

**IN THE HIGH COURT AT CALCUTTA
(CONSTITUTIONAL WRIT JURISDICTION)
APPELLATE SIDE**

Present :

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 10530 of 2020

Kaushik Bhattacharya

Vs.

Public Service Commission & Ors.

For the petitioner

: Mr. Ujjal Ray,
Mr. Arpa Chakraborty,
Mr. Ivan Roy,
Ms. Atreeya Chakraborty.

For the P.S.C.

: Ms. Piyali Sengupta,
Mr. Victor Chatterjee.

Heard on

: 01.07.2025

Judgment on

: 15.07.2025

Partha Sarathi Chatterjee, J.:-

1. The present writ petition challenges the legality and propriety of the memorandum of charge sheet dated 08.04.2019, the enquiry report dated 13.08.2019, and the final order of punishment dated 17.02.2020, all issued and/or passed in connection with a disciplinary proceeding initiated against the petitioner. Additionally, the petitioner prays for a writ of certiorari to set aside and quash the said documents. The petitioner further

seeks a writ of mandamus directing the concerned respondents to reinstate him to his previous position as Upper Division Assistant (UDA), with all consequential benefits, including back wages.

2. Before addressing the issue raised in this writ petition, it would be appropriate to refer to the essential facts, as outlined in the writ petition, which led to its institution, which are as follows:

- i) The petitioner joined the Public Service Commission (in short, PSC) as a Lower Division Assistant (LDA) on 04.03.2005, having successfully cleared the Clerkship Examination, 2002. He was subsequently promoted to the post of Upper Division Assistant (UDA) in 2009 and was posted in the Confidential Section.
- ii) The petitioner was assigned the tasks of certain rudimentary computer related jobs. The petitioner has been carrying out all those works assigned to him maintaining highest integrity and without any blemish.
- iii) In 2017, the Public Service Commission (in short, PSC) undertook the responsibility of conducting the West Bengal Civil Service (WBCS) examination, 2017 (hereinafter referred to as the examination) for recruitment to Group A, B, C, and D posts. The Main (written) examination consisted of eight papers, six of which were compulsory and the remaining two were optional papers, each carrying 200 marks.
- iv) The examinations for the six compulsory papers were conducted over three consecutive days, namely 15.07.2017,

16.07.2017, and 17.07.2017. The examinations for the remaining two optional papers were held on a single day, i.e., 19.07.2017.

- v) As per the applicable rules, candidates who appeared in all eight papers were eligible for consideration for Group A and B posts, whereas those who appeared only in the compulsory papers were considered for Group C and D posts.
- vi) The petitioner, by his letter dated 17.01.2017, informed the Deputy Secretary, PSC, that his married sister, Smt. Somdatta Ganeriwala, would be appearing in the examination.
- vii) Upon completion of the examination, the descriptive papers were evaluated by examiners appointed by the PSC, while the four MCQ-based OMR sheets were processed by WEBEL. The final compilation and tabulation of marks for all eight papers were completed and provided to WEBEL on 12.06.2018.
- viii) The petitioner's sister appeared only in the compulsory papers, thereby rendering herself eligible for consideration for Group C and D posts. Upon learning this fact, the petitioner was not assigned computer related tasks pertaining to the Group C and D posts. Instead, he was entrusted with certain computer related work relating to recruitment to the Group A and B posts. In addition to the petitioner, two other employees from the Confidential Section, Smt. Karuna Mallick and Sri Kausik Saha (both UDAs), were also entrusted with clerical and other associated work related to the conduct of the personality test.

- ix) The Personality Test (PT) for Group C posts was conducted from 29.10.2018 to 24.12.2019. The decision-making process for shortlisting candidates, final results, and signatures of staff and officers were recorded in File No. 1C-31/2018. The file reveals that Sri Kausik Saha, the Dealing Assistant for Group C, provided statistical data on page 2 of the note sheet, based on information furnished by WEBEL for shortlisting candidates. He appended a note with his signature dated 19.09.2018.
- x) The note, which was initiated by Mr. Kausik Saha, was thereafter routed through the Head Assistant, Section Officer, Assistant Secretary, Deputy Secretary, Joint Secretary and lastly to Secretary of PSC. The note containing the decision to call 1005 candidates including Smt. Ganeriwala (Roll no. 0204014) to the PT for the post of Group-C, was approved by the Commission. According to the petitioner, he was not involved in this process and did not put his signature on note-sheet.
- xi) The petitioner's sister, Smt. Somdatta Ganeriwala, appeared for the Personality Test on 24.12.2018. The entire work related to the finalisation of results for Group C was handled by Smt. Karuna Mallick, who accordingly signed the note sheet on 08.01.2019, as is evident from the record itself. The note sheet was thereafter processed through the usual administrative channel for approval of the tabulation sheet and merit lists, which were ultimately approved by the Commission.

- xii) The petitioner's sister scored 662.69 out of 1200 marks in written examination whereas she was awarded 66 out of 150 marks in PT and as such, her aggregate score was 728.69 and she was placed at rank-43 in the General Standard Merit List.
- xiii) Subsequently, two instances of foul play and malpractice came to light in the merit list prepared for the Group C posts. Two candidates were unfairly awarded ranks—one had been previously disqualified by the Commission, and the other had not appeared for the Personality Test. Following this, the names of five candidates, including the petitioner's sister, were removed from the list, and the results initially published on the official website were withdrawn.
- xiv) Subsequently, the petitioner received a Memorandum vide No. 338/PSC dated 19.02.2019, issued by the Secretary of the Commission, in contemplation of disciplinary proceedings against him. The charges alleged that the petitioner was responsible for fabricating the marks originally obtained by certain candidates, including his sister, and for failing to disclose the fact that his married sister had appeared in the examination. Following this, the petitioner was placed under suspension. Additionally, on 06.03.2019, he was served with another notice requiring him to show cause as to why disciplinary action should not be taken against him for failing to discharge his duties faithfully, lacking integrity, impartiality, and devotion to duty, and for allowing

personal interests and considerations to influence his official responsibilities.

xv) The petitioner submitted his reply to the show cause notice, denying all the allegations levelled against him. He asserted that he had no role in the preparation of the tabulation sheet, merit list, and/or the list(s) of candidates shortlisted for the Personality Test (PT) for the Group-C posts. Therefore, he contended that he had neither the opportunity nor the authority to fabricate or tamper with the marks obtained by any candidate who had applied for the said posts. Finally, the petitioner requested that the disciplinary proceedings be dropped and the order of suspension be withdrawn.

xvi) However, the competent authority found the petitioner's reply to be unsatisfactory and accordingly decided to initiate disciplinary action against him. Consequently, the petitioner was served with a Memorandum of Charge-sheet vide No. 680/PSC/WB dated 08.04.2019, containing two Articles of Charge and a statement of imputations and details of the alleged misconduct.

xvii) Article-I alleged that the petitioner, by failing to disclose that his married sister had appeared in the examination for the post of Group-C, violated the provisions of Rule 3(5) of the West Bengal Services (Duties, Rights and Obligations) Rules, 1980. Whereas Article-II alleged that by manipulating the marks obtained by certain candidates in the written examination for the post of

Group-C, the petitioner acted in a manner unbecoming of a public servant and thereby contravened the provisions of Rule 3(1) of the said Rules.

xviii) The petitioner submitted his written statement of defence on 15.04.2019. During the enquiry proceedings, he requested the Inquiring Officer (IO) to allow him to be defended by a Defence Assistant and to arrange for audio and video recording of the entire hearing process in the interest of transparency. However, none of these requests were granted. Despite this, the petitioner actively participated in the proceedings and attended all hearings at the designated time and place. He also requested the IO to furnish 13 specific documents, but none of these documents were provided to him.

xix) Although the petitioner was placed under suspension on 19.02.2019, no subsistence allowance was paid to him until 26.06.2019, despite his submission of a non-employment certificate. On 22.08.2019, he received a memorandum dated 20.08.2019, informing him that his subsistence allowance had been revised with effect from 01.06.2019. Aggrieved, the petitioner filed W.P. No. 10811 (W) of 2019. By order dated 26.06.2019, a Co-ordinate Bench of this Court admitted the writ petition, directed exchange of affidavits, and further instructed the respondents to disburse the subsistence allowance and permit the petitioner to inspect the listed documents.

xx) Pursuant to the order dated 26.06.2019, the petitioner was permitted to inspect only four (4) out of the thirteen (13) documents he had requested. The remaining documents were withheld on the ground that they were not relevant. The petitioner also requested the Inquiring Officer to provide attested copies of the depositions of the prosecution witnesses; however, his request was not acceded to.

xxi) On 25.11.2019, the petitioner received a second show cause notice dated 22.11.2019, along with the report of the Inquiring Officer (IO) and an additional memorandum dated 26.11.2019. The IO's report concluded that the charges levelled against the petitioner stood proved. The second show cause notice called upon the petitioner to submit a representation against the proposed penalty of dismissal from service. In response, the petitioner submitted a detailed representation dated 09.12.2019.

xxii) Subsequently, the petitioner received a memorandum vide No. 205/PSC dated 17.02.2020, issued by the Disciplinary Authority (DA), from which he learned that, after evaluating all the evidence and noting the petitioner's failure to produce satisfactory material in support of his plea for waiver of the proposed penalty, the DA had imposed the penalty of dismissal from service. Aggrieved, the petitioner preferred a statutory appeal on 24.02.2020, which was, however, rejected by the Chairman on the ground that, as per the applicable rules, the appeal was required to be presented before the Commission. Pursuant to the

Chairman's order, the petitioner submitted a fresh appeal before the Commission. However, this appeal was also dismissed by an order dated 17.08.2020. Hence, this writ petition.

Respondent's case:

3. The core of the defence in the affidavit-in-opposition filed by respondent nos. 1 to 3 is that the petitioner was posted in the Confidential Section of the Commission Secretariat at the relevant time. Due to his proficiency in computers, the Section Officer assigned him computer-related tasks. As per the Commission's usual practice, no formal order is issued for work allocation to staff below the rank of Section Officer within a section. The petitioner was engaged in preparing tabulation work, merit lists, and result sheets related to the examination.
4. The petitioner's married sister, Smt. Somdatta Ganeriwala, was a candidate in the examination and had applied for Group-A, Group-C, and Group-D posts. The petitioner deliberately concealed this fact. As per long-standing practice of the Commission, any employee whose relative intends to appear in any examination conducted by the PSC must inform the Commission in advance. In such cases, the employee is transferred from sensitive sections such as the Confidential Section, Question Paper Cell, or Selection Section, which are directly involved in the preparation of merit lists and examination results.
5. The petitioner, assigned to the Confidential Section, was responsible for tabulating marks and preparing the final category-wise merit list and

results. During the preparation of the final merit list for Group C posts, it was discovered that the petitioner's married daughter had appeared in the examination, a fact the petitioner failed to disclose to the Commission.

6. The fact that the petitioner's married daughter had appeared in the examination came to light within the office, prompting senior colleagues to search for the tabulation sheet. However, it could not be found either in the petitioner's possession or within the Section. The Commission then requested WEBEL, the agency responsible for preparing the tabulation sheet, to provide a duplicate copy. Upon thorough verification, discrepancies were found in the OMR marks of eight candidates, including the petitioner's sister, all of whom had been shortlisted for the Personality Test.
7. As the petitioner was responsible for tabulating candidates' marks and preparing the final merit lists and results, he was identified as the prime suspect capable of manipulating or fabricating marks, particularly to benefit candidates such as his sister, possibly with the assistance of one or more staff members. Based on prima facie evidence suggesting his involvement in such irregularities, the Commission decided to initiate disciplinary proceedings against him under Rule 7(2) of the West Bengal Services Classification, Control and Appeal Rules, 1971 (the 1971 Rules). He was placed under suspension with effect from 19.02.2019 to prevent any possible tampering with relevant documents. In addition, show cause notices were issued to seven other employees. The petitioner's reply to the show cause notice was found unsatisfactory, leading the Commission to

proceed with disciplinary action by serving him a Memorandum of Charge-sheet containing two Articles of Charge.

8. The first charge against the petitioner was that he concealed the fact that his married sister, Somdatta Ganeriwala, had appeared in the examination and that her name appeared on the merit list. The petitioner contended that he had informed the Deputy Secretary about this matter; however, he failed to produce any documentary evidence to support this claim. Consequently, he was found to have violated the provisions of Rule 3(5) of the WBS (DRO) Rules, 1980 (hereinafter referred to as the 1980 Rules), read in conjunction with the WBPSC (Condition of Services and Miscellaneous Provisions) Regulations, 1953. Such conduct was deemed tantamount to dereliction of duty.
9. The second charge against the petitioner pertained to his role in the Confidential Section, where he was assigned the responsibility of processing data received via e-mail from WEBEL and other agencies. This data was used for tabulating and preparing the merit lists at various stages of the examinations. The petitioner was entrusted with computer-related tasks and had unrestricted access to the official e-mail account, which he accessed using his personal mobile number. He also used this mobile number for personal purposes. The petitioner processed the marks for six compulsory and two optional papers as received from WEBEL and prepared a tabulation sheet reflecting the total marks for these papers. From the computer data, he generated a hard copy of the list of candidates eligible to be called for the Personality Test (PT) for Group-C posts. Additionally, he prepared the schedule for the personality test, as well as

both the general standard merit list and the relaxed standard merit list. Since the petitioner did not serve as the Dealing Assistant, he did not sign the merit list for the Group-C posts of the examination

10. Upon verification, it was subsequently found that the marks of five candidates, including those of the petitioner's sister, had been fabricated and/or manipulated. This constituted a violation of Rule 3 of the WBS (DRO) Rules, 1980, as well as the WBPSC (Conditions of Service and Miscellaneous Provisions) Regulations, 1953. In connection with the incident, a First Information Report (FIR) was later lodged at the Tollygunge Police Station.
11. The Inquiring Officer (IO), after examining all the evidence on record, submitted his findings, concluding that the charges levelled against the petitioner were proved. Based on these findings, the Disciplinary Authority (in short, DA) proposed the penalty of 'dismissal from service' and accordingly issued a second show-cause notice to the petitioner. Upon considering the petitioner's response to the said notice, the DA passed a final order imposing the punishment of dismissal from service under Rule 8(viii) of the WBS (CCA) Rules, 1971, dated 17.02.2020.
12. The petitioner filed a statutory appeal dated 24.02.2020 before the Hon'ble Chairman of the Commission. However, the appeal was decided against him. Having considered the materials on record, it is evident that the petitioner has failed to establish any ground warranting the invocation of the extraordinary writ jurisdiction of this Court. Accordingly, the petitioner is not entitled to any relief.

Contents of Affidavit-in-reply:

13. In his affidavit-in-reply, the petitioner contended that the entire disciplinary proceeding stood vitiated by bias, procedural impropriety, and malice. He asserted that he was never assigned any duties relating to the Group-C and Group-D services and that he had no role in the tabulation or preparation of the merit lists, which, according to him, were exclusively handled by an external agency, namely WEBEL. The petitioner further claimed that he had duly informed his superior authority, well in advance, that his sister was participating in the examination. Additionally, he alleged that he was denied access to the deposition sheets of prosecution witnesses, daily order sheets, and other relevant office files. On these grounds, the petitioner argued that he had been deprived of a fair opportunity to defend himself.
14. The petitioner claimed that no criminal proceedings were either pending against him or had ever been initiated. He further contended that the disciplinary inquiry was conducted in a biased manner, and that he was denied the opportunity to cross-examine the witnesses, thereby violating the principles of natural justice. He also asserted that the order of punishment was passed in contravention of the applicable rules, and that his appeal was disposed of by the Commission, although it was required to be adjudicated by the Hon'ble Chairman personally.

Submissions:

15. Mr. Roy, learned Advocate appearing on behalf of the petitioner, outlined the procedure and structure of the examination. He submitted

that candidates who chose not to appear for the optional papers were not eligible for consideration for Group-A and Group-B posts. He contended that the petitioner's sister did not appear in the optional papers and, as such, had rendered herself ineligible for consideration for posts under Group-A and Group-B.

16. Mr. Roy drew the Court's attention to the contents of Annexure-R/1 to the affidavit-in-reply and submitted that the petitioner had duly informed his superior authorities in writing that his sister had appeared in the examination. He contended that, in view of this disclosure, the petitioner was assigned duties as a Dealing Assistant solely in connection with the conduct of the personality test and preparation of results for Group-A and Group-B services. He was not entrusted with any responsibilities related to the recruitment process for Group-C and Group-D services. Mr. Roy further asserted that the petitioner did not perform any tasks involving the tabulation of marks or preparation of merit lists for Group-A and Group-B posts.

17. Mr. Roy placed strong reliance on the fact that neither the result sheets nor the merit lists prepared for the posts of Group-C and Group-D bear the petitioner's signature. He submitted that, had the petitioner been assigned any duties in connection with the recruitment to Group-C and Group-D posts, the relevant documents would necessarily have borne his signature as evidence of his involvement.

18. He submitted that order of punishment and order of appellant authority both are non-speaking and based on no evidence. He claimed that despite having no definite proof against the petitioner, the

respondents proceeded against the petitioner with a pre-conceived manner and made him scapegoat and imposed a penalty of dismissal from service which is considered to be a capital punishment in service jurisprudence. According to Mr. Roy, the punishment imposed upon the petitioner is disproportionate. Therefore, according to him, for these reasons, the memorandum of charge sheet, order of final punishment and the order of appellate authority need to be set aside. To bolster his submission, he cited a decision, reported at (2010) 9 SCC 496 (*Kranti Associates Private Limited & Anr. vs. Masood Ahmed Khan & Ors.*).

19. In rebuttal, Ms. Sengupta, learned Advocate appearing for the PSC (the Commission) refuted the contention advanced by Mr. Roy that the petitioner had informed his superior of the fact that his sister had appeared in the examination. She argued that, had the petitioner provided such information, in accordance with the Commission's established practice, he would not have been assigned any examination-related duties and would have been transferred to a section other than the Commission's Confidential Section.
20. She contended that, due to the petitioner's expertise in computer operations, he was entrusted with computer-related tasks in the examinations. In this particular case, he was assigned responsibilities for computer-based work pertaining to the entire examination process, covering all Group-A, B, C, and D posts which would be evident from the evidence adduced by the prosecution.
21. She highlighted specific portions of the evidence presented by the prosecution and submitted that sufficient material was available on record

to support the charges. She argued that when an employee entrusted with the task of tabulating candidates' marks and preparing the list of successful candidates is found responsible for manipulation and/or fabrication of marks, dismissal from service is an appropriate penalty. She further asserted that, in the present case, there was no illegality in the decision-making process. To invigorate her submission, he cited two decisions, reported at (2006) 3 SCC 276 (*State of UP vs. Sheo Shankar Lal Srivastava & Ors.*) & (2008) 7 SCC 580 (*State of Meghalaya & Ors. vs. Mechen s/ingh N. Marak*).

Analysis and conclusion:

22. Needless to emphasise that judicial review covers grounds such as illegality, irrationality (including Wednesbury unreasonableness), and procedural impropriety. Over time, the principle of reasonableness has evolved into the doctrine of proportionality. The core objective of judicial review is to guard against arbitrary, irrational, unreasonable, biased, or mala fide actions. Article 14 of the Constitution mandates fairness in all actions of the State.

23. The principle of fair play applies to administrative, judicial, and quasi-judicial functions. When an authority exercises quasi-judicial powers, it is required to act fairly, impartially, and without bias or preconceived notions. If a court finds that the authority has acted arbitrarily, with a closed mind, or in violation of the principles of natural justice or statutory provisions, it may exercise judicial review to ensure that justice is upheld.

24. In the context of disciplinary proceedings, judicial review is generally confined to examining the decision-making process. However, if a decision is found to be perverse, irrational, or grossly disproportionate, it falls within the ambit of judicial scrutiny. While a writ court does not act as an appellate body over the findings of the disciplinary authority or re-assess the evidence presented during the inquiry, it may nevertheless review the evidence to determine whether the claim that the decision is unsupported by any evidence is valid.

25. In the present case, the origin of the disciplinary proceedings initiated against the petitioner can be traced to the detection of fabrication and manipulation of the marks of certain candidates who had applied for Group-C posts, including the petitioner's sister. The discrepancies came to light when the marks were compared with the official tabulation sheet prepared by WEBEL, which reflected the actual scores obtained by the candidates. According to the said tabulation sheet, the petitioner's sister had secured a total of 274.69 marks. However, in the final selection list prepared by the Confidential Section of the Commission, her marks were shown as 662.69. Similar manipulation or inflation of marks was also found in the cases of six other candidates.

26. Following this incident, show cause notices were issued to seven employees attached to the Confidential Section, including the petitioner. The petitioner submitted his reply in response to the notice; however, the same was found to be unsatisfactory by the respondents. Consequently, a decision was taken to initiate disciplinary proceedings against him. Accordingly, a memorandum of charge-sheet was served upon the petitioner, containing two

articles of charge:

- (i) that the petitioner had concealed and/or failed to disclose the fact that his sister had appeared in the examination for the Group-C posts, and
- (ii) that he had manipulated and/or fabricated the marks of certain candidates, including those of his sister.

27. In the statement of imputation regarding Charge No. 1, it was noted that although the petitioner claimed to have informed the Deputy Secretary about his sister's participation in the examination, he failed to produce any documentary evidence in support of this claim. It was further noted that the petitioner, serving as a dealing assistant in the Confidential Section, was responsible for processing data received via e-mail from WEBEL and other agencies for tabulation and preparation of merit lists at various stages of the examination. The official e-mail account was created using his personal mobile number.

28. The statement of imputation further noted that the petitioner, who was entrusted with computer-related tasks, processed the marks of six compulsory and two optional papers received from WEBEL. He prepared a working list from the computerized data for candidates shortlisted for the Personality Test (PT) for Group-C posts and submitted it to the Confidential Section. He also prepared the PT schedule. After receiving the interview score-sheets, he tabulated the marks and prepared the general merit list, the relaxed standard list, and the final merit list. It was subsequently found that the marks of five candidates, including his sister, had been manipulated.

29. The records reveal that the petitioner filed a writ petition, W.P. No. 10811 (W) of 2019, contending that although he had been placed under

suspension, subsistence allowance was not being paid to him in accordance with the applicable rules. He further alleged that, despite repeated requests, the respondents failed to provide certain documents necessary for his defence in the disciplinary proceedings. By an order dated 26.06.2019, a Co-ordinate Bench directed the respondents to disburse the subsistence allowance within the stipulated time. The respondents were also directed to provide copies of documents they considered relevant to the disciplinary proceedings and to allow the petitioner to inspect documents that he considered necessary for his defence.

30. Accordingly, the respondents were granted the liberty to determine which documents would be provided to the petitioner, while the petitioner was given the liberty to inspect documents that he considered relevant to his defence. The petitioner requested the supply of 13 documents. Records indicate that he was furnished with four of those documents and was permitted to inspect the remaining ones. The petitioner participated in the inquiry proceedings and was given the opportunity to cross-examine the prosecution witnesses. However, he did not produce any defence witnesses.

31. Upon evaluation of the evidence on record, the Inquiry Officer concluded that both articles of charge against the petitioner stood proved. Based on the inquiry report, the Disciplinary Authority (DA) issued a show cause notice to the petitioner, calling upon him to explain why the penalty of dismissal from service should not be imposed. The petitioner submitted his reply; however, the same was found to be unsatisfactory. The DA, concurring with the findings of the Inquiry Officer, proceeded to impose the penalty of

dismissal from service. The petitioner thereafter preferred a statutory appeal, which was, however, dismissed.

32. In the present case, Mr. Roy argued that the decision was perverse, in the sense that it was based on no evidence. Therefore, for the limited purpose of examining whether there is any merit in Mr. Roy's contention, the evidence brought on record during the enquiry proceedings need to be looked into.

33. As noted earlier, the crux of defence of the petitioner was that he had informed of the candidacy of his sister to Deputy Secretary. However, admittedly, the petitioner failed to produce any receipt of letter of intimation. The Deputy Secretary in his evidence, refuted such claim that any such intimation was ever given to him. Prosecution deposed that such intimation was required to be furnished by the petitioner to his immediate superior.

34. Mr. Roy heavily relied upon document R/1, claiming it to be the letter in question. However, it remains unclear why the petitioner neither produced this document nor examined any defence witness during the inquiry proceedings. The respondents contended that, had the petitioner disclosed such information, in accordance with the established practice of the Commission, he would not have been assigned any duties related to the examination and, in all likelihood, would have been transferred to another section or department.

35. As noted earlier, the petitioner took the plea that, upon learning that his sister had appeared in the examination, he was retained in the Confidential Section, but was assigned duties related only to Group-A and Group-B posts, and not to Group-C, for which his sister was a candidate.

However, this explanation does not appear to be credible. On the contrary, the stand taken by the respondents appears more logical and reliable.

36. In the present case, all the prosecution witnesses consistently deposed that the petitioner had been attached to the Confidential Section for a considerable period and was regularly entrusted with computer-related tasks in connection with various examinations, owing to his expertise in such work. The evidence that an official e-mail account was created in the name of the Deputy Secretary using the petitioner's mobile number, and that he received the tabulation sheet from WEBEL, remained uncontroverted and unchallenged.

37. The prosecution's case—that the petitioner was entrusted with computer-related tasks, processed the marks of six compulsory and two optional papers received from WEBEL, prepared a working list from the computerized data of candidates shortlisted for the Personality Test (PT) for Group-C posts, submitted it to the Confidential Section, prepared the PT schedule, and, upon receipt of the interview score-sheets, tabulated the marks and prepared the general merit list, the relaxed standard list, and the final merit list—was fully corroborated by all prosecution witnesses. This evidence remained unshaken, despite the petitioner having availed himself of the opportunity to cross-examine each of those witnesses.

38. It is well established that the standard of proof in disciplinary proceedings is the *preponderance of probability*. Unlike criminal trials, the application of technical rules of evidence and the doctrine of proof *beyond reasonable doubt* is not required for determining misconduct. In such

proceedings, charges may be substantiated even on the basis of *circumstantial evidence*.

39. In the present case, facts and circumstances indicate that there was manipulation of marks concerning five candidates, including the petitioner's sister. This led to the initiation of an enquiry. In such situations, direct evidence may not always be available, and the fact-finding authority is entitled to draw reasonable inferences based on the circumstantial evidence on record.

40. At the risk of repetition, it is pertinent to note that, in the present case, it has been established that the petitioner's sister appeared in the examination. The petitioner has failed to produce any written communication to demonstrate that he had informed his immediate superior about this fact.

41. It has also been proved that the petitioner accessed the relevant e-mail account using his own mobile phone number, and that he handled all computer-related tasks up to the stage of preparation of the final merit list. These facts, when viewed cumulatively, support the inference that the petitioner was responsible for the manipulation of marks.

42. It is important to emphasize that the prosecution or management is not required to prove its case with photographic precision or to establish every fact beyond reasonable doubt. In disciplinary proceedings, such a high standard of proof is not applicable, and a case may be established based on a reasonable inference drawn from the available evidence.

43. Initially, the petitioner claimed that he was not provided the relevant documents to defend himself in the disciplinary proceeding. As mentioned earlier, the Co-ordinate Bench by its order dated 26.06.2019, directed the respondents to provide him copies of certain documents and permit him to

inspect certain documents. The petitioner did not initiate any contempt proceeding citing violation of the order dated 26.06.2019.

44. In a desperate attempt to build his defence, the petitioner repeatedly alleged that the Inquiry Officer and the Disciplinary Authority had violated the principles of natural justice, primarily on the ground of non-supply of various documents.

45. In this context, a useful reference may be made to the decision, reported at (2014) 9 SCC 105 (*Gorkha Security Services v. Government (NCT of Delhi)*), where the Hon'ble Supreme Court observed that the rules of natural justice are not embodied rules, nor are they elevated to the status of fundamental rights. Their primary objective is to ensure justice and prevent its miscarriage.

46. This case serves a reminder to another celebrated decision reported in (2021) 19 SCC 706 — *State of Uttar Pradesh vs. Sudhir Kumar Singh & Ors.*, wherein the Hon'ble Supreme Court held that the principles of natural justice cannot be put into a rigid, straitjacket formula and cannot be applied in vacuum without reference to relevant facts and circumstances of the case. The judgment also marks a shift from the earlier view that even a minor breach of natural justice would render an order null and void. It was clarified that a person alleging violation of the principles of natural justice must establish that such violation has caused prejudice to him.

47. The petitioner, although alleging a violation of the principles of natural justice, failed to produce any convincing material to demonstrate that he had suffered prejudice as a result. In disciplinary proceedings, general and unsubstantiated claims are often made regarding the violation of natural

justice—such as non-supply of relevant documents or denial of the opportunity to cross-examine witnesses. However, in the absence of credible evidence indicating actual prejudice caused to the delinquent, such allegations cannot be allowed to vitiate the entire disciplinary process, including the charge-sheet issued or the consequential orders passed pursuant to such proceedings. In the present case, the petitioner failed to produce convincing evidence demonstrating his prejudice and that the decision is perverse is without any basis.

48. Mr. Roy strongly emphasized that the merit list prepared for the Group C posts did not bear the petitioner's signature. However, it would be unreasonable to expect that the petitioner, who concealed his sister's candidacy, misused his position in the confidential section, and was found responsible for manipulating the marks of five candidates including his sister, would retain or produce any evidence that could result in initiation of a disciplinary proceeding against him.

49. The petitioner also argued that there was no written order assigning him computer related duties related to the examination. In response, the Department contended that, as per the Commission's established practice, such orders are issued only to officers holding the rank of Section Officer and above. The petitioner failed to provide any material evidence to refute this position taken by the Department.

50. As noted earlier, Mr. Roy argued that the punishment imposed upon the petitioner was disproportionate. It is pertinent to note that the imposition of punishment falls squarely within the domain of the disciplinary authority. While the appellate authority or the authority

hearing a revision petition may review and modify the severity of the punishment, such power is ordinarily not available to the Court. Nonetheless, judicial review is permissible, albeit within a limited scope. The Court may intervene if it finds that the punishment is not commensurate with the nature and gravity of the proven misconduct, or if it is shockingly disproportionate, manifestly unreasonable, or indicative of arbitrariness or bad faith. Intervention is also justified where the punishment is so excessive that it appears to be outrageous or wholly defiant of logic and accepted norms of fairness.

51. An employee entrusted with duties in the Confidential Section of the Public Service Commission bears a heightened responsibility to uphold integrity and impartiality. In the present case, the employee not only concealed the fact that his own sister was a candidate in the examination but also undertook all computer-related tasks connected to that examination. It was subsequently established that he was responsible for the manipulation of marks in favour of his sister and four other candidates.
52. Given the seriousness of the misconduct and the breach of trust involved, I am of the considered view that such an employee is unfit to be retained in service or to continue discharging any function within the Commission. Accordingly, I find no basis to interfere with the punishment imposed. I am unable to persuade my judicial conscience to hold that the punishment is disproportionate.
53. There is no dispute regarding binding precedent of the judgment cited by the petitioner; however, the same is distinguishable on facts.

Order:

54. Therefore, based on discussions and reasons set forth in the foregoing paragraphs, in do not find any infirmity and/or perversity in the memorandum of charge sheet, inquiry report, order of punishment and order of the Appellant Authority. Consequently, the writ petition is, dismissed. However, there shall be no order as to the costs.

(Partha Sarathi Chatterjee, J.)