



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

% Date of decision: August 16, 2023

+ W.P.(C) 10776/2023, CM APPL. 41775/2023

HARISH PARMAR

..... Petitioner

Through: Mr. Kartik Dabas, Mr. Vipul Garg,
Mr. Akshat and Mr. Abhijeet, Advs.

versus

GOVT. OF NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Naushad Ahmed Khan and Ms.
Esha Tripathi, Advs. for R1.
Mr. Arun Birbal and Mr. Sanjay
Singh, Advs. for DDA.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 41775/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 10776/2023

1. The challenge in this petition is to an order dated March 1, 2023 passed by the Central Administrative Tribunal ('Tribunal', for short) in the Original Application being No. 1427/2020 ('OA', for short) whereby the Tribunal has dismissed the OA filed by the petitioner by stating in paragraph 7 onwards as under:

"7. Heard the learned counsel for the parties, perused the record and appreciated the legal position.



8. There is no dispute with regard to the fact that due procedure was adopted when charges were framed. A preliminary investigation was held and regular disciplinary proceedings were initiated against the applicant. He was afforded opportunity at every stage. It is a well settled law that judicial scrutiny in the matter of disciplinary proceedings culminating in the passing of order imposing a penalty would be limited to decision making process and not to the decision itself. This Tribunal while exercising jurisdiction would not sit as a court of appeal so as to re-appreciate the evidence. This Tribunal would also not interfere with the findings of the Inquiry Officer as also with the decision of Disciplinary Authority and Appellate Authority unless it is shown that the orders are patently arbitrary or utterly perverse. The scope of judicial scrutiny in such matters is extremely limited and observation made by the Apex Court in the matter of **State Bank of India and Ors vs Ramesh Dinkar Punde**, in this regard, is reproduced as under:

“The High Court, on re-appreciation of evidence, reversed the finding of the Inquiry Officer and set aside the orders of the Disciplinary Authority and Appellate Authority. Before we proceed further, we may observe at this stage that it is unfortunate that the High Court has acted as an appellate authority despite the consistent view taken by this Court that the High Court and the Tribunal while exercising the judicial review do not act as an appellate authority. Its jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. Judicial review is not akin to adjudication on merit by re-appreciating the evidence as an Appellate Authority.”

Similar view is taken by the Hon^{ble} Supreme Court in the case of **Govt. of A.P. & Ors. vs Mohd. Narsullah Khan, 2006 2 SCC 373**.



9. Hence, the OAs lack merit for the reasons recorded hereinabove and deserve to be dismissed. Accordingly, dismissed. No order as to costs.”

2. Learned counsel appearing for the petitioner would urge that the Tribunal has not discussed the grounds urged by the petitioner in the OA and as such perverse.

3. We find that the Tribunal while discussing the O.A. except holding / concluding that the scope of judicial review in cases of departmental inquiries is limited by relying upon the judgments of the Supreme Court in the cases of *State Bank of India and Ors. vs Ramesh Dinkar Punde and Govt. of A.P. & Ors. vs Mohd. Narsullah Khan, 2006 2 SCC 373*, has neither discussed nor adverted to the plea of the petitioner that the finding is perverse.

4. The Tribunal should have at least considered and gave a finding on the plea(s) urged by the petitioner before it. In the absence of any conclusion in that regard, we have no other alternative but to set aside the order of the Tribunal and revive the OA on the Board of the Tribunal with a direction to the Tribunal to hear the counsel for the parties afresh and decide the OA by a reasoned and speaking order. Accordingly, the petition is disposed of on the above terms. No costs.

5. For the above purpose we list the matter before the Tribunal on September 12, 2023.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

AUGUST 16, 2023/jg