural justice or of breach of statutory Rules were attributed against the Respondent authorities.

10. The Constitution Bench, in case of State of Orissa and Ors. v. Bidyabhushan Mohapatra MANU/SC/0361/1962: AIR 1963 SC 779 had observed way back in 1963 that having regard to the gravity of the established misconduct, the punishing authority had the power and jurisdiction to impose punishment. The penalty was not open to

review by the High Court Under Article 226. A three-judge Bench in case of B.C. Chaturvedi v. Union of India and Ors. MANU/SC/0118/1996: (1995) 6 SCC 749 had also held that 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 the charges of misconduct by a public servant, the Court or Tribunal would be concerned only to the extent of determining whether the inquiry was held by a competent officer or whether the Rules of natural justice and statutory Rules were complied with.

11. In Om Kumar and Ors. v. Union of India MANU/SC/0704/2000: (2001) 2 SCC 386 this Court had also after considering the Wednesbury Principles and the doctrine of proportionality held that the question of quantum of punishment in disciplinary matters is primarily for the disciplinary authority, and the jurisdiction of the High Courts Under Article 226 of the Constitution or of the Administrative Tribunals is limited and is confined to the applicability of one or the other of the well-known principles known as "Wednesbury Principles" namely whether the order was contrary to law, or whether relevant factors were not considered, or whether

irrelevant factors were considered or whether the decision was one which no reasonable person could have taken.

12. Again, a three-judge Bench in case of Deputy General Manager (Appellate Authority) and Ors. v. Ajai Kumar Srivastava MANU/SC/0005/2021: (2021) 2 SCC 612 circumscribing the power of judicial review by the constitutional courts held as under:

24. It is thus settled that the power of judicial review, of the constitutional courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the Rules of natural justice or in violation of the statutory Rules prescribing the mode of enquiry 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 or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

25. xxxxxxxx

26. xxxxxxxx

27. xxxxxxxx

28. *The constitutional court while exercising its jurisdiction of judicial review Under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of mala fides or perversity i.e. where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at those findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”*

Therefore, it is well established that in cases of challenge to disciplinary proceedings and punishment imposed pursuant thereto, the Writ Court will act with restraint. Only in cases of arbitrariness or perversity or breach of the principles of natural justice or where the concerned authority lacks jurisdiction, the Writ Court may come to the rescue of the petitioner. The Writ Court is not an appellate Court. Findings of fact arrived at by the disciplinary authority

and the appellate authority are normally not interfered with by the Writ Court. If the finding of guilt is not supported by any evidence at all, that may be a ground for interfering but, that is not the case here. Sufficiency of the evidence on record is not for the Writ Court to decide.

In view of the aforesaid and the principles of law laid down by the Hon'ble Supreme Court, this appeal fails and is dismissed.

There will be no order as to costs.

(ARIJIT BANERJEE, J.)

(M. V. MURALIDARAN, J.)

dg/sm