

Neutral Citation Number : 2023:DHC:3630-DB

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

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Judgment reserved on : 01st March, 2023

Judgment delivered on: 24th May 2023

+ **W.P. (C) 10486/2021 & C.M. No. 32298/2021**

+ **W.P.(C) 10493/2021 & C.M. No. 15428/2022**

+ **W.P.(C) 10519/2021 & C.M. No. 32389/2021**

+ **W.P.(C)10539/2021 & C.M. Nos. 32491/2021, 32493/2021
& 42464/2022**

SATISH CHANDRA VERMA, IPS

...Petitioner

Versus

UNION OF INDIA & ORS.

.....Respondents

Advocates who appeared in this case:

For the petitioner: Mr. I.H. Syed, Senior Advocate with Mr. Rahul Sharma & Ms. Suroor Mander, Advocates.

For the Respondents: Mr. Arun Bhardwaj, Senior Advocate and Mr. Harish Vaidyanathan Shankar, CGSC along with Mr. Abhishek Sharma, Ms. Gauraan, Mr. Nishant Bahuguna and Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat, Mr. Alexander Mathai Paikaday Advocates and Mr. A. K. Saran, JS (P-1) for Respondent/ UOI.

Mr. Kumar Parimal, Advocate for Respondent No.7/ NEEPCO.

Ms. Manisha Lav Kumar, Senior Advocate with Mr. Ravi Kant Jain, Advocate for Respondent No.9/ State of Gujarat.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

Signature Not Verified

Digitally Signed By: RASHIM
KAPOOR
Signing Date: 24.05.2023 19:28:27
This file is digitally signed by PS
to HMJ Sanjeev Sachdeva.

W.P. (C) 10486/2021, 10493/2021, 10519/2021 & 10539/2021

Page 1 of 45

JUDGMENT

SANJEEV SACHDEVA, J.

1. In W.P. (C) 10486 of 2021, Petitioner, seeks quashing of Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 452 of 2020 (erroneously referred to as O.A. 454 of 2020 in the judgment) and also seeks quashing of charge memo dated 28.09.2018.
2. In W.P. (C) 10493 of 2021, Petitioner seeks quashing of the Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 454 of 2020 (erroneously referred to as O.A. 452 of 2020 in the judgment) and also seeks quashing of adverse entries against the Petitioner in his annual Performance Appraisal Report for the year 2015 – 2016.
3. In W.P. (C) 10519 of 2021, Petitioner seeks quashing of the Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 3610 of 2019 and also seeks quashing of charge memo dated 09.05.2016.
4. In W.P. (C) 10539 of 2021, Petitioner had initially sought quashing of the Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 453 of 2020 and also sought quashing of charge memo dated 13.08.2018. Subsequently, the petition was amended in terms of the liberty granted

by the Supreme Court of India by its order dated 19.09.2022 in Civil Appeal No. 6775 of 2022 arising out of S.L.P. (C) No. 15913 of 2022. By the amendment the Petitioner additionally seeks quashing of the Departmental Inquiry Report dated 02.12.2020 of the Directorate General, ITBP, Ministry of Home Affairs and also seeks quashing of order dated 30.08.2022 dismissing the petitioner from service.

5. By a common Judgment dated 22.07.2021, rendered in O.A. No. 452 of 2020 (impugned in W.P. (C) 10486/2021), O.A. No. 453 of 2020 (impugned in W.P. (C) 10539/2021) and O.A. No. 3610 of 2019 (impugned in W.P. (C) 10519/2021), the Central Administrative Tribunal, Principal Bench (hereinafter referred to as the Tribunal), rejected the challenge of the Petitioner to three different memoranda of charge issued to the Petitioner and directed that the disciplinary proceedings be expeditiously concluded.

6. By a Judgment also dated 22.07.2021 rendered in O.A. No. 454 of 2020 (impugned in W.P. (C) 10493/2021), the Tribunal permitted the petitioner to submit a representation to the Competent Authority for deletion of adverse entries and proper evaluation of Performance Appraisal Report of the year 2015 – 16.

7. Pending the consideration of the subject Petitions, Petitioner was imposed the Penalty of “dismissal from service” by order dated 30.08.2022 which has now been impugned in W.P. (C) 10539/2021 by amending the Petition.

8. Petitioner was an Indian Police Service Officer of 1986 batch of the Gujarat Cadre.

9. A Special Investigation Team (SIT) was constituted by the High Court of Gujarat for investigating an incident of the year 2004, wherein four persons, including a woman, by name, Ishrat Jahan were killed in a police firing. Petitioner was a member of the SIT which carried out the investigation and submitted its report.

10. Petitioner was subsequently appointed as Chief Vigilance Officer (CVO) of the North Eastern Electric Power Corporation (NEEPCO), on 08.10.2014 on central deputation.

11. On 13.08.2018, a charge memo was issued by the Ministry of Home Affairs, Government of India, with four articles of charge. It was stated that the Petitioner gave an interview to a news channel “India Today” on 2nd and 3rd March, 2016 in the official premises of NEEPCO at Guwahati, without any authority.

12. The second charge was that in the interview he made certain statements regarding the encounter of a terrorist, by the name, Ishrat Jahan in the State of Gujarat and the statements had the effect of adverse criticism against the State and Central Governments.

13. The third charge was that he directly communicated official information with regard to the interrogation of the then Under Secretary in the Ministry of Home Affairs, Government of India and

the contents of affidavits filed by the Government of India before the High Court of Gujarat and furnished the details of his official investigation, in his interaction with the press.

14. The fourth article of charge was that he had recourse to the press (electronic media) for vindication of official acts, which were full of adverse criticism and attack of a defamatory character, to counter the statements of Shri G.K. Pillai, the then, Secretary, Ministry of Home Affairs.

15. Petitioner was issued another charge memo dated 28.09.2018 by the Directorate General, CRPF, Ministry of Home Affairs, Government of India, with four articles of charges.

16. In the First article of the charge memo, it was stated that though the petitioner was relieved from the post of CVO in the NEEPCO on 04.07.2016, he failed to handover the relevant files and kept them in his personal custody for a long time.

17. In the second article, it was stated that the petitioner took 8 outward numbers on 04.07.2016 and 2 outward numbers on 05.07.2016 in the NEEPCO, and he utilized the same for submission of reports between 15.07.2016 and 23.07.2016, i.e. much after being relieved from the post of CVO.

18. In the third article, it was stated that the petitioner kept all the 10 reports in his possession and submitted the same on his own,

without routing them through the office of the Vigilance Wing of NEEPCO.

19. In the fourth article, it was stated that the petitioner dispatched all the 10 reports on his own accord and contrary to the prescribed procedure.

20. Thereafter, Petitioner was served with another memorandum of charge dated 09.05.2016, by the same Ministry. This contained five articles of charge. The first article was about the Petitioner conducting tours to various places including those where he could not (did not) have any official work, on several occasions without submitting any intimation to the CMD, despite prevailing instructions of CVC.

21. In the second article, it was stated that Petitioner failed to submit intimation of his visits to various places to the CMD, in spite of specific instructions given to him by the CMD vide his letters dated 18.02.2016 and 19.04.2016.

22. In the third article, it was stated that Petitioner failed to submit the reports of his inspections to the CMD and such omission was in contravention of instructions of CVC dated 24.04.2005 and 04.05.2005 apart from the specific instructions issued by the CMD.

23. In the fourth article, it was alleged that the Petitioner frequently travelled to places including those where he did not have any official work and claimed TA/DA of Rs. 8,67,488. It was also stated that he

remained out of Headquarters (Shillong) for about 310 days during his posting as CVO and he frequently combined long periods of leave with the official tours.

24. The last article of charge was that the Petitioner submitted a reply to CMD, NEEPCO, stating that he informed in advance about his tours on telephonic talk/text message and the same was contrary to the prescribed procedure.

25. By the amendment the Petitioner additionally seeks quashing of the Departmental Inquiry Report dated 02.12.2020 of the Directorate General, ITBP, Ministry of Home Affairs and also seeks quashing of order dated 30.08.2022 dismissing the petitioner from service.

26. In the Disciplinary proceedings, on the Charge Memo dated 13.08.2018, the Inquiry Authority submitted its report on 02.12.2020 holding all the charges as proved. The Disciplinary Authority agreed with the analysis and findings of the Inquiry Authority and furnished a copy of the Report to the Petitioner for submitting his written representation.

27. Vide letter dated 27.01.2021, Petitioner submitted his representation. The Disciplinary Authority after consideration of the same found it without merit and rejected the same and opined that a suitable major penalty may be imposed.

28. Reference was made by the Ministry of Home Affairs to the

Union Public Service Commission for advice. The UPSC by its letter dated 01.09.2021, *inter alia* advised that the ends of justice would be met if the penalty of “*dismissal from service, which shall ordinarily be a disqualification for future employment under the Government*” is imposed.

29. The advice of UPSC was accepted by the Disciplinary Authority and the same was forwarded to the Petitioner to enable him to submit a representation, which was submitted by letter dated 09.10.2021.

30. Keeping in view the articles of charge dated 13.08.2018, report of the Inquiry Authority, the case records, facts and circumstances of the case and the advice of UPSC, the representation of the Petitioner was rejected and in exercise of powers conferred under Rule 7(2) of the All India Services (Discipline and Appeal) Rules 1969, by order dated 30.08.2022, the penalty of “*dismissal from service, which shall ordinarily be a disqualification for future employment under the Government*” has been imposed on the Petitioner.

31. Said Order dated 30.08.2022 has, *inter alia*, been challenged by amending W.P. (C) 10539 of 2021.

32. Mr. Syed, Learned Senior Counsel appearing for the Petitioner submits that the reliance has been placed in the inquiry proceedings on unauthorised video footage purportedly downloaded from

YouTube and neither the video footage nor its transcript were proved. He submits that though the same was not proved in accordance with law, same has been read in evidence by the Inquiry Authority, UPSC and the Disciplinary Authority.

33. Learned Senior Counsel further submits that the Petitioner had requested the Inquiry Authority to hold the hearing of 11.09.2016 through Video Conferencing, however the request was declined and the proceedings were held *ex-parte*. He submits that during the *ex-parte* hearing the unauthenticated video footage and its transcript were exhibited as proved documents without examining any witness.

34. Learned Senior Counsel for the Petitioner relied upon the decision of the Supreme Court of India in *State of Uttar Pradesh versus Saroj Kumar Sinha (2010) 2 SCC 772* to contend that an Inquiry Authority in a quasi-judicial authority and has to act as an independent adjudicator, he is not supposed to be a representative of the department/disciplinary authority/Government. Even in the absence of the Charged Officer, he has to examine the evidence presented by the department to ascertain as to whether the un rebutted evidence is sufficient to hold that the charges are proved or not and that the department enquiry cannot be conducted in a casual manner.

35. Reference is also made by Learned Senior Counsel for the Petitioner to the Judgment of the Supreme Court of India in *Roop Singh Negi versus Punjab National Bank & Others (2009) 2 SCC 570*

to submit that the enquiry officer performs a quasi judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties.

36. Reference is made to the decision of the Supreme Court of India in *ORYX Fisheries Private Limited versus Union of India & Others (2010) 13 SCC 427* to contend that a quasi-judicial authority, while acting in exercise of its statutory power must act fairly and must act with an open mind while initiating a show cause proceeding and the show cause proceeding is meant to give the person proceeded against a reasonable opportunity of making his objection against the proposed charges indicated in the notice.

37. Reliance is also placed on the Judgment of the Supreme Court of India in *Kumaon Mandal Vikas Nigam Limited versus Girja Shankar Pant & Others (2001) 1 SCC 182* to contend that where the findings of the disciplinary authority are based on no evidence or are totally perverse or legally untenable, the Court would interfere.

38. It is thus contended that the entire proceedings are liable to be quashed as the authorities have acted in a prejudiced manner. They have relied upon unverified YouTube download which has not been proved and also relied upon unsubstantiated transcripts. The authorities have acted in a biased manner and have not acted fairly

with an open mind and as such the disciplinary proceedings and the punishment are liable to be quashed.

39. *Per contra*, Mr. Bhardwaj, learned Senior Counsel appearing for the Respondent Union of India submits that the Articles of charge have not only been duly proved but the allegations against the Petitioner have been duly admitted. He submits that the Petitioner has admitted to have given the interview to the media. No prior permission was taken. The interview was not in Bonafide discharge of his duties. He also did not at any stage clarify that the views expressed were his own.

40. It is further submitted that the Petitioner has clearly violated the All India Service (Conduct Rules) 1968 as he did not speak to the media in his official capacity. He submits that the Petitioner admits to have held the meeting with the media house in the guest house of the NEEPCO. He is stated to have made statements relating to an ongoing litigation and has made statements contrary to the stand of the Government in those proceedings.

41. Learned Senior Counsel for the Respondents submits that the Petitioner, despite being given an opportunity, never objected to the video recording and the transcript of the recording. He further submits that the Petitioner did not produce any defence witness and even admitted to have spoken to the media.

42. Learned Senior Counsel for the Respondents further submits that the Petitioner not only did not dispute the video and transcript but in his written brief even relied upon them. Reference was drawn to paragraphs 4.4.1, 4.4.2, 4.11 and 4.14 of his written brief. He further submits that the admission of giving an interview and speaking to the media and the explanation given in the written brief in fact amounts to dereliction of duty. He submits that the contention of the Petitioner that the media interview was not planned and the media personnel had come right upto the door of his room is clearly contrary to the video recording.

43. Mr. Bhardwaj further submits that the Petitioner admits to have spoken to the media about an ongoing prosecution of some officer and the stand of the government in those proceedings which were still pending in a court of law. He submits that though the petitioner was not connected with the prosecution but he has sought to justify his conduct in the writ petition by contending that he was duty bound to safeguard the prosecution case that he had investigated, which shows that his intention was to somehow interfere in the judicial process.

44. With regard to the contention of the petitioner that an adjournment was not granted to the petitioner on 11.09.2016 and the documents i.e. the video and the transcripts were taken on record, it is submitted by Mr. Bhardwaj that Petitioner had been delaying the proceedings and had earlier also sought adjournments and was warned

by the Inquiry Authority that he would be proceeded *ex-parte*. He submits that the adjournment was sought on the false pretext of lockdown when the lockdown had already opened and he had thereafter appeared in person on 18.09.2016.

45. He submits that no prejudice was caused to the petitioner as he thereafter participated and cross examined the witness and has himself relied upon the video recording and the transcripts in his written brief.

46. The subject Charge Memo dated 13.08.2018 pursuant to which the Inquiry Authority submitted its report on 02.12.2020 and consequent to which the impugned order dated 30.08.2022 has been passed reads as under:

“Statement of Articles of Charge framed against Shri Satish Chandra Verma, IPS (GJ: 1986), Inspector General of Police, Central Training College, CRPF, Coimbatore the then CVO, NEEPCO, Shillong.”

Article of Charge-1

Shri Satish Chandra Verma, the then CVO, NEEPCO interacted with public media on 2nd and 3rd March, 2016 in an interview with the News Channel “India Today” at the official premises of NEEPCO at Guwahati without any authorization or permission from the Competent Authority and spoke unauthorizedly on the matters which were not within the sphere of his duties at NEEPCO. He misused the official premises, a public property.

By the aforesaid act, he failed to maintain absolute integrity and devotion to duty and as such contravened

provisions of Rule 3(1) of the All India Services (Conduct) Rules, 1968.

Article of Charge-2

Shri Satish Chandra Verma, the then CVO, NEEPCO made such statement of fact and opinion on his communication over public media, in the matter of encounter of a terrorist Ishrat Jahan in Gujarat, which had the effect of an adverse criticism of action of the Central Government and the State Government, which is capable of embarrassing the relations between the Central Government and the State Government and which is also capable of affecting the relationship of India with a neighboring Country. He also did not make it clear that the view expressed by him were his own and not that of the Government.

By the aforesaid act, he contravened provisions of Rule 3(1), 6, 7 and Rule 9 of the All India Services (Conduct) Rules, 1968.

Article of Charge-3

Shri Satish Chandra Verma, the then CVO, NEEPCO had without there being any general or special order of the Government and without acting in good faith of duties assigned to him as CVO, NEEPCO, directly communicated official information with regard to interrogation of the then Under Secretary in the Ministry of Home Affairs, Government of India with regard to the contents of the affidavits filed by the Government of India before the Hon'ble Gujarat High Court, investigation about the terrorist/non-terrorist character of Ishrat Jahan, a terrorist, who was killed in an encounter in Gujarat and the allegation of torture of the then Under Secretary in the Ministry of Home Affairs, Government of India by Shri

Satish Chandra Verma in the said case and also given out personal details of the officials dealing with the Ishrat Jahan case at the Ministry of Home Affairs and State level and in house procedures in dealing with a sensitive case wherein foreign terrorists were involved, which has ramifications to personal safety and issues related to national security to a person whom he is not authorized to communicate such document or information.

By the aforesaid act, Shri Satish Chandra Verma has violated Rule 3(1) and Rule 9 of the All India Services (Conduct) Rules, 1968.

Article of Charge-4

Shri Satish Chandra Verma, the then CVO, NEEPCO, without the previous express or deemed sanction of the Government, had recourse to the press (electronic media) for vindication of official acts which have been subject matter of adverse criticism and attack of a defamatory character in as much as he took recourse to News Channel 'India Today' to counter the statements of Shri

G.K. Pillai, the then Secretary, Ministry of Home Affairs, Government of India and Shri R.V.S. Mani, the then Under Secretary, Ministry of Home Affairs. By the aforesaid act, Shri Satish Chandra Verma has violated Rule 3(1) and Rule 17 of the All India Services (Conduct) Rules, 1968."

47. The relevant *All India Services (Conduct) Rules, 1968*, read as under:

*"Rule 3: **General.** — 3(1) Every member of the Service shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the Service.*

(1 A) Every member of the Service shall maintain:-

- (i) high ethical standards, integrity and honesty;*
- (ii) political neutrality;*
- (iii) promoting of the principles of merit, fairness and Impartiality in the discharge of duties;*
- (iv) accountability and transparency;*
- (v) responsiveness to the public, particularly to the weaker section*
- (vi) courtesy and good behavior with -the public.*

(2) Every member of the Service shall take' all possible steps to ensure integrity of, and devotion to duty by, all Government servants for the time being under his control and authority.

(2A) Every member of the service shall in the discharge of his duties act in a courteous manner and shall not adopt dilatory tactics in his dealings with the public or otherwise.

(2B) Every member of the Service shall:-

- (i) commit himself to and uphold the supremacy of the Constitution and democratic values;*
- (ii) defend and uphold the sovereignty and integrity of India, the security of State, public order, decency and morality;*
- (iii) maintain integrity in public service;*
- (iv) take decisions solely in public interest and use or cause to use public resources efficiently, effectively and economically;*

- (v) *declare any private interests relating to his public duties and take steps to resolve any conflicts in a way that protects the public interest*
- (vi) *not place himself under any financial or other obligations to any individual or organisation which may influence him in the performance of his official duties;*
- (vii) *not misuse his position as civil servant and not take decisions in order to derive financial or material benefits for himself, his family or his friends;*
- (viii) *make choices, take decisions and make recommendations on merit alone;*
- (ix) *act with fairness and impartiality and not discriminate against anyone, particularly the poor and the under- privileged sections of society;*
- (x) *refrain from doing anything which is or may be contrary to any law, rules, regulations and established practices*
- (xi) *maintain discipline in the discharge of his duties and be liable to implement the lawful orders duly communicated to him;*
- (xii) *be liable to maintain confidentiality in the performance of his official duties as required by any laws for the time being in force, particularly with regard to information, disclosure of which may prejudicially affect the sovereignty and integrity of India, the security of State,*

strategic, scientific or economic interests of the State, friendly relation with foreign countries or lead to incitement of an offence or illegal or unlawful gains to any person;

(xiii) perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities.

3(3)(i) No member of the Service shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his own best judgment to be true and correct except when he is acting under the direction of his official superior.

(ii) The direction of the official superior shall ordinarily be writing. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter.

(iii) A member of the Service who has received oral direction from his official superior shall seek confirmation of the same in writing, as early as possible and in such case, it shall be the duty of the official superior to confirm the direction in writing.

Explanation I.— A member of the Service who habitually fails to perform a task assigned to him within the time, set, for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of the sub-rule (1);

Explanation II:— Nothing in clause (i) of sub-rule (3) shall be construed as empowering a Government servant

to evade his responsibilities by seeking instructions from or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

(iv) Prohibition regarding employment of children below 14 years of age:— *No member of the Service shall employ to work any- child below the age of 14 years.*

Rule 6: Connection with press of radio—*Previous sanction of the Government shall not be required when the member of the service, in the bonafide discharge of his duties or otherwise, publishes a book or contributes to or participates in a public media.*

Provided that he shall observe the provisions of rules and at all times make it clear that the views expressed, are of his own and not those of the Government.

Rule 7: Criticism of Government.—*No member of the Service shall, in any radio broadcast or communication over any public media or in any document published anonymously, pseudonymously or in his own name or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion,—*

- i. *Which has the effect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government; or*

- ii. *which is capable of embarrassing the relations between the Central Government and any State Government; or*
- iii. *which is capable of embarrassing the relations between the Central Government and the Government of any Foreign State:*

Provided that nothing in this rule shall apply to any statement made or views expressed by a member of the Service in his official capacity and in the due performance of the duties assigned to him.

(GOI Instructions: D.P. & A.R. letter No. 11017/9/75-AIS(III), dated the 2nd March, 1976, reproduced under Miscellaneous Executive Instructions at the end of these Rules)

Rule 9: Unauthorised communication of information.—
No member of the Service shall except in accordance with any general or special order of the Government or in the performance in good faith of duties assigned to him, communicate directly or indirectly any official document or part thereof or information to any Government servant or any other person to whom he is not authorised to communicate such document or information.

Explanation .—*Quotation by a member of the Service (in his representations to the Head of Office or Head of Department or President) of, or from, any letter circular or office memorandum or from the notes on any file to which he is not authorised to have access, or which he is not authorised to keep in his personal custody or for*

personal purposes, shall amount to authorised communication of information within the meaning of this rule.

Rule 17: Vindication of acts and character of members of the Service:— No member of the Service shall, except with the previous sanction of the Government have recourse to any court or to the press for the vindication of official act which has been the subject matter of adverse criticism or attack of a defamatory character.

Provided that if no such sanction is conveyed to by the Government within 12 weeks from the date of receipt of the request, the member of the service shall be free to assume that the sanction sought for has been granted to him.

Explanation —Nothing in this rule shall be deemed to prohibit a member of the Service from vindicating his private character or any act done by him in his private capacity. Provided that he shall submit a report to the Government regarding such action.”

48. The subject charge sheet was issued stating that the Petitioner on 02.03.2016 and 03.03.2016 had interacted with public media and held an interview with the News Channel “India Today” at the official premises of NEEPCO at Guwahati without any authorization or permission from the Competent Authority and spoke unauthorizedly on the matters which were not within the sphere of his duties at NEEPCO. He misused the official premises, a public property. It was alleged that he failed to maintain absolute integrity and devotion to

duty and as such contravened provisions of Rule 3(1) of the All India Services (Conduct) Rules, 1968.

49. It was also stated that he made such statement of fact and opinion on his communication over public media, in the matter of encounter of a terrorist Ishrat Jahan in Gujarat, which had the effect of an adverse criticism of action of the Central Government and the State Government, which was capable of embarrassing the relations between the Central Government and the State Government and which was also capable of affecting the relationship of India with a neighbouring Country and while doing so he did not make it clear that the view expressed were his own and not that of the Government and thus he contravened provisions of Rule 3(1), 6,7 and Rule 9 of the All India Services (Conduct) Rules, 1968.

50. It was also stated that the Petitioner had without there being any general or special order of the Government and without acting in good faith of duties assigned to him as CVO, NEEPCO, directly communicated official information with regard to interrogation of the then Under Secretary in the Ministry of Home Affairs, Government of India with regard to the contents of the affidavits filed by the Government of India before the Gujarat High Court, investigation about the terrorist/non-terrorist character of Ishrat Jahan, a terrorist, who was killed in an encounter in Gujarat and the allegation of torture of the then Under Secretary in the Ministry of Home Affairs,

Government of India by him in the said case and also given out personal details of the officials dealing with the Ishrat Jahan case at the Ministry of Home Affairs and State level and in house procedures in dealing with a sensitive case wherein foreign terrorists were involved, which had ramifications to personal safety and issues related to national security to a person whom he is not authorized to communicate such document or information. Thus he violated Rule 3(1) and Rule 9 of the All India Services (Conduct) Rules, 1968.

51. The Charge Sheet also stated that he without the previous express or deemed sanction of the Government, had recourse to the press (electronic media) for vindication of official acts which have been subject matter of adverse criticism and attack of a defamatory character in as much as he took recourse to News Channel 'India Today' to counter the statements of Shri G.K. Pillai, the then Secretary, Ministry of Home Affairs, Government of India and Shri R.V.S. Mani, the then Under Secretary, Ministry of Home Affairs. Thus he violated Rule 3(1) and Rule 17 of the All India Services (Conduct) Rules, 1968.

52. The Inquiry Authority submitted the report on 02.12.2020. In respect of Charge No. 1 the Inquiry Authority noticed that during the interview the Petitioner expressed his views on many issues like terrorist/non-terrorist character of Ishrat Jahan, a terrorist, who was killed in an encounter in Gujarat, the legality/genuineness of the said

police encounter carried out by Gujarat Police, contents of the affidavits filed by the Government of India before the Hon'ble Gujarat High Court, credibility of the statements of Shri R.V.S. Mani, the then Under Secretary in the Ministry of Home Affairs, Government of India and torture and brutality meted out to him at the time of his investigation.

53. In respect of Charge No. 1, the Inquiry Authority noted that Petitioner had admitted that he had interacted with the Media "India Today". Petitioner had emphasized before the Inquiry Authority that the interaction was regarding his clarification/reference to the prosecution case at CBI court in Ahmedabad. The Inquiry Authority has held that the Petitioner admittedly interacted with the media, and informed the media about the case which was not related to his then post. The Inquiry Authority has further held that in his interaction Petitioner had *inter alia* criticised the Government, communicated unauthorized information, vindication of official act and misuse of public property. No prior information was given to the CMD NEEPCO or any prior approval was taken from the competent authority about his interaction with the media.

54. With regard to Charge No. 2 the Inquiry Authority has noticed that the Petitioner made statement of facts and opinion on his communication over public media with regard to the genuineness of the encounter carried out by Gujarat Police, the Affidavit filed by the

Union of India in Gujarat High Court, Mr. G.K. Pillai, the then Secretary, Ministry of Home Affairs, Government of India with regard to terrorism and national security, allegation of Mr Mani of his torture by the Petitioner. The Inquiry Authority has further noticed that the in the interview, Petitioner has not denied quoting details of the case investigated by him prior to joining NEEPCO and that he did not make it clear that the views expressed were his own and not that of the government and that he had, without authorisation, interacted with the media about issues unrelated to his assignment. The Inquiry Authority has held that his communication over the public media had the effect of an adverse criticism of action of the Central Government and the State Government of Gujarat which is capable of embarrassing the relations between of the Central Government and the State Government of Gujarat.

55. In respect of Charge No. 3, the Inquiry Authority has held that the Petitioner, without there being any general or special order of the Government and without acting in good faith of duties assigned to him as CVO of NEEPCO, directly communicated official information with regard to terrorist/non-terrorist character of Ishrat Jahan, a terrorist who was killed in an encounter in Gujarat, contents of the Affidavit filed by the Union of India in Gujarat High Court, the allegation of torture of the then Under Secretary in the Ministry of Home Affairs, Govt. of India and the Petitioner also gave out personal details of the officials dealing with the Ishrat Jahan case at MHA and

state level and in house procedures in dealing with a sensitive case wherein foreign terrorists were involved, which has ramifications to personal safety and issues related to national security to a person whom he is not authorized to communicate such document or information.

56. With regard to charge No. 4, the Inquiry Authority has noticed that the Petitioner had without the previous express or deemed sanction of the Government, interacted with the media for vindication of official acts and the same was not of a private character or acts done in his personal capacity.

57. With regard to the Inquiry proceedings the Inquiry Authority has noticed that the petitioner tried to deviate and delay the inquiry proceedings besides failing to cooperate in the inquiry. He made allegations of bias against the Inquiry Authority even before the preliminary hearing, sought undue time for various issues, raised unrelated issues and even raised an issue of loss of faith.

58. The Inquiry Authority has concluded as under:

“7.3 It is observed that the CO (charged Officer) has himself acknowledged to have interacted with the media on the said dates. The CO also has not disagreed to have provided information to the media about the investigations done by him during his earlier posting and that these investigations had no direct or indirect relations to the present posting of the CO at NEEPCO or Ministry of Power. No prior intimation or approval was

obtained by the CO from the NEEPCO or Government of India, prior to interaction with the media. During this interaction with media, the CO informed the media about the cases/inquiries which were not related to the then post of the CO. The CO has highlighted in his brief that he was safeguarding the prosecution case at CBI. However, if there was any such intent of the CO, then interacting with media in public domain to clarify the cases which the CO handled earlier, was not the appropriate platform, mainly when he was posted at NEEPCO as CVO which had no direct or indirect relation to the comments given by the CO during his media interaction. The information provided by the CO during the said interaction about the interrogation of the then Under Secretary in the Ministry of Home Affairs, Govt. of India, the contents of the affidavits filed by the Govt. of India before the Hon'ble Gujarat High Court, the investigation about the terrorist/non-terrorist character of Ishrat Jahan, a terrorist, who was killed in an encounter in Gujarat, the allegation of torture of the then Under Secretary in the Ministry of Home Affairs, Govt. of India by the CO in the said case, giving out personal details of the officials dealing with the Ishrat Jahan case at the Ministry of Home Affairs and State level and in house procedures in dealing with a sensitive case wherein foreign terrorists were involved, etc. Had ramifications to personal safety and issues related to national security to a person. The CO made such statement of fact and opinion on his communication over public media which had the effect of an adverse criticism of action of the Central Govt. and the State Govt. which is capable of embarrassing the relations between the Central Govt. And the State Govt. and which is also capable of affecting the relationship of India with a neighbouring country. The CO without the previous express or deemed sanction of the Govt. interacted with

the media for vindication of officials acts which have been subject matter of adverse criticism and attack of a defamatory character and the CO countered the statements made by Shri G.K. Pillai, the then Secretary, Ministry of Home Affairs, Govt. of India and Shri R.V.S. Mani, the then Under Secretary, Ministry of Home Affairs.”

59. The Inquiry Authority thus concluded that all the charges against the Petitioner stood proved.

60. The Union Public Service Commission in its opinion rendered to the Government has opined that at the time of his interaction with the media, Petitioner was holding the post of the CVO, NEEPCO, and hence, was not competent to officially interact with the media on the issues related to the alleged encounter involving ‘Ishrat Jahan’ and it was highly improper for the Petitioner to interact with the media on the issues related to the encounter. It also noticed that the Petitioner had voluntarily tried to clarify the position on the various issues and there was no effort on his part to avoid the interaction. The Commission has also observed that Petitioner had not obtained permission for interacting with the media in the premises of the NEEPCO, Guwahati.

61. The Commission has further opined that Petitioner, while interacting with the media, did not make it clear that the views expressed by him were that of his own, and also expressed his views

about the 'Ishrat Jahan' encounter case, while holding the post of the CVO, NEEPCO, and the views expressed were not related to the post held by him at that time. Further, that the views expressed by the Petitioner were capable of embarrassing the relations between the Central Government and the State Government of Gujarat, and also the relations of India with a neighbouring Country as the same were critical of the actions taken by the Central Government and the State Government of Gujarat in the aftermath of the killing of terrorists/others in an encounter with the police.

62. The Commission after examining the Inquiry Report and the defence raised by the Petitioner concluded as under:

“6.1 In view of the foregoing analysis and based on the documentary evidence and depositions on record, the Commission conclude that the MOS (Member of Service) had interacted, in an interview, with the News Channel at the official premises of the NEEPCO at Guwahati, without any authorization or permission from the Competent Authority, and spoke unauthorizedly on the matters, which were not within the sphere of his official duties at the NEEPCO. Thus, the MOS had misused the official premises, a public property. Further, such statements of facts and opinion by way of his communication to public media, in such sensitive matters as those about an encounter of terrorists and Ishrat Jahan, the interrogation of the then Under Secretary, Ministry of Home Affairs, and the affidavits filed by the Government of India before the Hon'ble Gujarat High Court, are capable to have an effect of an adverse criticism of the actions of the Central Government and the State Government of Gujarat; and are also capable of

embarrassing the relations between of the Central Government and the State of Gujarat. Further the same are also capable of affecting the relations of India with a neighbouring country.

6.2 The Commission thus conclude that by the above acts, the MoS has grossly and deliberately failed to maintain absolute integrity, devotion to duty, and acted in a manner unbecoming of a public servant, and thereby has wilfully contravened Rule 3(1), 6, 7.9 and 17 of the All India Services (Conduct) Rules, 1968. Therefore, all the Articles, i.e. Article-1, Article-2, Article-3 & Article-4 of the charges alleged against the MOS are conclusively Proven.”

63. The Commission thereafter advised the Competent authority as under:

“7. In the light of their observations and findings as discussed above and after taking into account all other aspects relevant to the case, the Commission observe that the charges established against the MoS constitute grave misconduct on his part and consider that the ends of justice would be met in this case if the penalty of ‘dismissal from service, which shall ordinarily be a disqualification for future employment under the Government’, is imposed on the MOS, Shri Satish Chandra Verma. They advise accordingly.”

64. By Order dated 30.08.2022, the Disciplinary Authority, after examining the representation of the Petitioner, imposed the penalty of “dismissal from service, which shall ordinarily be a disqualification for future employment under the government” on the petitioner.

65. It may be noticed that the main challenge to the Impugned order is that the Inquiry Authority and the Disciplinary Authority have relied upon unauthorised video footage purportedly downloaded from YouTube and neither footage nor the transcript has been proved.

66. What is relevant to notice is that the Petitioner has not contended at any point and even before us that he had not interacted with the media on 02.03.2016 and 03.03.2016. In fact there is a clear admission that he did interact with the media. It is also not in dispute that he did not have any prior permission or authorisation for the interaction.

67. Though an attempt was made to contend that the media persons forcibly entered the premises and started questioning him but this contention is not substantiated by the record. On the contrary the same is clearly negated from the fact that in the video petitioner is seen clearly sitting at a place with the microphone attached to his lapel and is answering questions.

68. Copy of the Video footage along with its transcript was provided to the Petitioner. At no point of time has the petitioner disputed the contents of either the footage or the transcript. It is not the case of the Petitioner that the contents are doctored, edited or altered. The only contention is that the video is a download from YouTube and has not been proved in accordance with law.

69. The Inquiry Authority has also noticed that a copy of the video and transcript was provided to the petitioner and he was given an opportunity to raise objections to the same and no objections were raised. Further, the Inquiry Authority and the Disciplinary Authority have also noticed that at no point of time did the petitioner ever challenge the contents of the Video and the transcript. The Petitioner in his written brief to the Inquiry Authority has also relied upon the transcript to justify the interaction by contending the transcript shows that he was clarifying/referring to evidence contained in the prosecution case of the Government (Charge-sheets of CBI before the competent court in Ahmedabad), affidavits before the Supreme Court as well as the High Court of Gujarat and the order passed by the High Court of Gujarat. It may be noticed that at no point has he contended that the transcript is not correct or is doctored or edited.

70. Petitioner has not denied the interaction with the media, he has also not denied that he did not have any permission or authorisation to speak to the media. He has also not denied that he did speak about the encounter and issues that were not within the sphere of his duties at NEEPCO as CVO, NEEPCO. Clearly the interaction with the media was not in the Bonafide discharge of his duties as CVO NEEPCO. He also did not specify that the views expressed by him were his own and not that of the Government.

71. It is also not in dispute that the comments made by the Petitioner pertained to proceedings which were pending in a court of law. Petitioner in his written brief to the Inquiry Authority as well as this Petition contended that it was his duty to safeguard the prosecution case that he had investigated as an officer of the High Court of Gujarat in an extraordinary situation when people connected with the ruling party were speaking against the prosecution case of the Government and despite that the CBI was silent while a sustained media campaign raised doubts on completely false basis about the prosecution case, which was the result of a CBI investigation closely monitored by the High Court of Gujarat. This clearly shows that the Petitioner is himself relying upon the video footage and the transcript to justify his media interaction.

72. With regard to the Inquiry Authority's refusal to grant an adjournment and taking on record the video footage and the transcript, it may be noticed that the Inquiry Authority in his report has mentioned about the conduct of the petitioner and the attempts made by the Petitioner to delay the proceedings. The Inquiry Authority has recorded that as Petitioner was attempting to delay the proceedings, he was cautioned that the proceedings would be conducted ex-parte.

73. Petitioner contends that he had sought an adjournment on 11.09.2020 on the ground of lockdown. Said request was declined and the Inquiry Authority permitted the taking on record the Video

recording and the transcript of the recording. On 11.09.2020, the lockdown had already opened and Petitioner could have travelled. Subsequently Petitioner himself appeared on 18.09.2020 and participated in the proceedings and cross examined the witness. Further, Petitioner has not been able to show any prejudice caused to the petitioner qua the proceedings of 11.09.2020. As noticed hereinabove, Petitioner never objected to the contents of the Video and the transcript and it is not his case that the same are doctored, edited or incorrect. On the other hand, Petitioner is himself relying upon the Video recording and the transcript to substantiate his defense.

74. The reliance placed by learned Senior Counsel for the Petitioner relied upon the decision of the Supreme Court of India in *State of Uttar Pradesh versus Saroj Kumar Sinha (supra)* to contend that an Inquiry officer in a quasi judicial authority and has to act as an independent adjudicator, he is not supposed to be a representative of the department/disciplinary authority/Government is misplaced. As noticed hereinabove, the Inquiry Authority has independently considered the entire material placed before him and also assessed the written brief filed by the Petitioner and then come to the conclusion that the un rebutted evidence is sufficient to hold that the charges are proved. Nothing has been placed on record by the Petitioner for us to infer that the Inquiry Authority has not acted as an independent adjudicator and has acted as a representative of the Government.

75. The reliance placed on the Judgment of the Supreme Court of India in *Roop Singh Negi (supra)* is also misplaced as Petitioner has not been able to show that the Inquiry Authority has not acted as a quasi-judicial authority or has not taken into consideration all relevant material.

76. Similarly, reference made to the decision of the Supreme Court of India in *ORYX Fisheries Private Limited (supra)* to contend that a quasi-judicial authority, while acting in exercise of its statutory power must act fairly and must act with an open mind is also misplaced and not substantiated from the record.

77. Reference maybe had to the decision of the Supreme Court in *Deputy General Manager (Appellate Authority) and Others versus Ajai Kumar Srivastava (2021) 2 SCC 612*, wherein the Supreme Court of India has held as under:

“27. It is true that strict rules of evidence are not applicable to departmental enquiry proceedings. However, the only requirement of law is that the allegation against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. It is true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.

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 malafides 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 that 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.”

78. The Supreme Court of India in *Kumaon Mandal Vikas Nigam Limited versus Girja Shankar Pant & Others* (2001) 1 SCC 182 has held as under:

*“19. While it is true that in a departmental proceeding, the disciplinary authority is the sole judge of facts and the High Court may not interfere with the factual findings but the availability of judicial review even in the case of departmental proceeding cannot be doubted. Judicial review of administrative action is feasible and same has its application to its fullest extent in even departmental proceedings where it is found that the recorded findings are based on no evidence or the findings are totally perverse or legally untenable. The adequacy or inadequacy of evidence is not permitted but in the event of there being a finding which otherwise shocks the judicial conscience of the court, it is a well-nigh impossibility to decry availability of judicial review at the instance of an affected person. The observations as above however do find some support from the decision of this Court in the case of *Apparel Export Promotion Council v. A.K. Chopra* (1999 (1) SCC 759).*

20. *It is a fundamental requirement of law that the*

*doctrine of natural justice be complied with and the same has, as a matter of fact, turned out to be an integral part of administrative jurisprudence of this country. The judicial process itself embraces a fair and reasonable opportunity to defend though, however, we may hasten to add that the same is dependent upon the facts and circumstances of each individual case. *****”*

79. The Supreme Court in *R. Mahalingam versus T.N. Public Service Commission*, (2013) 14 SCC 379, while examining the scope of interference in matters challenging disciplinary action has held that “*The scope of judicial review in matters involving challenge to the disciplinary action taken by the employer is very limited. The courts are primarily concerned with the question whether the enquiry has been held by the competent authority in accordance with the prescribed procedure and whether the rules of natural justice have been followed. The court can also consider whether there was some tangible evidence for proving the charge against the delinquent and such evidence reasonably supports the conclusions recorded by the competent authority. If the court comes to the conclusion that the enquiry was held in consonance with the prescribed procedure and the rules of natural justice and the conclusion recorded by the disciplinary authority is supported by some tangible evidence, then there is no scope for interference with the discretion exercised by the disciplinary authority to impose the particular punishment except when the same is found to be wholly disproportionate to the*

misconduct found proved or shocks the conscience of the court.”

80. The Supreme Court in *Apparel Export Promotion Council Versus A. K. Chopra, (1999) 1 SCC 759*, enunciated the scope of interference by the High Court in departmental proceedings as under:

“16. The High Court appears to have overlooked the settled position that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to reappreciate the evidence and come to its own conclusion, on facts, being the sole fact-finding authorities. Once findings of fact, based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since the High Court does not sit as an appellate authority over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot, normally speaking, substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well-settled

principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the court, in exercise of the power of judicial review, is not concerned with the correctness of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision-making process. Lord Hailsham in Chief Constable of the North Wales Police v. Evans [(1982) 3 All ER 141 HL] observed:

“The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches, on a matter which it is authorized or enjoined by law to decide for itself, a conclusion which is correct in the eyes of the court.”

17. Judicial review, not being an appeal from a decision, but a review of the manner in which the decision was arrived at, the court, while exercising the power of judicial review, must remain conscious of the fact that if the decision has been arrived at by the administrative authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the court cannot substitute its judgment for that of the administrative authority on a matter which fell squarely within the sphere of jurisdiction of that authority.”

(underlining supplied)

81. The Supreme Court of India has held that normally, there should be no interference by the High Court exercising review jurisdiction with the factual findings in a departmental enquiry unless the Court finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable.

82. The Supreme Court in *State of A.P. versus. S. Sree Rama Rao*, (1964) 3 SCR 25 has explained the scope of judicial scrutiny by the High Court in exercise of powers under article 226 of the Constitution of India as under:

*“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. 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.”

83. The Supreme Court in the case of *Union of India versus P. Gunasekaran*, (2015) 2 SCC 610, laid down the parameters for interference by the High Court in departmental proceedings as under:

“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.”*

84. As noticed hereinabove, there is no denial to the fact that the Petitioner interacted with the press in respect of issues that were not within the scope of his duties. Petitioner has not disputed that he had interacted with the media on 02.03.2016 and 03.03.2016. It is also not in dispute that he did not have any prior permission or authorisation for the interaction. At no point of time has the petitioner disputed the contents of either the footage or the transcript. It is not the case of the Petitioner that the contents are doctored, edited or altered.

85. Further, the Petitioner in his written brief to the Inquiry Authority has also relied upon the transcript to justify the interaction. He has also not denied that he did speak about the encounter and issues that were not within the sphere of his duties at NEEPCO as CVO, NEEPCO. Comments made by the Petitioner to the media pertained to proceedings which were pending in a court of law.

86. Clearly, this case does not fall within the category of cases where the findings returned by the Inquiry Authority are based on no

evidence. Further, in view of the fact that the Petitioner has not been able to show any procedural irregularity or violation of the principles of natural justice and fair play, we do not find any reason to interfere with the findings returned by the Inquiry Authority or the order passed by the Disciplinary Authority.

87. We may note that Petitioner had consciously impugned the order dated 30.08.2022 passed by the Disciplinary Authority directly before us by amending the pending Writ Petition (W.P.(C) 10539/2021) without availing of the remedy of an appeal to the Appellate Authority and approaching the Central Administrative Tribunal.

88. In view of the above, we find no merit in the Writ Petition (W.P. (C) 10539 of 2021 wherein Petitioner had initially sought quashing of the Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 453 of 2020; quashing of charge memo dated 13.08.2018 and after amendment quashing of the Departmental Inquiry Report dated 02.12.2020 of the Directorate General, ITBP, Ministry of Home Affairs and order dated 30.08.2022 dismissing the petitioner from service). The same is accordingly dismissed.

89. In view of the fact that the dismissal of the Petitioner from service has been upheld, we are of the view that

(1) W.P. (C) 10486 of 2021 (*wherein Petitioner, seeks quashing of*

Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 452 of 2020 (erroneously referred to as O.A. 454 of 2020 in the judgment) and of charge memo dated 28.09.2018);

- (2) W.P. (C) 10493 of 2021 (*wherein Petitioner seeks quashing of the Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 454 of 2020 (erroneously referred to as O.A. 452 of 2020 in the judgment) and of adverse entries against the Petitioner in his annual Performance Appraisal Report for the year 2015 – 2016); and*
- (3) W.P. (C) 10519 of 2021 (*wherein Petitioner seeks quashing of the Judgment dated 22.07.2021, of the Central Administrative Tribunal, Principal Bench in O.A. 3610 of 2019 as and of charge memo dated 09.05.2016)*

are rendered infructuous. The same are accordingly dismissed as infructuous.

90. The Petitions are disposed of in the above terms.

SANJEEV SACHDEVA, J

SATISH CHANDRA SHARMA, CJ

MAY 24, 2023

HJ