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3. Learned counsel for the petitioner submits that qua the allegation of withdrawing the house rent on forged documents, once it has already come on record that the petitioner was not availing the Government accommodation, the charge could not have been established against the petitioner and therefore, the impugned order dated 09.08.1997 (Annexure P-2) dismissing the petitioner from service is liable to be set aside.

4. Despite notice, no one has appeared on behalf of the respondents.

5. In the reply which was taken on record, the respondents have stated that the petitioner remained absent without leave on more than one occasion and has also claimed the false house rent allowance on forged receipts without even availing any accommodation at Palwal. It has further been mentioned that after passing of the impugned order dated 09.08.1997 (Annexure P-2), the service appeal was preferred by the petitioner on 06.09.1997 (Annexure P-3) which was dismissed on 05.05.2000 (Annexure P-4) and once the petitioner has been dismissed from service after holding the disciplinary proceedings, merely on the ground that the punishment of dismissal has been imposed, is no ground to challenge the same.

6. I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

7. It may be noticed that the petitioner is working as an orderly in judicial institution. The employees, who are working in the judicial institution, have to maintain a discipline required for, so as for the smooth conduct of the judicial institution. Not only this, the employees working in the judicial institution have to have unblemished integrity. The said

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requirements have to be kept in mind while deciding the claim of the petitioner that the order dated 09.08.1997 (Annexure P-2) passed against the petitioner by dismissing him from service is valid or not.

8. As per the impugned order dated 09.08.1997 (Annexure P-2), the petitioner remained absent on more than one occasion i.e. on 04.11.1994, 05.11.994 and 16.06.1995 and that too without getting the leave sanctioned. Not only this, the allegation against the petitioner is submitting a false claim by submitting forged rent slips to claim the house rent allowance. Both the charges have been proved during the disciplinary proceedings and ultimately, the action has been taken by the punishing authority by dismissing the petitioner from service against which, the service appeal filed by the petitioner has also been dismissed vide order dated 05.05.2000 (Annexure P-4). Nothing evident has come on record that the petitioner was not given an opportunity to defend himself in the departmental proceedings. Once, after due opportunity was given to the petitioner to defend himself in the disciplinary proceedings, the findings which have been recorded by the Inquiry Officer proving the charges, this Court is not to sit in an appeal to re-evaluate the evidence which came on record during the disciplinary proceedings to decide whether, the order dated 09.08.1997 (Annexure P-2) passed by the punishing authority as well as the order dated 05.05.2000 (Annexure P-4) passed by the Appellate Authority is required to be modified. Once a particular view taken by the authorities is permissible and the authorities have taken the same, this Court will not upset the same on the asking of the petitioner that the punishment other than the one imposed should have been imposed upon the petitioner.



This Court is not to re-open the inquiry proceedings so as to re-evaluate the evidence on record and to record a finding other than the one recorded by the Inquiry Officer or to modify the punishment imposed i.e. of dismissal from service by the punishing authority which punishment can be imposed by the punishing authority under the Rules governing the service.

9. The argument of the learned counsel for the petitioner is that the punishment is disproportionate to the charges alleged and proved.

10. As per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.219 of 2023 titled as Union of India and others vs. Const. Sunil Kumar, decided on 19.01.2023***, the punishment imposed should not be disproportionate but should be shockingly disproportionate in order to modify the same. The relevant paragraph of the said judgment is as under:

“ 6.2 Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In the case of Surinder Kumar (supra) while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in the case of [Union of India Vs. R.K. Sharma](#); (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity



or irrationality, there can be judicial review under [Article 226](#) or 227 or under [Article 32](#) of the Constitution.

6.3 Applying the law [laid down by](#) this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under [Article 226](#) of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent.

6.4 At this stage, it is required to be observed that even while holding that the punishment/penalty of dismissal disproportionate to the gravity of the wrong, thereafter, no further punishment/penalty is imposed by the Division Bench of the High Court except denial of back wages. As per the settled position of law, even in a case where the punishment is found to be disproportionate to the misconduct committed and proved the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority. On this ground also, the impugned judgment and order passed by the Division Bench of the High Court is unsustainable.”

11. In the present case, on the ground of unauthorized absence on more than one occasion as well as submitting the forged document to claim the house rent allowance have been proved in the departmental inquiry. An



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employee, who is working in the judicial institution and commit such kind of misconduct, which is a major misconduct, no leniency can be shown. The discipline as well as the integrity of the employees have to be maintained so that the judicial institution work in a manner required where the common man poses faith to get justice.

12. Keeping in view the settled principle of law noticed hereinbefore and the allegations made against the petitioner and proved, the punishment is not shockingly disproportionate to the charges alleged and proved. A person, who is capable of forging the documents so as to claim false rent allowance, cannot be allowed to work in the institution so as to save the integrity of the institution itself.

13. Keeping in view the totality of the circumstances, no ground is made out for any interference by this Court in the present writ petition.

14. Accordingly, the writ petition is dismissed.

15. Civil miscellaneous application pending if any, also stands disposed of.

April 02, 2025

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No