

12.09.2025

Item no. DL10
Court No. 4

Asraf, A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WP.CT 115 of 2024**

In the matter of :
JITENDRA PRASAD SINGH ...Petitioner
VS.

THE UNION OF INDIA & ORS. ...Respondents

For the Petitioner :
Mr. M. A. Sardar
Mr. S. Haque
Mr. M. Das
...Advocates

For the Respondents / UoI :
Mr. Robi Prasad Mukherjee
Ms. Mary Datta
...Advocates

1. The brief facts are that the present writ petitioner was the applicant before the Central Administrative Tribunal. His OA has been dismissed by the Tribunal by an order dated 20.01.2024 passed in OA no.1189 of 2018. The writ petitioner has put to challenge this order of the Tribunal in the present proceedings. authorities have conducted an enquiry against the petitioner. The substance of the allegation based on which the enquiry was conducted is that some persons were agitating in the office of the Senior DPO and forcibly tried to enter his chamber. The protest was being done against work overload which resulted in suicide of an employee.

2. The authorities specifically proceeded against the present petitioner by serving charge memo dated 27.10.2015. The article of charge alleged that it was reported from available documents that the petitioner was involved in the agitation due to which official activity of the DRM, Sealdah office was seriously affected. The authorities were of the view that such action of the writ petitioner / applicant amounted to contravention of the Railway Services (Conduct) Rules, 1966 as it was exhibiting lack of integrity, devotion to duty and action unbecoming of a railway servant.
3. The petitioner was also proceeded against in a criminal proceeding for the same charges which according to the learned advocate for the petitioner resulted in acquittal. For the present, the acquittal of the petitioner in the criminal proceeding is not relevant in the present writ petition.
4. The department named three witnesses in support of the charges. PW 1 was one Amal Kumar Das, but could not be examined as he unfortunately expired.
5. PW 2, one Sri Gautam Goswami, was examined in the proceedings. He deposed before the Enquiry Officer that he was inside the chamber of the Senior DPO, Sealdah. He also stated that he did not

know the charged officer (present petitioner). He has not stated about the involvement of the charged officer.

6. PW 3, one Sri Santanu Sinha, retired on 28.04.2013. He specifically stated before the enquiry officer that he could not recall the incident which occurred about three years back. He learned about the incident in official capacity. He could not recall the time of the incident, the venue or activity of the charged officer. He, however, recalled that he was asked to fill in a list of questionnaire which he handed over to the administration which ought to be available in the confidential section.
7. Considering the depositions before the Enquiry Officer, the enquiry officer was of the view that there was no evidence whatsoever to support the allegation against the charged official (present petitioner). Enquiry officer thus exonerated the petitioner from the charges by an enquiry report dated 08.09.2016.
8. The disciplinary authority was at variance with the findings of the enquiry officer, and served a note of disagreement upon the charged official which was responded to by the writ petitioner. Considering the petitioner's response, the

disciplinary authority passed an order which reads as :

“After considering the findings of the D&AR enquiry & your representation dt.17/02/2017 against E.O.’s report in respect of major penalty charge sheet No.P/SC/D&A/JPS/15 dt.27/10/2015, I have decided that you are guilty of the chargers leveled against you in the above mentioned charge sheet.

Accordingly you are hereby **‘COMPULSORILY RETIRED’** from the Railway Service with immediate effect as a disciplinary measure.”

9. The order is dated 21.02.2017 and a bare reading of the same shows that the disciplinary authority’s order is without assigning any reason in support of the decisions concluding the petitioner to be guilty of the charges. The decision is also not founded on any evidence or witness; and suffers from the vice of non-application of mind. The disciplinary authority held the petitioner guilty of charges and punished him with compulsory retirement, by a cryptic order.
10. The petitioner thereafter preferred an appeal which was considered and decided by the appellate authority on 06.03.2017. The appellate authority decided to reduce the punishment which reads as :-

“...to reduction in scale of pay to the initial scale of Sr ALP in the scale Rs(5200/- to 20200/-) GP - 2400/-. He will be entitled for normal increment / promotion from Sr ALP as per his eligibility and suitability when due. He is reinstated to the Railway service with immediate effect.

The period between Compulsory Retirement to reinstatement i.e. 21.2.2017 to 05.03.2017 should be treated as LWP.”

11. The petitioner thereafter preferred a revision. The revisional authority has further toned down the punishment by a “Speaking Order” dated 16.05.2018 from compulsory retirement to “reduction in pay scale by 2 (two) years increment with cumulative effect”.
12. The appellate and revisional authorities, therefore, have not interfered with the finding of the disciplinary authority regarding the petitioner being guilty. The consequences thereof, however, have been lessened or reduced by the appellate authority; and further reduced by the order of the revisional authority.
13. The learned advocate for the writ petitioner submits that the Tribunal has failed to consider that the present case was a case where there was no evidence in support of the charge which resulted in exoneration of the writ petitioner by

the enquiry officer vide enquiry report dated 08.09.2016.

14. The order, therefore, could have been interfered with, if at all any evidence was left out by the enquiry officer and considered by the disciplinary authority. That is not the case here. It is apparent from the order passed by the disciplinary authority that the order is without reference to any material whatsoever and the finding that the petitioner is guilty is based on non est reasons. It is an order without any reason in support of the conclusion and, on this ground alone, is unsustainable.
15. The subsequent orders passed by the appellate authority on 06.03.2017 and the revisional authority on 16.05.2018 are founded on the unsustainable conclusion of the Disciplinary Authority. Both Appellate Authority and the Revisional Authority have failed to accord any independent consideration whatsoever. These two orders therefore cannot be sustained, when the Disciplinary Authority's order is unsustainable. The petitioner is entitled to all benefits and the finding of the disciplinary authority dated 21.02.2017 is fit to be set aside.
16. The learned counsel for the Railways submits that the petitioner was served with a charge memo. He

was afforded adequate opportunity in the proceedings. Witnesses were examined and after observing the entire procedure, the disciplinary authority has recorded a finding of the petitioner being guilty of the charges. There being no procedural infirmity, the Tribunal has rightly declined to interfere with the order passed by the disciplinary authority, appellate authority as well as the revisional authority.

17. We are conscious of the limited scope of judicial review under Article 226 of the Constitution of India in respect of a departmental proceeding. The law in this regard by now is very well settled that the Writ Court is to limit its scrutiny to the decision making process and not the decision itself. The confines of judicial review normally does not include a review into sufficiency of the evidence. However, in a case of no evidence, the Writ Court is well within its jurisdiction to interfere with an order.

18. Upon consideration of rival submissions, we are in agreement with the submissions advanced by the learned advocate for the applicant / writ petitioner, it is clear from the enquiry report that the same has recorded that no charges could be established against the petitioner since the witnesses who appeared did not support the

charge against the writ petitioner. Therefore, the present case is a case of no evidence in support of the charges and therefore well within the limited scope of judicial review under Article 226 of the Constitution of India, keeping in view the law laid down by the Apex Court in the case of *Union of India -vs- P. Gunasekaran* wherein the Apex Court has laid down the limits in the following terms :-

“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.(*emphasis ours*)”

19. The disciplinary authority has interfered with such findings, without reference to any material / evidence, by a cryptic order which shows non-application of mind and is devoid of any reason in support of the decision. The same is, therefore, legally unsustainable, and is fit to be set aside.

20. Order of the disciplinary authority cannot be sustained inasmuch as it visits the petitioners with civil consequences.

21. We, therefore, set aside the order passed by the disciplinary authority. The resultant orders passed

by the appellate authority dated 06.03.2017 and revisional authority dated 16.05.2016 being founded on the disciplinary authority's order, are therefore unsustainable and as a result must collapse; and are held to be unsustainable and quashed.

22. The Tribunal has failed to consider this aspect of the matter and, therefore, the findings of the Tribunal in the impugned order dated 20.01.2024 in OA no.1189 of 2018 is also set aside.
23. The writ petition; and consequently the OA stands allowed accordingly.
24. All parties shall act on the basis of server copy of this order duly downloaded from the official website of this Hon'ble High Court.
25. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after complying with all requisite formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)