

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

Present :-

THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)

WPO/408/2011

DR. BIJAYA PRASAD SAMANTARAY
VS
THE BOARD OF TRUSTEES FOR THE PORT OF KOLKATA & ORS.

For the Petitioner : Mr. Sanjib Kr. Mukhopadhyay, Adv.
Ms. Aparupa Bhattacharya, Adv.

For the Respondent : Mr. Kallol Basu, Sr. Adv.
Mr. Ashok Kumar Jena, Adv.

Hearing concluded on : 12.12.2024

Judgment on : 16.01.2025

Shampa Dutt (Paul), J. :

1. The present writ petition has been preferred praying for direction upon the respondents and each one of them, their men, agents, assignees and subordinate to rescind, recall, revoke and/or withdraw the enquiry proceeding, findings of the Enquiry Officer, penalty order passed by the Disciplinary Authority and the Appellate Authority's order.

2. The petitioner during his service tenure faced departmental enquiry which has been challenged in the present case. The charges as framed are as follows:

ARTICLE OF CHARGE – I

That the said Dr. Bijay Prasad Samantaray is charged with misconduct inasmuch as while working as Health Officer under Medical Department he issued G-20 Bill dated 30.09.2004 after more than three years from receipt of Sr. Accounts Officer (Pre-Audit)'s letter bearing No. 33 dated 27.09.2001 advising issue of pay order of Rs.17,608/- in favour of Sri Ganga Prasad, Safai Mazdoor, Item No.161 being the refund of past salary attached by the Court.

By the above act, the said Dr. Samantaray has exhibited gross irresponsibility and neglect of duty which is unbecoming of an Office of Kolkata Port Trust.

(PROVED)

ARTICLE OF CHARGE – II

That the said Dr. Bijay Prasad Samantaray is charged with misconduct inasmuch as while working as Health Officer under Medical Department he did not allow Sri Sumarilal, Safai Mazdoor, Item No.297 to resume duty on 16.08.2004 and unnecessarily caused harassment by deferring the resumption order upto 28.09.2004, despite the fact that Sri Sumarilal prayed for resumption of duty on 16.08.2004, on the ground that said Sumarilal was on unauthorized absence.

By the above act, the said Dr. Samantaray had exhibited gross irresponsibility and neglect of duty, which is unbecoming of an Officer of Kolkata Port Trust.

(PROVED)

ARTICLE OF CHARGE – III

That the said Dr. Bijaya Prasad Samantaray is charged with misconduct inasmuch as while working as Health Officer under Medical Department he had submitted Family Declaration Card bearing No. MO/0855 on 01.10.1983 declaring his parents as dependent on him and had availed the LTC benefits in the Block Year 1984-1987 in favour of his parents although they were never dependent on him.

By giving such false declaration and also by drawing financial benefits in unauthorized manner, the said Dr. Samantaray had exhibited lack of integrity violating Regulation 3 of CPT Employees' (Conduct) Regulations, 1987, which is unbecoming of an Officer of Kolkata Port Trust.

(PROVED)

- 3. The Enquiry Officer** conducting an extensive enquiry in respect of all the charges framed against the petitioner and relying upon the evidence and documents, gave his **findings** as follows:-

“4.73 On scrutinising the oral and documentary evidences relating to three charges framed against Dr. B.P. Samantaray the charge officer it is found that:-

i. the charged officer D. B.P. Samantaray the then Health Officer cancelled the pay order which was prepared by Sri Partha Chakraborty the concerned dealing clerk, MW-8 and was put before him on 08.10.2001 (Exbt. M-XVII) for refund of Rs.17,608/- to Sri Ganga Prosad, Item No.161 on the basis of the advice bearing No.33 dated 27.09.2001 (Exbt. M-XIII) from Audit Section (C), Finance Department was clearly stated by Sri Indra Nath Adhya, Asstt. Administrative Officer, MW-4 in his recorded statement (Exbt. M-XXV). As such no refund was made in 2001.

Instead of issuing pay order the C.O. unnecessary delayed it by issuing a letter No.HO/Insolve/II/161/2 dated 02.11.2001 (Exbt. M-XVIII) asking for reexamination of the case and according to MW-4 he did not take any action till 2004. On pursuance of Sri Indra Nath Adhya, MW- 4 with concerned officer/dealing clerk by issuing letters to Senior Accounts Office (Pre-Audit) the mater to refund Rs.17,608/- to Sri

Ganga Prosad the safai Mazdoor the pay order dated 30.09.2004, G-20 bill was raised on 30.09.2004 and finally the payment was made to Sri Ganga Prosad on 30.09.2004.

It is not understood why the Health Officer Dr. B.P. Samantaray did not comply on getting the advice from the Finance Department which is the controlling department and as a controlling department it aised the bill for refund of Rs: 17,608/- in favour of Sri Ganga Prosad, Safai Mazdoor. It was prudent on his part to comply with the advice of Finance Department. It was not necessary on his part to make any further query when the finance already issued the G-20 Bill.

Sri Asit Kumar Mondal, M.W-3 and Sri Partho Chakraborty MW-8 and Sri Soumendu Bikash Kar, MW-7 also corroborated the fact that the Health Officer did not comply wit the advice in G-20 Bill No.33 dated 27.09.2001 (Exbt. M-XIII) issued by Pre-Audit Section for Rs. 17.608/- addressed to CMO with attention, Health Officer.

During the period from 03.11.2001 to 27.07.2004 the C.O. even did not feel it necessary to issue at least a reminder to SAO (Pre-Audit) in response to Exbt. M-XVIII which palpably indicate his lackadaisical attitude. On the thrust of Union by letter dated 15.07.2004 and dated 30.07.2004 the matter was pursued and G-20 bill was prepared on 30.07.2004. If Union did not pursue the matter he continued to remain in dormant state for indefinite period Hence the above mentioned facts and circumstances prove that the charge framed against Dr. B.P. Samantaray was established

ii. *In regard to article of charge-II, Dr. B.P. Samantaray the Health Officer and charged officer did not allow Sri Sumarilal, Safai Mazdoor to resume duty when he reported to duty on 16.08:2004. Instead he issued a letter to Sri Sumarilal for submission of Medical papers/Bills related to his wife's illness. When Sri Sumarilal in his application dated 21.08.2004 stated his inability to submit medical papers, C.O again*

ordered put up the case before CMO. Finally he was allowed to resume duty w.e.f. 29.09.2004 by the Health Office and C.O. vide his letter dated 28.09.2004.

Sri Indra Nath Adhya MW-4 in his statement at Dock Vigilance Office (Exbt. M-XXVI) stated that Sri Sumarilal, Safai Mazdor, Item No.297 was on leave from 15.12.2003 to 03.01.2004 on the ground of his mother's illness and overstayed from 04.01.2004 due to his wife's illness and sent medical certificates in support of his wife's illness. Sri Sumarilal could have been advised by Health Officer i.e. C.O. to resume his duty on 16.08.2004 when he reported for duty without waiting an order of CMO. He was competent enough to take his own decision in the matter. Unnecessary the matter was delayed and Sri Sumarilal was allowed to resume duty w.e.f. 29.09.2004.

Sri Asit Kumar Mondal, MW-3 stated that the charge officer was fully aware of expiry of mother of Sri Sumarilal and his wife's illness but he dillydallied the matter and did not consider

the matter to allow Sri Sumarilal to resume the duty and could place the matter before CMO immediately after receipt of application for resumption of duty. He could also take sue-motto action.

Dr. B.P. Samantaray, Sr. Health Officer and C.O. in his statement dated 12.05.2005 against the question No. 14 replied that considering the nearing retirement, expiry of mother, illness of wife etc. and after discussion with CMO Sri Sumarilal was allowed to resume duty. If Dr. Samantaray took this decision earlier by taking initiative instead of dealing the matter perfunctionarily, the delay occurred in resumption of duty could have been avoided.

Due to this negligence of C.O. to act expeditiously the Head of Medical Department conveyed following remark vide his office letter No. CMO/V/3/1048 dated 04.08.2005 (Exbt. M-XVI) as follows:-

"The mater had been enquired and it was found that delay in both the cases was far improper

dealing of both the cases by the then Health Officer of Health Section"

In view of the above facts and circumstances the article of charge-II is established fully.

iii. *Dr. B.P. "Samantaray in his statement recorded at Dock Vigilance Office on 02.06.2005 that his father retired might be in 1986 from Electricity Board, Orissa and was drawing his pension from Government of Orissa. He confirmed that he never availed of any LTC/medical bill in respect of his parents from Kolkata Port Trust at any time in his service. But FA&CAO in his, letter No. Fin/LTC/17 dated 01.07.2005 (Ext. M-XXXV) with enclosures (Exbt. M-XXXVa) and (Exbt. M-XXXVb) mentioned that Dr. B.P. Samantaray,. C.O. performed his journey in 1984-1987 block to Haridwar and back with his family members including his parents. But names of his parents were not included in the list of the family members.*

Whether names of parent included in F.D. Card No. 13151 and not included in F.D. Card

No.0855 whether parent's name deleted whether they left for Cuttack to stay with C.O.'s brother can be a matter for his record but officially parent's name cannot be included in F.D. Card of Kolkata Port Trust as they were never dependent on him.

On examining the enclosures attached with letter vide. No. Fin/4288 dated 13.11.2007 of FA&CAO, it appeared from enclosure (i) that Dr. B.P. Samantaray declared his father Mr. J.K Samantaray and mother Mrs. P. Samantaray along with others as his wholly dependent family members and as per enclosure (iii) of the above letter Dr. B.P. Samantaray applied on 12.10.1987 for the bill of cost under LTC for the said journey to Haridwar by A/C-2 tier for his said parents along with other family members and as per enclosure (iv) page 2 dated 12.10.1987 Dr. B.P. Samantaray received Rs.3,440/- as advance for the said journey to Haridwar.

The facts have also been admitted by C.O. as follows:-

a. His father after his retirement in 1986 was fully dependent upon him cannot be a fact whether he received pensionary benefit or not.

b. C.O. admitted in his written brief at page 18 that his parents availed LTC as per Exbt. M-XXXVb only in the block year 1984-1987.

In view of the above facts and circumstances the article of charge-III is also established.

4.74 Conclusively I am of the opinion that the charged officer failed miserably to defend the charges framed against him. He instead to defend charges tried to misguide the Enquiry Officer and wanted to dislocate its smooth process on various falsified grounds. He also tried to shield his charges by many cooked stories and tried to delay the enquiry by citing that he has filed writ before Hon'ble High Court and E.O. has to suspend the enquiry until there is an order from the Higher Courts. But I did not find any order passed on me by the Hon'ble High Court till passing of this final order."

4. The petitioner **appealed** against the said order, which was also dismissed by the **appellate authority** vide order dated 17.01.2011. The findings of the appellate authority **dismissing** the appeal filed by the petitioner against the report of the Enquiry Officer is as follows :-

“The EO in his findings of the inquiry held that all the three charges brought against the C.O were established.

A copy of the same report was sent to Dr. Samantaray under cover of letter no Vig/18/2006/53 dt 08.1.2010 for his comments on the findings of the enquiry. The C.O under cover of his letter no BPS/DW/2007/161 dt 27.1.2010 submitted his representation in the matter refuting all the three charges.

The Dy Chairman and the Disciplinary Authority having considered the findings of the inquiry, evidences adduced in support and against the charges in the inquiry and also the representation made by the C.O has agreed with the findings of the E.O in respect of all three charges and had passed order vide No Vig/18/2006/1111 dt 31.08.2010 for imposition of the penalty of reduction of pay of Dr. B.P. Samantaray by three stages for a period of one year with the further instruction that he will not earn increments of pay during the period of such reduction and that on expiry of such period, the reduction will have the effect of postponing the future increments of pay. It is further ordered by

the Disciplinary Authority that the total amount drawn by the charged officer, unauthorisedly, in connection with LTC for his parents be recovered from him in full, in one installment.

The Disciplinary Authority while imposing the above punishment against Dr. B.P. Samantaray has also observed that a lenient view may be taken against him in view of the fact that he is at the fag end of his career (superannuating on 29.2.2012).

Dr. B.P. Samantary under cover of his letter No BPS/Appeal/2010/20 dt. 08.10.2010 addressed to the undersigned had submitted his appeal, dt 06.10.2010, under Regulation 15 of Calcutta Port Trust Employees' (C.C.A) Regulations, 1987, against the said order of the Dy Chairman & Disciplinary Authority. He has also submitted one rejoinder no BPS/Appeal/2010 dt: 09.12.2010 to his appeal.

The undersigned being the Appellate Authority has since taken into consideration all the circumstances of the case, in the light of the contents of the aforesaid appeal and its rejoinder as made by Dr. B.P. Samantaray, and also the comments of the Dy Chairman & D.A, along with the relevant records of the case placed before me.

The undersigned is satisfied that the order imposing the punishment appealed against was passed by the then Dy Chairman & D.A after weighing all the available evidences on

record and with due application of mind and that the penalties imposed were adequate.

The undersigned does not find any ground for interfering with the order of the Dy Chairman & Disciplinary Authority.

The appeal dt 06.10.2010 and its rejoinder of Dr. B.P. Samantaray, Sr Medical Officer, Medical Department, KoPT (now Health Officer and O/c Workshop Dispensary), as mentioned above, is hereby rejected.

The Dy Chairman & D.A is advised to keep his order dt 31.8.2010 unaltered.”

5. Written notes filed by both the parties have been considered.
6. The Supreme Court in the ***State of Rajasthan and others – vs – Heem Singh, in Civil Appeal No. 3340 of 2020 decided on 29th October, 2020*** held :-

“33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But

they are not governed by strict rules of evidence which apply to judicial proceedings. **The standard of proof is** hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, **but a civil standard governed by a preponderance of probabilities.** Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy – deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. **At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact.** Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in **allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum.** Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. **To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity.** But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The

ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

7. In ***B. C. Chaturvedi – vs – Union of India and others* [(1995) 6 Supreme Court Cases 749 in Civil Appeal No. 9830 of 1995]**, the Supreme Court held that :-

"18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.

23. It deserves to be pointed out that the mere fact that there is no provision parallel to Article 142 relating to the High Courts, can be no ground to think that they have not to do complete justice, and if moulding of relief would do complete justice between the parties, the same cannot be ordered. Absence of provision like Article 142 is not material, according to me. This may be illustrated by pointing out that despite there being no provision in the Constitution parallel to Article 137 conferring power of review on the High Court, this Court held as early as 1961 in Shivdeo Singh case that the High Courts too can exercise power of review, which inheres in every court of plenary jurisdiction. I would say that power to do complete justice also inheres in

every Court, not to speak of a court of plenary jurisdiction like a High Court. Of Course, this power is not as wide as which this Court has under Article 142. That, however, is a different matter.

24. What has been stated above may be buttressed by putting the matter a little differently. The same is that in a case of a dismissal, Article 21 gets attracted, and, in view of the interdependence of fundamental rights, which concept was first accepted in the case commonly known as Bank Nationalisation case, which thinking was extended to cases attracting Article 21 in Maneka Gandhi v. Union of India, the punishment/penalty awarded has to be reasonable; and if it be unreasonable, Article 14 would be violated. That Article 14 gets attracted in a case of disproportionate punishment was the view of this Court in Bhagat Ram v. State of H.P. also. Now if Article 14 were to be violated, it cannot be doubted that a High Court can take care of the same by substituting, in appropriate cases, a punishment deemed reasonable by it.”

- 8. In Civil Appeal No. 5848 of 2021 (Union of India & Ors. vs. Dalbir Singh) the Supreme Court held (relevant paragraphs are reproduced herein):-**

“25. This Court in *Ajit Kumar Nag v. General Manager (PJ), Indian Oil Corpn. Ltd., Haldia & Ors.*, (2005) 7 SCC 764 held that the degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused “beyond reasonable doubt”, he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of “preponderance of probability”.

It was held as under:-

“11. As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible. In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused “beyond reasonable doubt”, he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of “preponderance of probability”. Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal court, the impugned order dismissing him from service deserves to be quashed and set aside.”

(Emphasis Supplied)

26. This Court in **Noida Entrepreneurs Association v. NOIDA & Ors. (2007) 10 SCC 385**, held that the criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public, whereas, the departmental inquiry is to maintain discipline in the service and efficiency of public service. It was held as under:

“11. A bare perusal of the order which has been quoted in its totality goes to show that the same is not based on any rational foundation. The conceptual difference between a departmental inquiry and criminal proceedings has not been kept in view. Even orders passed by the executive have to be tested on the touchstone of reasonableness. [See *Tata Cellular v. Union of India* [(1994) 6 SCC 651] and *Teri Oat Estates (P) Ltd. v. U.T., Chandigarh* [(2004) 2 SCC 130] .] The conceptual difference between departmental proceedings and criminal proceedings have been highlighted by this Court in several cases. Reference may be made to *Kendriya Vidyalaya Sangathan v. T. Srinivas* [(2004) 7 SCC 442 : 2004 SCC (L&S) 1011], *Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry* [(2005) 10 SCC 471 : 2005 SCC (Cri) 1605] and *Uttaranchal RTC v. Mansaram Nainwal* [(2006) 6 SCC 366 : 2006 SCC (L&S) 1341] .

“8. ... The purpose of departmental inquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offense for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental inquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be

stayed pending trial in the criminal cases against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental inquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offense generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law. When the trial for a criminal offense is conducted it should be in accordance with proof of the offense as per the evidence defined under the provisions of the Indian Evidence Act, 1872 [in short 'the Evidence Act']. The converse is the case of departmental inquiry. The inquiry in a departmental proceeding relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. ... Under these circumstances, what is required to be seen is whether the departmental inquiry would seriously prejudice the delinquent in his defense at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances."

27. This Court in **Depot Manager, A.P. State Road Transport Corporation v. Mohd. Yousuf Miya & Ors., (1997) 2 SCC 699**, held that in the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment. It was held as under:

"7. ...There is yet another reason. The approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings the question is whether the offences registered against him under the Prevention of Corruption

Act (and the Penal Code, 1860, if any) are established and, if established, what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different. Staying of disciplinary proceedings pending criminal proceedings, to repeat, should not be a matter of course but a considered decision. Even if stayed at one stage, the decision may require reconsideration if the criminal case gets unduly delayed.” (Emphasis Supplied)

28. Mr. Yadav, learned counsel for the writ petitioner has submitted that during the pendency of the writ petition before the High Court, 9 (1997) 2 SCC 699 the appellants were given opportunity to produce the registers of the entrustment of S.L.R. to the writ petitioner. But it was stated that record was not available being an old record as the incident was of 1993. The enquiry was initiated in 2013 after the acquittal of the writ petitioner from the criminal trial. Therefore, in the absence of the best evidence of registers, the oral evidence of use of official weapon stands proven on the basis of oral testimony of the departmental witnesses. 29. The burden of proof in the departmental proceedings is not of beyond reasonable doubt as is the principle in the criminal trial but probabilities of the misconduct. The delinquent such as the writ petitioner could examine himself to rebut the allegations of misconduct including use of personal weapon. In fact, the reliance of the writ petitioner is upon a communication dated 1.5.2014 made to the Commandant through the inquiry officer. He has stated that he has not fired on higher officers and that he was out of camp at the alleged time of incident. Therefore, a false case has been made against him. His further stand is that it was a terrorist attack and terrorists have fired on the Camp. None of the departmental witnesses have been even suggested about any terrorist attack or that the writ petitioner was out of camp. Constable D.K. Mishra had immobilized the writ petitioner whereas all other witnesses have seen the writ

petitioner being immobilized and being removed to quarter guard. PW-5 Brij Kishore Singh deposed that 3-4 soldiers had taken the Self-Loading Rifle (S.L.R.) of the writ petitioner in their possession. Therefore, the allegations in the chargesheet dated 25.2.2013 that the writ petitioner has fired from the official weapon is a reliable finding returned by the Departmental Authorities on the basis of evidence placed before them. It is not a case of no evidence, which alone would warrant interference by the High Court in exercise of power of judicial review. It is not the case of the writ petitioner that there was any infraction of any rule or regulations or the violation of the principles of natural justice. The best available evidence had been produced by the appellants in the course of enquiry conducted after long lapse of time.”

9. **In the present case**, it is apparent that the enquiry authority/disciplinary authority/appellate authority **have all followed the rules of natural justice**. The orders, findings and finally the penalty have all been given **on proper reasons and clear findings, based on evidence**. The reasoning given on the findings have prima facie proved that the petitioner has committed the irregularities.
10. The Disciplinary Authority in its **well reasoned detailed order**, gave specific findings proving the charges of misconduct against the petitioner. **(State of Rajasthan and Ors. Vs. Heem Singh., 2020 SCC OnLine SC 886)**
11. **The said findings are balanced and not biased, considering that they are based on extensive evidence, both oral and documentary.**

12. The penalty as imposed by the appointing authority is ***prima facie*** appropriate keeping in view of the magnitude and gravity of the misconduct. ***(B.C. Chaturvedi Vs. Union of India, (1995) 6 SCC 749)***
13. A writ Court has the jurisdiction in such proceedings to only ensure that the person aggrieved has had a fair trial and that principle of natural justice was followed while deciding the case and as to whether the punishment given is in proportionate to the offence committed. A writ Court cannot go into the details of evidence recorded and/or as to the discrepancies of the said finding and proceedings conducted by a disciplinary authority.
14. **The writ petition being WPO/408/2011 is thus dismissed.**
15. Proceedings and orders under appeal are found to be in accordance with the principles of natural justice and thus require no interference by this court.
16. All connected applications, if any, stand disposed of.
17. Interim order, if any, stands vacated.
18. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

[Shampa Dutt (Paul), J.]