IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.4984 of 2020
Decided on: 30th October, 2026

Mohan Dutt ...Petitioner

versus

State of H.P. and another ...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?[1]

For the petitioner:	**Mr. Tara Singh Chauhan, Senior Advocate with Mr. Surya Chauhan, Advocate.**
For the respondents:	**Mr. Hemant Kumar Verma, Deputy Advocate General.**

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner by way of present petition has prayed for the following substantive relief:-

> *"a). That the respondent may kindly be directed to quash and set aside the orders dated 28th April 2012 (A-1) and order dated 6th Feb 2013 (A-2)."*

2. Shorn of unnecessary details, the key facts of the case are that the petitioner was charge-sheeted under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for short 'CCS (CCA) Rules, 1965') for unauthorizedly taking departmental vehicle for his personal journey and also for careless

[1] *Whether the reporters of Local Papers may be allowed to see the judgment?*

driving leading to the accident of vehicle, thereby resulting loss of Government property. After conducting the departmental enquiry, vide office order dated 28.04.2012 (Annexure A-1), a penalty of reduction to the lower post of Peon-Class-IV with immediate effect was imposed as prescribed under Rule 11 (vi) of the CCS (CCA) Rules, 1965 and all the pecuniary losses caused to the Government was ordered to be recovered in monthly installments of Rs.2000/- per month from the salary of the petitioner.

3. The petitioner feeling aggrieved by the said order of penalty imposed upon him had preferred a statutory appeal and respondent No.1 had allowed the said appeal, vide order dated 06.02.2013 (Annexure A-2) and the order dated 28.04.2012 (Annexure A-1) passed by respondent No.2 was modified to the extent that instead of reduction to the lower service of the Peon from the post of Driver, penalty of stoppage of two increments for a period of two years without cumulative effect was imposed and the order of recovery was maintained.

4. The Appellate Authority while modifying the order of penalty imposed by the Disciplinary Authority had taken a lenient view, thereby imposing penalty of stoppage of two increments that too without cumulative effect for a period of two years and the

monthly recovery of Rs.2000/- for the loss caused to the Government vehicle till the recovery of whole amount of Rs.81,000/.

5. The petitioner thereafter made a representation regarding the order dated 06.02.2013 on 26.12.2015 and requested that two increments dated 01.10.2013 and 01.10.2014, which were stopped as penalty, were due to be issued to him with effect from 01.10.2015, but the same were issued to him with effect from 01.10.2015 and 01.10.2016 respectively. The said representation made by the petitioner was considered and respondent No.1 vide order dated 05.12.2017 (Annexure A-4) had clarified that two increments granted at the end of penalty and one in previous year be stopped for two years, so that the currency of penalty will be for two years only. After passing the aforesaid order, the pay of petitioner was re-fixed, vide order dated 20.01.2018 (Annexure R-5).

6. The petitioner feeling aggrieved by the order dated 28.04.2012 passed by Disciplinary Authority and the order dated 06.02.2013 passed by the Appellate Authority, has approached this Court, *inter alia* on the ground that he was also tried for commission of the offences under Sections 279, 337, 338 of the Indian Penal Code and Sections 181 and 185 of the Motor Vehicles Act, 1988. However, he was acquitted by the learned Additional Chief Judicial

Magistrate, Court No.1, Shimla, H.P. vide judgment dated 24.09.2014 (Annexure A-3) and once the petitioner has been acquitted, the penalty imposed upon him be quashed and set aside. It has further been averred that the orders passed by the authorities are wrong, illegal and cannot sustain in the eyes of law.

7. The respondents filed reply to the petition and in preliminary submissions averred that the petitioner was charge sheeted under Rule 14 of the CCS (CCA) Rules, 1965 for taking departmental vehicle unauthorizedly for his personal journey. After conducting the enquiry, the petitioner was issued a memo dated 06.09.2010 and vide order dated 28.04.2012, penalty of reduction to lower service as specified under Rule 11(vi) of the CCS (CCA) Rules, 1965 was imposed upon him and, his rank was reduced to the post of Peon-Class-IV with immediate effect. Further, all the pecuniary losses caused to the Government were ordered to be recovered from him in monthly installment of Rs.2000/- per month.

8. Against the penalty imposed by the Disciplinary Authority, the petitioner had filed an appeal before respondent No.1, which was partly allowed vide order dated 06.02.2013 and a lenient view was taken, whereby the order of penalty imposed was modified to the extent that instead of reduction to lower service/rank from the post of Driver to Peon, penalty of stoppage of two increments

for a period of two years without cumulative effect was imposed. Further, the monthly recovery of Rs.2000/- for the loss caused to the vehicle was retained till the recovery of the whole amount is made.

9. The petitioner had preferred the representation on 26.12.2016 and on the representation, respondent No.1 had passed an office order dated 05.12.2017 (Annexure A-4), clarifying therein that the two increments granted at the end of the penalty and one in the previous year be stopped for two years, so that the currency of penalty will be for two years only.

10. On merits, it has been averred that the criminal case and the departmental proceedings against the petitioner were different from each other, as the FIR was lodged against the petitioner for rash and negligent driving, whereas, the departmental proceedings were instituted for taking departmental vehicle unauthorizedly for his personal journey without permission of the competent authority and also for careless driving leading to the accident of vehicle, thereby causing loss to the Government property. In view of these facts, a prayer has been made to dismiss the petition.

11. I have heard the learned counsel for the parties and also perused the record carefully.

12. Mr. Tara Singh Chauhan, learned senior counsel duly assisted by Mr. Surya Chauhan, Advocate representing the petitioner has vehemently argued that once the petitioner has been acquitted of the charges levelled against him, vide judgment dated 24.09.2014 (Annexure A-3), the order of penalty imposed by respondent No.2 being the Disciplinary Authority, which order has subsequently been modified by respondent No.1 being the Appellate Authority, is not sustainable in the eyes of law and thus, the same may be quashed and set aside.

13. On the other hand, Mr. Hemant Kumar Verma, learned Deputy Advocate General has supported the order passed by the respondents. He further submits that the criminal case and departmental proceedings were initiated on different charges. The criminal case was lodged against the petitioner for rash and negligent driving and for commission of the offences under the Motor Vehicles Act, whereas the departmental proceedings were initiated for taking the Government vehicle for personal journey, without permission of competent authority and also for careless driving leading to the accident of vehicle, thereby causing loss to the Government property. He further argued that respondent No.2 had initially imposed penalty of reduction of the petitioner to the lower post of Peon-Cass-IV with immediate effect. However, subsequently

in an appeal preferred by him, respondent No.1 had taken a lenient view, thereby modifying the penalty imposed upon the petitioner. He further argued that this Court while exercising the writ jurisdiction cannot interfere with the order passed by the Disciplinary Authority, which has been modified by the Appellate Authority and this Court can interfere only in case there is illegality having been committed by the Enquiry Officer and further the punishment imposed by the Disciplinary Authority is disproportionate to the charges framed against the petitioner.

14. In the present case, from the facts narrated above, the petitioner had taken the vehicle without permission of the competent authority, which had subsequently been met with an accident. It is not the case of the petitioner that he was not granted the opportunity to defend himself in the enquiry.

15. It is by now settled in a catena of judgments of the Hon'ble Supreme Court that this Court cannot substitute the view taken by the Disciplinary Authority or the Appellate Authority while imposing the penalty. It can only interfere with the penalty, if the same is disproportionate to the charges levelled against the delinquent officer. In the present case, admittedly, the petitioner had taken the vehicle without permission of the competent authority and further caused loss to the Government vehicle, which was

assessed to the tune of Rs.81,000/- and ordered to be recovered from him. Therefore, the penalty imposed upon the petitioner is appropriate and cannot be said to be disproportionate to the Articles of charge and this Court is not inclined to interfere with the penalty imposed upon him.

16. So far as the plea raised by the learned senior counsel for the petitioner that the petitioner has been acquitted of the offences registered against him in the FIR is concerned, that has nothing to do with the departmental proceedings, because the petitioner was tried for the offences registered against him in the FIR for rash and negligent driving and violation of the provisions of the Motor Vehicles Act and the departmental proceedings were initiated against him for taking departmental vehicle unauthorizedly for his personal journey without permission of the competent authority and also for careless driving leading to accident of the vehicle, thereby causing loss to the Government. Once the findings have been returned by the Enquiry Officer and further the Disciplinary Authority had considered the matter after perusing the enquiry report had imposed penalty, which was subsequently modified by the Appellate Authority by exercising the jurisdiction vested in it, this Court is not interfering with the said findings of fact.

17. This Court while exercising powers under Article 226 of the Constitution of India cannot act as an Appellate Court to interfere with the findings of fact recorded by the Enquiry Officer on the basis of which, the Disciplinary Authority had imposed penalty, which was modified by the Appellate Authority, who had taken a lenient view in the matter and modified the penalty from reduction in rank to stoppage of two increments for a period of two years without cumulative effect which is strictly in consonance with and is proportionate to the charges levelled against the petitioner.

18. Learned Deputy Advocate General has placed reliance upon the judgment of the Hon'ble Supreme Court in **Ajit Kumar Nag** vs. **General Manager (PJ), Indian Oil Corpn. Ltd., Haldia and Others,** (2005) 7 SCC 764 and contended that the acquittal by a criminal Court would not debar an employer from proceeding in the departmental proceedings. It is settled law that the acquittal by a criminal Court is not sufficient to exonerate the person in the departmental proceedings. Further, the burden of proof in the criminal case is on the prosecution and unless the prosecution is able to prove the guilt of the accused beyond reasonable doubt, the accused cannot be convicted. However, in the departmental inquiry, a penalty can be imposed on the delinquent officer on a finding recorded on the basis of the preponderance of probability.

19. As already noticed above, in the present case, the Appellate Authority had taken a lenient view by modifying the penalty imposed upon the petitioner by the Disciplinary Authority, which was based on the enquiry report submitted by the Enquiry Officer and this Court is not inclined to interfere with the order passed by the Appellate Authority and accordingly the petition is without any substance.

20. Consequently, the present petition being devoid of any merit is dismissed. However, there shall be no order as to costs. Pending applications, if any, also stand disposed of.

(**Jiya Lal Bhardwaj**)
Judge

30th October, 2026
(naveen)