2024:PHHC:137687

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**Reserved on: 21.10.2024**
**Pronounced on: 05.11.2024**

**1. CWP No.7967 of 1998**

P.P. Singh

....Petitioner

Versus

The Financial Commissioner, Cooperation, Punjab, Chandigarh and others

....Respondents

**2. CWP No.7968 of 1998**

B.M. Sharma

....Petitioner

Versus

The Financial Commissioner, Cooperation, Punjab, Chandigarh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

**Present:** Mr. D.V. Sharma, Sr. Advocate,
with Ms. Shivani Sharma, Advocate
for the petitioner(s).

Mr. Rajesh Sehgal, Addl. A.G., Punjab.

Mr. Vikas Singh, Advocate
and Ms. Anamika Sheoran, Advocate
for respondents No.4 to 7.

**NAMIT KUMAR J. (Oral)**

1. This judgment shall dispose of CWP Nos.7967 and 7968 of 1998, as common questions of law and facts are involved therein for adjudication. For the sake of convenience, facts are taken from CWP No.7967 of 1998, titled as "P.P. Singh vs The Financial Commissioner, Cooperation, Punjab, Chandigarh and others".

2. The petitioner has invoked the writ jurisdiction of this Court by filing the instant petition under Articles 226/227 of the Constitution of India, seeking a writ of certiorari, quashing the order dated 26.04.1996 (Annexure P-15), whereby the petitioner has been dismissed from service; order dated 19.03.1998 (Annexure P-20) passed by the Revisional Authority – respondent No.1 and the order dated 16.05.1998 (Annexure P-21), relieving the petitioner from duty.

3. The brief facts, as have been pleaded in the petition, are that the petitioner was appointed as Deputy Chief Engineer in Punjab State Federation of Cooperative Sugar Mills Limited (hereinafter referred to as 'Sugarfed') on 11.12.1987 and was posted in Tarn Taran Cooperative Sugar Mills Limited. Thereafter, he was promoted as Chief Engineer and was posted in Nakodar Cooperative Sugar Mills Limited on 03.06.1992. During the tenure of his service in Nakodar Mill, the petitioner was issued charge-sheet dated 13.02.1995 by Sugarfed and the statement of charges levelled against the petitioner is reproduced as under:-

> "*Statement of charges against Shri P.P. Singh, Ex-Chief Engineer, Nakodar CSM.*
>
> *While working as Chief Engineer of the Nakodar Coop. Sugar Mills Ltd., Nakodar for the period 3.6.92 to 27.1.94, Shri P.P. Singh committed certain acts of omission and commission which are as under:*
>
> *1. He is guilty of making unwarranted purchases of machinery spare parts amounting to Rs.19,97,471.33 without any requirement ignoring the inventory position*

*and consumption for the period 3.6.1992 to 27.1.1994 with malafide intention for personal gain.*

*2. Effecting purchases of ball bearings at higher rates without obtaining comparative rates in connivance with other officers/officials and suppliers thereby causing financial loss of Rs.1,12,634/-.*

*3. Purchasing at higher rate duplicate ball bearings no. NU 2215 ECP Brass Cage (SKF) from unauthorised source ignoring authorised dealer thereby causing financial loss of Rs.18,720/-.*

*4. He purchased Kirloskar make motor 75 HP at higher rates i.e. Rs.6621/- ignoring actual manufacturer i.e. M/s Kirloskar Electrical Company with malafide intention and personal gain without the approval of BOD of the mills.*

*5. Causing financial loss of Rs.38,800/- by purchasing spurious defective sulphur burner bottom and its malter from unauthorised source by verifying its quality which actually could not be put to use in the mills.*

*6. He issued purchase orders for purchases of spare parts at personal level without any financial powers exceeding his authority with malafide intention and for personal gain to the tune of Rs.1,31,803/-.*

*7. In connivance with other officers, unjustified purchases of 900 Air Heater Tubes were made without seeking approval of the Board though 110 Air Heater Tubes were lying in stock. In order to justify the purchase, 809 tubes were thrown in scrap to show consumption with malafide intention for personal gain and ulterior motive thereby causing financial loss of Rs.3,41,110/- to the mills.*

*8. Irregularity in the purchase of NSK Japan make Bearings from unauthorised source by tempering the record and manipulation quotations.*

*9. Getting repaired Jyoti Make 3 speed motor on the basis of single quotation and without the approval of Board with malafide intention incurring an expenditure of Rs.54,000/-.*

*10. Getting sugar lifted at lesser rate i.e. Rs.20/- per bag by associating with an unauthorised committee thereby causing a financial loss of Rs.1,05,660/- to the mills.*

*11. Removing pages from Sugar Sale Proceeding Book to conceal sales effected at higher rate.*

*MANAGING DIRECTOR"*

The petitioner submitted reply dated 06.04.1995 to the charge-sheet and finding the same to be unsatisfactory, Sh. A.S. Pannu, PCS, Additional Managing Director, Sugarfed, Punjab, who was appointed as an Enquiry Officer, submitted the enquiry report dated 28.02.1996, proving charges No.2 and 7, which was forwarded to the petitioner along with show cause notice dated 26.03.1996, seeking his reply to the show cause notice. The petitioner submitted reply dated 15.04.1996 and having found unsatisfactory, thereafter, vide order dated 26.04.1996, the petitioner was dismissed from service and ordered recovery of proportionate share of Rs.73,560/- and Rs.40,284/- on account of causing loss to Nakodar Cooperative Sugar Mills Limited towards purchase of ball bearings 2215 (10 numbers) and 900 Air Heater Tubes at higher rates. Aggrieved by, the petitioner filed an appeal before the Registrar, Cooperative Societies, Punjab, Chandigarh, under Rule 4(a) of Annexure VI of the Punjab State Cooperative Sugar Mills Service (Common Cadre) Rules, 1981, as amended in 1995, against the punishment order dated 26.04.1996. The said appeal was accepted by the Appellate Authority vide order dated 18.09.1996 on the ground that the orders of punishment is not warranted by the evidence on record and ordered reinstatement of the petitioner(s) in service. However, the period for which the petitioner(s) remained out of service was treated as leave of kind due and further it was ordered that if the management deems necessary, it can proceed again into the matter after following proper procedure under Rules.

The order dated 18.09.1996, passed by the Appellate Authority was challenged by Sugarfed by filing a revision petition under Section 69 of the Punjab Cooperative Societies Act, 1961 before the Financial Commissioner and Secretary to Government of Punjab, Cooperation Department, Chandigarh. The said revision petition has been accepted by the Financial Commissioner, Cooperation Department, Punjab, Chandigarh vide order dated 19.03.1998 and the order dated 18.09.1996, passed by the Appellate Authority i.e. Registrar, Cooperative Societies, Punjab, has been set-aside and the dismissal orders of the petitioner(s) have been upheld as passed by the Additional Managing Director. The said revisional order has also been impugned in the present writ petition.

4. On issuance of notice of motion, written statement on behalf of respondents No.4, 5, 6 and 7 (Sugarfed), has been filed wherein it has been stated that the enquiry officer has conducted the enquiry in accordance with the procedure established by law. The order dated 18.09.1996, passed by the appellate authority was not sustainable

as the charges No.2 and 7 were proved against the petitioner and the impugned revisional order is perfectly legal and valid and does not call for any interference by this Court in the writ jurisdiction.

5. The matter was heard on 03.10.2013, and the following order was passed:-

> "*Present: Mr. D.V. Sharma, Sr. Advocate with*
> *Ms. Amanpreet Kaur, Advocate*
> *for the petitioner.*
>
> *Mr. Vikas Singh, Advocate*
> *for respondents No.4, 5 and 7.*
>
> *The petitioner has raised several questions about his innocence and the plea that the charges against him were not proved on account of the fact that he was not instrumental in the decision making authority and that in one of the charges i.e. Charge No.7 the proceedings for purchase of 900 Air Heater Tubes had been initiated much prior to his joining the assignment. However, a perusal of the material on record would falsify the stand taken by the petitioner largely. It indicates that the petitioner was instrumental in taking the decision and placing orders for components at a much inflated price causing loss to the Corporation as per the extent indicated in the Equiry Officer's report. However, another aspect has been agitated towards the fag end of the day i.e. to say that the revision was heard by an officer who became a judge in his own cause, inasmuch as the Financial Commissioner' who heard the revision, was also the supervisory officers of the Sugarfed and this has seriously prejudiced the case of the petitioner.*
>
> *Learned counsel for the private respondents contends that the petitioner himself has filed a revision petition and, therefore, had acquiesced to the jurisdiction of the said officer and in fact if he had any doubt, he ought to have expressed the same at the first instance. Having not done so and having filed a revision would indicate that the*

*petitioner had confidence in the authority and therefore no loss has been caused.*

*Learned counsel for the petitioner, however, denies filing of any such revision petition and states that even if it has been done, it would have been done to the Government and not to a particular officer.*

*The respondents have taken up this plea of filing a revision petition specifically in their reply which has not been controverted by the petitioner by filing any counter-affidavit. However, just to keep the record straight, learned counsel for the respondents is directed to produce the relevant record pertaining to the revision filed by the petitioner.*

*Adjourned to 24.10.2013."*

6. In pursuance to the aforesaid order, a copy of the cross revision petition dated 01.02.1998 filed by the petitioner before respondent No.1, has been placed on record as Annexure R-1, whereby the petitioner had sought modification of the order dated 18.09.1996 passed by Registrar, Cooperative Societies (Appellate Authority) respondent No.3 whereby after holding the petitioner(s) not guilty of the charges, liberty was given to Sugarfed to proceed again into the matter, after following proper procedure under the Rules. During the course of hearing, it has been stated by learned counsel for respondents No.4, 5, 6 and 7 – Sugarfed that although the said revision petition was filed by the petitioner(s), however, no orders have been passed on the said revision petition(s).

7. Learned Senior counsel for the petitioner has submitted that firstly, the revision petition filed by the respondent – Sugarfed under Section 69 of the Punjab Cooperative Societies Act, 1961, was not maintainable before the Financial Commissioner and Secretary to

Government of Punjab, Cooperation Department, Chandigarh as the same was not filed by a party to a reference as required under Sections 55/56 of the Act. In support of the said contention, he has placed reliance upon the Full Bench judgment of this Court in **"Jasbir Singh and others vs Commissioner (Appeals), Jalandhar Division and others", 2011(4) RCR (Civil) 1**. He has further argued that the said revision petition was heard by an officer, who became a Judge in his own cause as the Revisional Authority, who has heard the revision petition was also the supervisory officer of Sugarfed at one point of time which has seriously prejudiced the case of the petitioner. He has further submitted that the enquiry officer has wrongly proved charge Nos.2 and 7 against the petitioner as the petitioner was not instrumental in the decision making with respect to purchase of ball bearings as the said purchase was approved by the Purchase Advisory Committee and the petitioner is not a member of the said Committee and the quotations were called on 08.07.1992 and the petitioner has no role in calling the quotations and before joining the petitioner in the Sugar Mill, decision had already been taken by the Managing Director for the purchase of 900 Air Heater Tubes. The Purchase Advisory Committee decided on 22.07.1992, to call the firms for negotiation and out of total four parties, only one party i.e. M/s. Shiv Raman Enterprises, Jalandhar was present. After negotiations, the Purchase Advisory Committee decided to place order for 900 Air Heater Tubes @ Rs.415.40 paisa per tube and the petitioner not being a member of the Purchase Advisory Committee cannot be held liable. He has further contended that the enquiry officer Sh. A.S. Pannu, the then Additional Managing Director, Sugarfed, was biased against the petitioner. He further submitted that no misconduct has been committed by the petitioner. He also submitted that Nakodar Sugar Mill and Sugarfed are separate legal entity and Managing Director of the Sugarfed has no control over it and not competent to issue charge-sheet to the petitioner.

8. Per contra, learned counsel for respondents No.4 to 7, has submitted that the petitioner has not raised an issue regarding maintainability of the revision petition under Section 69 of the Punjab Cooperative Societies Act, 1961, before the said authority when the same was pending before the concerned authority and even in the writ petition also, there is no plea to this effect and the said plea has only been raised during the course of final hearing of the present petition. He has further submitted that the plea of the petitioner that the Financial Commissioner, Cooperation Department, Punjab, Chandigarh, was the supervisory officer and therefore, being interested person, could not have heard the revision petition is totally misconceived as no such objection was ever raised by the petitioner when the matter was heard by the Financial Commissioner, Cooperation Department, Punjab, Chandigarh. He has further submitted that the petitioner himself has even filed a cross revision petition dated 01.02.1998, before the said authority. He has further submitted that the petitioner has been dismissed from service on account of charges No.2 and 7, having been

proved in the enquiry proceedings and this Court would not go into the merits of the charges or the sufficiency or insufficiency of the evidence led before the enquiry officer. He has also submitted that the petitioner being the technical head should have ensured that components are not purchased at inflated price. But he failed to perform his duty.

9. I have heard learned counsel for the parties and perused the record with their able assistance.

10. Admittedly, the disciplinary proceedings have been initiated against the petitioner on issuance of charge-sheet dated 13.02.1995 and charge Nos.2 and 7 reads as under:-

> *“xx xx xx xx*
>
> *2. Effecting purchases of ball bearings at higher rates without obtaining comparative rates in connivance with other officers/officials and suppliers thereby causing financial loss of Rs.1,12,634/-.*
>
> *xx xx xx xx*
>
> *7. In connivance with other officers, unjustified purchases of 900 Air Heater Tubes were made without seeking approval of the Board though 110 Air Heater tubes were lying in stock. In order to justify the purchase, 809 tubes were thrown in scrap to show consumption with malafile intention for personal gain and ulterior motive thereby causing financial loss of Rs.3,41,110/- to the mills.”*

After following the due procedure, the said charges (charges No.2 and 7) have been proved in the enquiry proceedings in the following manner:-

> *“XXXX XXXX XXXX XXXX*
>
> ***Charge No.2***

*The Presenting Officer pointed towards annexure-II of the charge-sheet (CP/45) thereby highlighting the difference of rates of purchase of bearing and ball bearings in consumption with the previous purchases. He also produced the list of rates of ball-bearings purchased subsequently i.e. 1993-94 and 1994-95(CP/67) and the comparative chart of rates at CP/73-81 duly certified by the Storekeeper. Shri P.P. Singh in his defence stated that it was the duty of the Chief Accounts Officer to compare the rates and he also mentioned that the Patiala mill purchased bearing No.2215 at the rate of Rs.11,960/- and Rs.11,900/- from M/s/ H.M. Dayal and Co., Delhi and Ganesh Enterprises, Delhi, respectively (CP/171). The scrutiny of purchase order of bearing NU 2215 EM/C3 SKF made in Germany/Australia/Sweden, whereas no such strict specifications were given in this case as is revealed in the purchase order placed at CP/173. Therefore, this plea needs to be ignored.*

*The scrutiny of documents reveals that the purchase of N-315 (4 nos) at Rs.5210/- on 1.9.1992 from M/s. Mohindra and Co. as compared to the prevailing rates on 9.12.1991 at Rs.4250/- per piece, is 28% higher than the previous year rates. Though this decision was taken by the purchase Committee, it was the duty of the Chief Engineer to apprise the committee regarding the high rates. However, is it difficult to say at this stage as to whether the escalation of 28% in price in comparison to previous year, is justified or not.*

*The decision to purchase NU-2215 bearing (10 nos.) and not 8 numbers (as given at annexure-II of the charge-sheet at the rate of Rs.11856/- per piece (and not Rs.11,909.10P as wrongly given in the charge-sheet), was taken vide CP/73 (comparative chart) which was duly recommended by the Chief Engineer, Shri P.P. Singh along with the Chief Accounts Officer, Shri B.M.Sharma and duly approved by the Managing Director of the mills.*

*The comparison of rates of this item with previous years' rates as per annexure-II (CP/45) of the charge-sheet and subsequent year rates as per CP/67, shows that his purchase was made at very high rates. This item was purchased previously on 5.8.1991 and 30.8.1991 @ Rs.3052.87 and subsequent to this purchase (i.e. @*

*Rs.11856/-), it was purchased at Rs.4500/- per piece in 1993-94. Therefore, this purchase of NU-2215 bearings (numbering 10) is extremely high in comparison to subsequent years' purchase also. Thus, extra price for the purchase of 10 nos. of Nu 2215 bearing @ Rs.11,856/-, when compared with purchases made in the subsequent year at Rs.4500/- per piece, shows that total extra price paid for purchase of 10 nos. NU-2215 bearing, was Rs.73,560-.*

*As regards purchase of 22224 CK (3 nos.) bearings, the comparison of purchase on 1.9.1992 has been done with purchase effected on 8.10.1988, which is four years old as annexure-II of the charge-sheet. Therefore, this comparison is not valid.*

*Thus, Shri P.P.Singh is responsible alongwith Shri B.M. Sharma, Chief Accounts Officer for recommending the purchase of NU-2215 ball bearings (10 nos.), which was approved by the Managing Director of the mill, thereby by effecting purchase at a higher rate to the tune of Rs.73,560/-."*

*XXXX XXXX XXXX XXXX*

***Charge No.7***

*As stated by Shri P.P. Singh at CP/195-197 and as per his joining report at CP-199, he joined at Nakodar mill on 3.6.1992 and the purchase of air-heater tubes was initiated on 5.3.1991 prior to his joining. It was during his tenure that fresh tenders were finalised CP/99. Though fresh tenders were obtained from three parties, out the rate of M/s Shivaraman Enterprises (who did not participate in this tender) which was previously sent during correspondence dated 26.8.1991 @ Rs.367.20 (CP/103) was taken into consideration in the comparative chart (CP/105) being the lowest thereby ignoring the other three parties. Then another letter was received from M/s. Shivaraman Enterprises dated 21.7.1992 (CP/107), in which rate was quoted at Rs.417.49 per tube, which was finally settled at Rs.415.40 P after negotiations by the purchase committee comprising of Chairman Avtar Singh, Director, Swaran Singh, Chief Chemist Gurjit Singh, Chief Accounts Officer B.M. Sharma and the then Managing Director Shri A.S. Sidhu, on the reverse side of CP/107, i.e. CP/108. The comparative chart shows that three parties* *gave tenders between Rs.370.64 to Rs.384.68, but the order was placed with M/s. Shivaraman Enterprises at Rs.415.40 P. even when the party had not participated in the tender. By purchasing 900 Air Heater tubes, a loss of Rs.40,284/- was caused to the mill. Shri P.P. Singh, being the Chief Engineer of the mills who recommended this purchase, is responsible alongwith Shri Gurjit Singh, Chief Chemist; Shri V.B.M. Sharma, Chief Accounts Officer and the then Managing Director A.S. Sidhu (retired), alongwith the members of the BODs of the mills.*

*As stated by Shri P.P. Singh (CP/197) that unused air-heater tubes were kept between the two columns of boiler house squarely stacked and covered with polythene sheets out of which 600 tubes were loaned to the Patiala CSM. He also admitted in cross-examination (CP/285) that he asked the staff to get it issued from the store because as per the instructions of the then MD they were directly dumped that when they were first got to mills and the storekeeper insisting on issuing slips. These 809 air heater tubes were accounted for by the committee in its report dated 30.5.1994 (CP/117). Further, 1010 Air-heater tubes were got issued between 27.8.92 to 3.12.92 (CP/109-115), out of these, 809 were located by the Committee on 30.5.94 in the boiler house after such a long gap.*

*Thus, we find that 900 Air-heater tubes were unnecessarily purchased, without requirement and these were thrown in the Boiler House after getting them issued from the Store with malafide intention and a loss of Rs.40,284/- was incurred due to purchasing these tubes at a higher rate.*

*XXXX XXXX XXXX XXXX"*

11. The contention raised by the learned Senior counsel for the petitioner that the petitioner is innocent and no misconduct has been committed by him as neither the petitioner recommended or initiated the purchase of SKF bearings nor the purchase of 900 Air Heater Tubes for which decision was taken by the Nakodar Sugar Mill before the petitioner had joined at Nakodar, and he is having no role in the said

purchases, was dealt with and rejected by this Court vide order dated 03.10.2013 as reproduced above.

12. Further the Hon'ble Supreme Court in ***State of Andhra Pradesh and others v. S. Sree Rama Rao, AIR 1963 Supreme Court 1723*** has held that the High Court is not a Court of appeal which examines the merits of the findings recorded in the departmental inquiry and the power of judicial review is confined to; whether the inquiry was held by a competent authority; according to the procedure prescribed and whether rules of natural justice have been followed.

13. The Hon'ble Supreme Court in ***Union of India and another v. P. Gunasekaran, 2015(1) SCT 5*** while considering the scope of interference under Articles 226/227 of the Constitution of India has held as under: -

> *"13. 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, re-appreciating even the evidence before the enquiry officer. The finding on Charge No. 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 Article 226/227 of the Constitution of India, shall not venture into re-appreciation 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.*

*Under Article 226/227 of the Constitution of India, the High Court shall not:*

*(i). re-appreciate the evidence;*

*(ii). interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*

*(iii). go into the adequacy of the evidence;*

*(iv). go into the reliability of the evidence;*

*(v). interfere, if there be some legal evidence on which findings can be based.*

*(vi). correct the error of fact however grave it may appear to be;*

*(vii). go into the proportionality of punishment unless it shocks its conscience.*

*14. In one of the earliest decisions in **State of Andhra Pradesh and others v. S. Sree Rama Rao, AIR 1963 Supreme Court 1723**, many of the above principles have been discussed and it has been concluded thus :*

> *"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."*

*15. In* ***State of Andhra Pradesh and others v. Chitra Venkata Rao, (1975)2 SCC 557****, the principles have been further discussed at paragraph-21 to 24, which read as follows :*

> *"21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of* ***A.P. v. S. Sree Rama Rao****. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted 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 to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by*

*allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.*

*22. Again, this Court in* ***Railway Board, representing the Union of India, New Delhi v. Niranjan Singh*** *said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In Niranjan Singh case this Court held that the High Court exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shut-down of an air compressor at about 8.15 a.m. on May 31, 1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.*

*23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence* *are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal.* ***See Syed Yakoob v. K.S. Radhakrishnan****.*

*24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."*

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

> *"4. .... in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. ..."*

14. To the similar effect is the judgment of the Hon'ble Supreme Court in ***Central Industrial Security Force and others v. Abrar Ali, 2017(1) SCT 682*** wherein it has been held as under: -

*"8. Contrary to findings of the Disciplinary Authority, the High Court accepted the version of the Respondent that he fell ill and was being treated by a local doctor without assigning any reasons. It was held by the Disciplinary Authority that the Unit had better medical facilities which could have been availed by the Respondent if he was really*

*suffering from illness. It was further held that the delinquent did not produce any evidence of treatment by a local doctor. The High Court should not have entered into the arena of facts which tantamounts to re-appreciation of evidence. It is settled law that re-appreciation of evidence is not permissible in the exercise of jurisdiction under Article 226 of the Constitution of India. In* ***State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaiya reported in 2011(2) S.C.T. 782 : 2011(3) Recent Apex Judgments (R.A.J.) 28 : (2011) 4 SCC 584****, this Court held as follows:*

> *"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic inquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry 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, 1996(1) S.C.T. 617 : (1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44, Union of India v. G. Ganayutham, 1997(4) S.C.T. 214 : (1997) 7 SCC 463 : 1997 SCC (L&S) 1806, Bank of India v. Degala Suryanarayana, 1999(3) S.C.T. 669 : (1999) 5 SCC 762 : 1999 SCC (L&S) 1036 and High Court of Judicature at Bombay v. Shashikant S. Patil.****"*

15. The said view has recently been reiterated by the Hon'ble Supreme Court in ***Deputy General Manager (Appellate Authority) and others v. Ajai Kumar Srivastava, 2021(1) SCT 285*** and in the said judgment it has been held as under: -

> *"23. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional Courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court in* ***State of Tamil Nadu v. T.V. Venuaopalan, 1994(6) SCC 302 and*** *later in* ***Government of T.N. and Another v. A. Rajapandian, 1995(1) SCC 216*** *and further examined by the three Judge Bench of this Court in* ***B.C. Chaturvedi v. Union of India and Others, 1995(6) SCC 749*** *wherein it has been held as under:-*
>
> > *"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 enquiry, 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 [(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."*
>
> *24. It has been consistently followed in the later decision of this Court in* ***Himachal Pradesh State Electricity Board Limited v. Mahesh Dahiya, 2017(1) SCC 768*** *and recently by the three Judge Bench of this Court in* ***Pravin Kumar v. Union of India and Others, 2020(9) SCC 471****.*

*25. 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 if 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 is perverse or suffers 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.*

*26. When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the Court is to examine and determine: (i) whether the enquiry was held by the competent authority; (ii) whether rules of natural justice are complied with; (iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.*

*27. It is well settled that where the enquiry officer is not the disciplinary authority, on receiving the report of enquiry, the disciplinary authority may or may not agree with the findings recorded by the former, in case of disagreement, the disciplinary authority has to record the reasons for disagreement and after affording an opportunity of hearing to the delinquent may record his own findings if the evidence available on record be sufficient for such exercise or else to remit the case to the enquiry officer for further enquiry.*

*28. 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.*
>
> *29. 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."*

16. The plea raised by the learned Senior Counsel for the petitioner that the Nakodar Sugar Mill is a separate legal entity and Sugarfed is a separate legal entity and Managing Director of the Sugarfed has no control over it and not competent to issue charge-sheet to the petitioner cannot be countenanced with as the petitioner was common cadre employee under Punjab State Cooperative Sugar Mills Service (Common Cadre) Rules, 1981, which were amended in November, 1995. Rule 5 of the Annexure 'B' provides that the authority competent to impose penalty upon the Chief Engineer is the Managing Director of Sugarfed, who has awarded punishment to the petitioner. Therefore, proceedings have rightly been initiated by the Managing Director, Sugarfed. It is itself stated in para 6 of the petition that punishing authority of the petitioner is Managing Director, Sugarfed.

17. The contention raised by the learned Senior Counsel regarding non-maintainability of the revision petition filed by the Sugarfed under Section 69 of the Punjab Cooperative Societies Act, 1961, on the ground that it was not filed by a party to the reference under Sections 55 and 56 of the Act is of no worth acceptance.

18. The Full Bench of this Court in Jasbir Singh's case (supra), has held as follows:-

> *"58. In view of the above discussion, we reach to the following conclusion:-*
>
> > *(i) The State Government or the Registrar under Section 69 of the Punjab Act and the State Government under Section 115 of the Haryana Act can exercise its suo motu revisional jurisdiction on the application made by an aggrieved person, whether he is or not a party to the reference.*
> >
> > *(ii) The remedy of revision is barred only in case where appeal against the impugned order lies under Section 68 of the Punjab Act or under Section 114 of the Haryana Act.*
> >
> > *(iii) The remedy of revision is not barred in those cases where aggrieved person has a right of appeal under the Statutory Service Rules or Common Cadre Rules. An aggrieved party can challenge the order of Registrar or Deputy Registrar passed as an Appellate Authority under the Statutory Rules or Common Cadre Rules by filing a revision under Section 69 of the Punjab Act or under Section 115 of the Haryana Act as no remedy of appeal has been provided under Section 68 of the Punjab Act or under Section 114 of the Haryana Act against such order. But, if the appellate order is passed by the official of the Society and not by the Registrar or Deputy Registrar of the Co-operative Society, no*

> *revision is maintainable against such an order. The revision is maintainable only against the order passed by the authority under the Act or a proceeding arising out of the Act and the Rules framed thereunder.*
>
> *(iv) The remedy of revision either suo motu or otherwise cannot be invoked against an order passed by the Society. The said power can be exercised against the decision or order passed by the authority under the Act or a proceeding arising out of the Act or the Rules framed there-under.*
>
> *(v) The suo motu power of revision cannot be exercised by the State Government or the Registrar, as the case may be, where a revision under Section 69 of the Punjab Act or under Section 115 of the Haryana Act itself is not maintainable either on the ground that against the impugned order an appeal has been provided under Section 68 of the Punjab Act or under Section 114 of the Haryana Act or on any other ground. In case the Government or the Registrar, as the case may be, exercise suo motu power of revision on the application of an aggrieved party or otherwise, it must be specifically so stated in the order itself."*

The present case would fall under Clause (iii) above where it has been held that where the Registrar passes an order as an Appellate Authority under the Service Rules then the revision petition under Section 69 of the Act would be maintainable. In the present case, the Registrar, Cooperative Societies has passed an order dated 26.04.1996 in appeal filed under Section 4(a) of Annexure VI of the Punjab State Cooperative Sugar Mills Service (Common Cadre) Rules, 1981 as amended in 1995, and not in exercise of powers under Section 68 of the Act. Therefore, the revision petition filed under Section 69 of the Act is maintainable. Further no objection was taken before the Revisional authority regarding maintainability of revision petition when the same was pending before the said authority and no pleading to this effect has been made in the petition.

19. So far as the plea raised by the petitioner that the Financial Commissioner, Cooperation Department, Punjab, Chandigarh, was the supervisory officer of Sugarfed and managing the affairs of Sugarfed, and being an interested person, could not have heard the revision petition, it may be observed here that firstly no such objection was raised by the petitioner at that point of time when the matter was heard by him. Further the petitioner himself has filed the cross revision petition dated 01.02.1998. The petitioner having himself submitted before the jurisdiction of the Financial Commissioner, Cooperation Department, Punjab, Chandigarh, cannot now raise a plea that the said authority could not have heard the revision petition. Since no said objection has been raised by the petitioner before the said authority, therefore, there is no finding to that effect given by the said authority in the impugned revisional order dated 19.03.1998 (Annexure P-20) and the same is, accordingly, not acceptable.

20. So far as the issue raised by the petitioner with regard to the fact that enquiry officer was biased against the petitioner, it may be observed that the enquiry officer had exonerated the petitioner in relation to nine allegations and the petitioner was held guilty of only two charges i.e. charges No.2 and 7 after the same was found proved on the basis of evidence so adduced. Further the said plea has never been

taken by the petitioner in the reply to the show cause notice before the punishing authority or before the appellate authority or the revisional authority. Even in the cross revision petition filed by the petitioner, no such plea was ever raised by the petitioner. Further, the decision to impose punishment was taken by the competent authority i.e. Managing Director, Sugarfed.

21. In view of the foregoing discussions, I do not find any merit in the present petition(s) and the same are, accordingly, dismissed.

**(NAMIT KUMAR)**
**JUDGE**

**05.11.2024**
*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No