



2025:DHC:108



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decided on 08.01.2025

+ W.P.(C) 10874/2022
MANOJ KUMAR

.....Petitioner

Through: Mr. S.C. Singhal, Advocate for Mr.
M.S. Rohilla, Advocate.

versus

HONBLE DISTRICT AND SESSIONS JUDGE,
HEAD QUARTERS

.....Respondent

Through: Mrs. Avnish Ahlawat,
Standing Counsel (GNCTD)
Services with Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik, Ms.
Aliza Alam and Mr.
Mohnish Sehrawat, Advocates.

CORAM:**HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. By way of this petition under Article 226 of the Constitution, the petitioner assails an order of the Disciplinary Authority dated 09.11.2017, by which penalty of dismissal from service was imposed upon him, as well as an order dated 06.12.2017 declining to review the aforesaid order, and the order of the Appellate Authority dated 20.05.2022, by which the order of the Disciplinary Authority was affirmed.

2. On the very first date of hearing of this writ petition, the Court recorded that the challenge was pressed only on the issue of proportionality of the penalty imposed upon the petitioner, and notice was

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issued confined to this aspect.

3. I have heard Mr. M.S. Rohilla, learned counsel for the petitioner, and Mrs. Avnish Ahlawat, learned counsel for the respondent, on this limited question.

4. The petitioner was in the service of the District Courts, Delhi, as a Process Server. The disciplinary proceedings arose under a memorandum dated 30.08.2011. The allegation against the petitioner was based upon a statement made by one Mr. Praveen Kumar before the Motor Accident Claims Tribunal in connection with Case No. 538/2008, in which he was a respondent. The allegation was that summons were issued to Mr. Praveen Kumar to appear before the Tribunal on 26.08.2008, but when the petitioner visited the residence of Mr. Kumar on 24.08.2008, he demanded a sum of Rs.300/- from Mr. Kumar, in order to furnish a report that the petitioner's premises was locked. It was the contention of Mr. Kumar that he refused to pay, and the summons were not delivered to him. However, Mr. Kumar appeared before the Tribunal, and his statement to this effect was recorded on 27.08.2008. Pursuant to this statement, the learned Presiding Officer of the Tribunal sent a report to the learned District & Sessions Judge dated 27.08.2008, which led to the commencement of disciplinary proceedings against the petitioner. The Disciplinary Authority, by its order dated 09.11.2017, noted that the disciplinary inquiry was held on the following charges:

"That Sh. Manoj Kumar, Process Server (Emp. Code: 90310) S/o Sh. Anoop Singh, while posted in Nazarat Branch, Rohini Courts, Delhi were entrusted with three summons in petition No. 536/08, titled as "Arun Mishra Vs. Praveen Kumar" in petition N. 537/08 titled as "Meera Devi Vs. Praveen Kumar" and in petition No. 538/08, titled as "Hari Mohan Jha Vs. Praveen Kumar" issued from the court of Sh.



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Pradeep Chaddah, Ld. Judge. MACT, Rohini Courts, Delhi for effecting service upon Sh. Praveen Kumar. Respondent No. 1 at R/o Gali No. 18, Plot No. 1, Near Honda Service Centre, Rithla Village, Delhi for appearance before the court on 26.08.2008 but he gave false report on the summons that the house of Sh. Praveen Kumar, Respondent No. 1 was found locked. After enquiry from neighbourhood, it was come to notice that Sh. Praveen Kumar went to his village.

Whereas as per statement of Sh. Praveen Kumar dated 27.08.2008, he is residing at the aforesaid address since 15 years. On 24.08.2008 at about 02:00 PM, he reached at the aforesaid address for effecting service of summons and demanded bribe of Rs. 300/- from Sh. Praveen Kumar, Respondent No. 1. He said that in case Sh. Praveen Kumar paid him, he will give report that the room of Sh. Praveen Kumar was found locked and Sh. Praveen Kumar would not have to appear before the court. Sh. Praveen Kumar, Respondent No. 1 refused to pay him. Thus, he did not deliver the summons to Sh. Praveen Kumar. Respondent No. 1.

Being a Government servant, he was required to serve the process and return the same to the Nazarat Branch/concerned court within the time and maintain integrity and devotion to his duty but he failed to do so.”

5. The petitioner did not submit a reply to the memorandum of charges. The Inquiry Officer, by his report dated 03.06.2013, held the charge proved.

6. The petitioner was served with a notice dated 03.07.2013 under Rule 15(2) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. His reply dated 18.07.2013 was considered by the Disciplinary Authority, and he was also given an opportunity of personal hearing. The Disciplinary Authority recorded the following order:

“10. It is not in dispute that the delinquent was posted as Process Server in Nazarat Branch, North District, Rohini Courts, Delhi and assigned the alleged summons for effecting its service upon Sh. Praveen Kumar, Respondent No. 1. It has come on record that the delinquent did not deliver the said summon to the Respondent No. 1 namely Sh. Praveen Kumar and demanded bribe of Rs. 300/- and filed false report. The plea raised by the delinquent is that he did not meet any of person



namely Sh. Praveen Kumar as the premises was found locked. However, the complainant Sh. Praveen Kumar appeared in the concerned court without service of summon and identified the delinquent for the first time in the court of Sh. Pradeep Chaddha, Judge MACT, Rohini Court, Delhi. The delinquent also raised his plea that he did not demand any bribe from the complainant Sh. Praveen Kumar, but the complainant Sh. Praveen Kumar has consistently and categorically testified that the delinquent demanded Rs. 300/- from him for making false report. The defence of the delinquent is merely bald averment without any evidence support of his case. I, therefore, have no reason to differ with the finding given by the Inquiry Officer.

11. Keeping in view the facts and circumstances of the case and nature of misconduct committed by the delinquent, I am of the view that ends of justice would be met by imposing a penalty of 'dismissal from service'.

12. In exercise of the powers conferred under sub-rules (4) & (5) of Rule 30 of Delhi District Courts Establishment (Appointment & Conditions of Service) Rules, 2012. I hereby impose a penalty of dismissal from service upon the delinquent Sh. Manoj Kumar, Process Server with immediate effect."

7. After dismissal of his application for review of the order, the petitioner filed an appeal before the Appellate Authority. The order of the Appellate Authority dated 20.05.2022 affirmed the findings of the Disciplinary Authority, both on merits and on the quantum of punishment. As far as the quantum of punishment is concerned, which is the only aspect under challenge in this writ petition, the order of the Appellate Authority is as follows:

"16. On the quantum of the punishment, I again find no merit on the submission of the learned Defence Assistant. The appellant was posted as a Process Server at the relevant time. The Court relies upon the report of the Process Server for finding whether the person sought to be served has been duly served and further proceeding against him can be taken in the case of his non-appearance in the court. Therefore, utmost faith and trust is reposed by the court on the report of the Process Server. He discharges an important function in judicial dispensation. Any infraction by him in his duty and the breach of faith reposed upon him, therefore, has to be taken seriously, and must be dealt with appropriately. I, therefore, find that the punishment imposed



upon the appellant is proportionate to the charges established against him.”

8. Mr. Rohilla cited the judgments of the Supreme Court in *Ranjit Thakur vs. Union of India And Ors.*¹, and in *H.B. Gandhi, Excise and Taxation Officer-Cum Assessing Authority, Karnal And Ors. vs. M/s Gopi Nath & Sons And Ors.*², to submit that a disproportionate punishment, which shocks the conscience of the Court can be set aside in writ proceedings.

9. Ms. Ahlawat drew my attention to certain judgments, which also deal with the scope of challenge to quantum of punishment in disciplinary proceedings, on the ground of proportionality. The principles have been summarised in paragraph 19 of the judgment in *Lucknow Kshetriya Gramin Bank v. Rajendra Singh*³, as under:

“19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

¹(1987) 4 SCC 611

²[1992 Suppl. (2) SCC 312]

³(2013) 12 SCC 372



19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

10. The principle that emerges from the above judgments is that the quantum of punishment is generally a matter within the domain of the disciplinary authority, but the interference of the Writ Court is warranted if the punishment is so incommensurate with the charge, as to shock the conscience of the Court or lead to the conclusion that no prudent person would have imposed such a punishment.

11. Applying these principles to the facts of the present case, I do not find the impugned orders to be arbitrary or perverse, as to meet this high standard. The petitioner was employed in the District Courts as a Process Server. He thus played an important role in the administration of justice, a role which has a bearing on the Court's duty to observe the principles of natural justice. The report of the Process Server is relied upon by the Courts to determine whether the noticee or summoned person has been duly served, and whether the case can, therefore, proceed even in his or her absence. Any compromise with the integrity of that process, ultimately compromises the Court's compliance with the rules of natural justice, and thus prejudices the administration of justice. The factual findings of the disciplinary authority, affirmed by the Appellate



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Authority, are that the petitioner had demanded illegal gratification in lieu of filing a false report before the Court. These findings are not under challenge. In such circumstances, there is no ground to interfere with the view of the Disciplinary Authority and the Appellate Authority, that the petitioner is liable to the punishment of dismissal from service.

12. For the aforesaid reasons, the writ petition is dismissed.

PRATEEK JALAN, J

JANUARY 8, 2025

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