



2025:DHC:3160-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13272/2019, CM APPL. 28483/2023**

NARENDER KUMAR

.....Petitioner

Through: Mr. M.K. Gaur and Mr. Anoop
Kumar, Advs.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms. Nidhi Raman, CGSC with
Mr. Akash Mishra, Adv. for UOI

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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17.04.2025

C. HARI SHANKAR, J.

1. Disciplinary proceedings instituted against the petitioner on 4 November 2009 under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, culminated in an order dated 30 July 2010, dismissing the petitioner from service. A statutory appeal, preferred against the decision, was also dismissed on 15 February 2011. The petitioner challenged the inquiry proceedings, as well as the punishment order, before the Central Administrative Tribunal¹ by way of OA 4085/2011. By the judgment dated 12 December 2018, under challenge herein at the instance of the petitioner, the Tribunal has dismissed the OA.

¹ "the Tribunal" hereinafter



2. The petitioner, in his OA, challenged the disciplinary proceedings on various grounds, including violation of the principles of natural justice, competence and attitude of the Inquiry Officer, and merits. We reproduce, hereunder, Grounds 5.1 to 5.7 in the OA:

5 GROUNDS OF CHALLENGE:

The applicant has challenge the impugned orders (A-1) & (A-2) on the following amongst other grounds:-

5.1 Because the inquiry is conducted by the inquiry officer is perverse & vitiated being held in a biased manner with a predetermined mind and is altogether containing procedural impropriety, illegality and irrationality.

5.2 Because the applicant was not afforded full opportunity of fair hearing and was conducted by an indecisive inquiry officer whose veracity was already challenged. The inquiry was conducted in an atmosphere of administrative obstinacy.

5.3 Because the applicant was implicated in the theft case of spare parts of Tatra Vehicle which were of considerable magnitude to the extent more than 214 lakh. The whole exercise was done with an object to make the applicant a scape goat to save the skin of some high officers vehicles of one of them itself was involved in the matter which was intercepted by Army intelligence and was based on the statement of main accused whose statements are nowhere corroborated by any ones cogent evidence.

5.4 Because there was no theft case was reported neither to the Local Civil Police nor to OMR or got to be investigated by the Army Intelligence with the obvious reason had the matter been reported to the local Civil Police, this would have been adjudicated by the Judiciary and the high officer involved could have been exposed. As. such the pleas advanced in the appeal are not properly appreciated rather ignored.

5.5 Because admittedly the inquiry officer at his own volition without following the due procedure had dosed the inquiry proceedings, even if the inquiry was abandoned for any reason what so ever by the Applicant himself the Inquiry Officer before closing the inquiry was duty bound to take some appropriate measure to establish that the inquiry was abandoned by the



Applicant at his own failures only then it could have been deemed to have appropriately been closed as per provisions laid down under Rule 14(20) of CCS (CC&A) Rules. The inquiry office did not adopt any such methodology. Even the comments called for by the disciplinary authority on the applicants objections thereon were not covered under any provisions of the Rules of CCS. (CC&A) Rule 1965 under which inquiry was held.

5.6 Because no evidence as to how the Commanders Vehicle laden with spare parts was allowed to flee from the main gate is not specifically explained and the security guards were not made prosecution witness in the inquiry.

5.7 Because as a matter of fact there was no cogent evidence against the applicant as could be established by way of applicants written objection (c) at internal page 5 of his written representation on inquiry report which is totally ignored by the Disciplinary Authority and the inquiry officer from whom comments were called.

3. We have heard Mr. M.K. Gaur, learned Counsel for the petitioner and Ms. Nidhi Raman, learned CGSC for the respondents, at length.

4. Having perused the order of the Tribunal, we find that there is no discussion whatsoever regarding the merits of the matter. All that is done is that three judgments of the Supreme Court have been cited and the OA has been dismissed holding that due procedure was followed.

5. We have had occasion to set aside several similar orders passed by the same Bench of the Tribunal. The Tribunal is required to address the grounds taken by the applicant in the OA. A challenge to disciplinary proceedings, and the penalty that results, cannot be rejected solely on the ground that due process was followed. The Court, before whom the challenge is laid, has to also address itself to



the merits of the matter, and the sustainability of the findings against the charged officer, where the findings are assailed on merits. Of course, while doing so, the Court has to remain conscious of the fact that it is not sitting as a court of appeal and has, therefore, to restrict its analysis within the legitimate limits of judicial review and *certiorari*.

6. The Tribunal, however, was clearly in error in dismissing the OA solely on the ground that due procedure had been followed.

7. For the aforesaid reasons, the impugned order of the Tribunal is quashed and set aside and the OA stands remanded to the Tribunal for consideration afresh.

8. Both sides shall appear before the Tribunal on 8 May 2025.

9. We make it clear that we have made no observations regarding the merits of the disputes between the parties. Learned Counsel for the parties undertake not to take any adjournment before the Tribunal and the Tribunal will endeavour to dispose of the matter as expeditiously as possible preferably within a period of three months after hearing the matter.

10. We also clarify that the Tribunal shall consider the matter afresh, uninfluenced and unhampered by the impugned order dated 12 December 2018, or any observations or findings contained therein.



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11. The writ petition stands allowed to the aforesaid extent, with no orders as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 17, 2025/aky

Click here to check corrigendum, if any