



W.P. Nos.2139-5964/2024 & 17888/2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
24.02.2026	05.03.2026

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.2139 & 5964 OF 2024

W.P. NO. 17888 OF 2025

AND

W.M.P. NOS. 2294 OF 2024 & 20116 & 20118 OF 2025

W.P. No.2139 of 2024

K.Senthilkumar

.. Petitioner

- Vs -

1. The Secretary to Government
Housing & Urban Development
(HBI (2)) Department
Fort St. George, Chennai 600 009.

2. The Managing Director
Tamil Nadu Housing Board
493, Anna Salai, Nandanam
Chennai 600 035.

. Respondents

W.P. No.5964 of 2024

D.Sukumar

.. Petitioner

- Vs -

1. The Managing Director



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Tamil Nadu Housing Board
CMDA Complex, E&E Market Road
Koyambedu, Chennai 600 107.

2. The Secretary to Government
Housing & Urban Development
(HBI (2)) Department
Fort St. George, Chennai 600 009.

. Respondents

W.P. No.17888 of 2025

R.Niraimathi

.. Petitioner

- Vs -

1. The Principal Secretary to Government
Housing & Urban Development
(HBI (2)) Department
Fort St. George, Chennai 600 009.
2. The Managing Director
Tamil Nadu Housing Board
Koyambedu
Chennai 600 107.

.. Respondents

W.P. No.2139 of 2024 filed under Article 226 of the Constitution of India
praying this Court to issue a writ of certiorarified mandamus calling for the
records pertaining to the order of the 2nd respondent dated 30.04.2019 in
proceedings No.DC2/13481/2016/1 and that of the order of the 1st respondent
dated 1.11.2023 in G.O. (D) No.78 and quash the same and consequently direct



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the respondents to reinstate the petitioner in service and restore all service and monetary benefits to the petitioner.

W.P. No.5964 of 2024 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records pertaining to the order of the 1st respondent in connection with the impugned order passed by him in proceedings No.DC2/13481/2016-2 dated 30.04.2019 and confirmed by the 2nd respondent in his proceedings GO (D) No.77, Housing & Urban Development (BHI (2)) Department dated 1.11.23 and quash the same and consequently direct the respondents to reinstate the petitioner in service and restore all service and monetary benefits to the petitioner.

W.P. No.17888 of 2025 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the 1st respondent in G.O. (D) No.49 dated 4.7.2023 confirming the order passed by the 2nd respondent in proceedings No.DC2/13481/2016-4 dated 30.04.2019 and quash the same and consequently direct the respondents to reinstate the petitioner in service and restore all service and monetary benefits.

For Petitioners : Ms. Dakshayini Reddy, SC, for
M/s. A.Mohd. Ismail in WP 2139/24
Mr. K.Venkatramani, SC, for
Mr. M.Muthappan in WP 5964/24
Mr. R.Ananth in WP 17888/25



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For Respondents : Mr. D.R.Arunkumar for TNHB
Mr. K.Surendran, AGP for R-1
In WP 2139/24 & 17888/25 & for
R-2 in WP 5964/25

COMMON ORDER

Aggrieved by the impugned orders in and by which the petitioners were dismissed from service, the writ petitions have been preferred by the petitioners.

2. The short facts leading to the filing of the writ petitions could be summarised as under :-

The petitioner in the respective writ petitions in W.P. No.5964/24, 2139/24 and 17888/25, were working as Works Assistant, Surveyor and Manager (Marketing & Service) in the Tamil Nadu Housing Board (for short 'the Board'). While they were working in the Board, they were suspended on the ground that they colluded and issued sale deeds in respect of Commercial Plot Nos.K-2 and K-1B2 at Arumbakkam without the orders of the competent authority by illegally creating documents without following the allotment procedures and, thereby, caused loss of valuable lands belonging to the Board.



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3. The petitioners were proceeded with departmentally and after obtaining explanation and not being satisfied with the explanation offered by the petitioners, four charges were framed and a common enquiry was conducted in which the enquiry officer initially appointed proceeded on leave and, therefore, the enquiry was conducted by the Chief Revenue Officer of the Housing Board. After conducting enquiry in which no witnesses were examined to speak about the allegations, the enquiry officer submitted his enquiry report holding the charges proved against the petitioners.

4. The disciplinary authority, upon providing a copy of the enquiry report to the petitioners called for further explanation to which the respective petitioners submitted their explanation and being not satisfied with the explanation, the disciplinary authority placed the matter before the disciplinary committee and the disciplinary committee, finding that the charges levelled against the petitioners are grave in nature and considering the findings of the enquiry officer recommended imposition of punishment of dismissal of the petitioners from service. It is further averred by the petitioners that the recommendation of dismissal from service was examined by the Board and the



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Board accepted to accept the recommendation of dismissal from service and the petitioners were accordingly dismissed from service vide order dated 30.04.2019.

5. Aggrieved by the said order, the petitioners preferred statutory appeal before the appellate authority and as there was no response, the petitioners preferred writ petition in which direction was given to pass orders on the said appeal based on the fresh representation that the petitioners were permitted to give. However, inspite of the directions of this Court to dispose of the representation and decide the appeal within a period of eight weeks, after a lapse of 4 ½ years, the impugned Government Orders have come to be passed rejecting the appeal of the petitioners and confirming the order of punishment imposed on them, which copy of the order was not given to the petitioners, but was made available only on an application under the Right to Information Act. Aggrieved by the order of dismissal passed by the 1st respondent, which has been confirmed by the 2nd respondent, the present writ petitions have been filed by the respective petitioners.

6. Learned senior counsel appearing for the respective petitioners submitted that the impugned order passed by the 1st respondent is a non-



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speaking order, as there is no independent application of mind to the materials, but mere reference has been drawn to the charges, the report and the recommendations of the committee. The non-application of mind and the non-speaking nature of the order renders the order perverse and arbitrary.

7. It is the further submission of the learned senior counsel that it is incumbent on the disciplinary authority to consider the charges individually and the explanation offered thereto and also the representation made by the petitioners with regard to the report before passing any order of punishment against the petitioners. None of the points/contentions raised by the petitioners with regard to the enquiry report have been considered by the disciplinary authority.

8. It is the further submission of the learned senior counsel that it is the independent duty of the disciplinary authority to consider the materials placed for passing orders on the enquiry report and it is not permissible for the disciplinary authority to constitute a committee to look into the charges, the findings and the report and make a recommendation to the disciplinary authority. It is the submission of the learned senior counsel that it is the duty of



the disciplinary authority to analyse the materials, viz., the charges, explanation and the report as also the evidence before imposing any punishment. However, the disciplinary authority has merely accepted the recommendations of the committee to impose the punishment, which is grossly impermissible and alien to service jurisprudence, more particularly departmental proceedings.

9. It is the further submission of the learned senior counsel that the enquiry report is wholly fallacious as no oral evidence was tendered in the enquiry as once a charge memo is initiated and enquiry is ordered, it is the duty of the enquiry officer to table both oral and documentary evidence on which the delinquent should be permitted to cross examine. However, no witness was examined nor any files have been produced or marked. Only a finding has been rendered holding that the charges have been proved. The well settled procedure laid down in a catena of decisions of the Apex Court in the conduct of enquiry have not been followed before arriving at a finding as to the delinquency of the petitioners.

10. It is the further submission of the learned senior counsel that even the appellate order of the 2nd respondent is a non-speaking order as it is bereft of any



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proper reasons and, therefore, the same also cannot be sustained. Further, it is the submission of the learned senior counsel that though this Court had directed the appellate authority to pass orders within a period of eight weeks, however, unmindful of the said direction, the order has been passed after a lapse of four years and the inordinate delay without proper explanation is alone sufficient to quash the impugned orders.

11. It is the further submission of the learned senior counsel that even otherwise, the alleged sale deeds have been cancelled by the Board and that there is no financial loss to the Board and, therefore, the punishment imposed on the respective petitioners is grossly disproportionate and deserves interference.

12. It is the further submission of the learned senior counsel that the petitioner, who was functioning as Manager was made to sign the sale deed under threat and coercion. It is the further submission of the learned senior counsel that the charges are said to have been proved on the sole ground that even without any file and allotment order, the sale deeds have been executed in favour of the individuals. However, the enquiry officer had based his conclusions



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on the statements given by the delinquent, which alone would not be suffice to fasten the liability and delinquency on the petitioner.

13. It is the further submission of the learned senior counsel that the allegations have been held to be proved on the mere admission of the petitioner that as the Manager she has signed the sale deed, but forgetting the fact that the petitioner has clearly stated that she had signed on account of threat and coercion meted out to her in her room when a mob assembled in her room and meted out the threat, which is known to the entire office, but no witness was examined to disprove the stand taken by the petitioner and, therefore, the enquiry officer has miserably failed to establish the charges through proper evidence.

14. It the submission of the learned counsel appearing for the petitioner, who was the surveyor that he had prepared the FMB sketches and provided the same only at the behest of the authorities superior to him and that too on the basis of the written request addressed to him from the allotment wing. It is the further submission of the learned counsel that even the reference number of the said request was given by the petitioner and therefore it was incumbent on the



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part of the respondents to provide the files and also to place the records to establish or disprove the stand taken by the petitioner. In the absence of the said files, the impugned orders based on the enquiry report is totally perverse and arbitrary and deserves to be set aside.

15. It is the further submission of the learned counsel that the finding of the enquiry officer, which has been accepted by the disciplinary authority that FMB sketches were issued without the approval of the competent authority is perverse for the reason that it is the contention of the petitioner even before the enquiry officer that the post of Head Surveyor was vacant for a number of years and it is only the petitioner, who was entrusted with the duty of issuing the FMB sketches but the said stand was not properly considered by the enquiry officer.

16. It is the further submission of the learned counsel that the files, which contains the note given to the petitioner for preparation of FMB sketches, though was called for to be produced, however, were not produced by one of the other delinquent on the ground that they are missing and, therefore, necessarily adverse inference can be drawn only against the said petitioner, who is the



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Works Assistant and not against the petitioner, who is the surveyor who had given the FMB sketch only on the basis of a written note from the office.

17. It is the further submission of the learned counsel for the petitioner that in the absence of the file, which would hold the note which had been given to the petitioner for preparation and production of FMB sketch, which is already available and not claimed by the respondents to be bogus, no adverse inference can be drawn against the petitioner and the charges ought to have been dropped against this petitioner.

18. In fine, it is the submission of the respective learned counsel that the enquiry officer has not been followed the procedures in the conduct of the departmental proceedings and the impugned orders, which has been based on the enquiry report are non-speaking orders, bereft of any proper reasons and, therefore, the said orders requires interference at the hands of this Court.

19. In support of the aforesaid submissions on behalf of the petitioners, reliance was placed on the following decisions :-

- i) *Anil Kumar – VS – Presiding Officer (1985 (3) SCC 378);*
- ii) *Sher Bahadur – Vs – Union of India (2002 (7) SCC 142);*



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- iii) *M.V.Bijani – Vs – Union of India (2006 (5) SCC 88);*
- iv) *Narinder Mohan Arya – VS – United Insurance Co. Ltd. (2006 (4) SCC 713);*
- v) *Moni Shankar – Vs – Union of India (2008 (3) SCC 484);*
- vi) *State of Uttaranchal – Vs – Kharak Singh (2008 (8) SCC 236);*
- vii) *Roop Singh Negi – VS – Punjab National Bank (2009 (2) SCC 570);*
- viii) *P.Thangaiah – Vs – State of TN (MANU/TN/1267/2009);*
- ix) *State of UP – Vs – Saroj Kumar Sinha (2010 (2) SCC 772);*
- x) *LIC of India – Vs – Ram Pal Singh (2010 (4) SCC 491);*
- xi) *R.Shanmugam – Vs – The Tamil Nadu Civil Supplies Corporation & Anr. (W.P. No.25272/2012 – Dated 26.7.2017);*
- xii) *M.Lakshmanan – Vs – The Secretary to Govt. & Anr. (WP No.6963 & 7739/2009 – Dated 5.1.2018); and*
- xiii) *The Secretary to Govt., Revenue Dept. & Anr. – Vs – M.Lakshmanan (W.A. Nos.4075 & 4076/2019 – Dated 26.11.2019).*

20. Per contra, learned standing counsel appearing for the Board submitted that while the petitioner in W.P. No.17888/25 had executed the sale deed, the petitioner in W.P.O. No.5964/24 along with the Superintendent, against whom also action was taken, had stood as witness and the petitioner in W.P. No.2139/24 had issued the FMB sketch based on the request of the



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Superintendent, while the competent authority to request for such a FMB sketch is not the Superintendent, but an authority, higher in rank than the Superintendent.

21. It is the further submission of the learned standing counsel that the misconduct alleged relates to irregular and unauthorised processing of sale deeds in respect of two plots without following the prescribed allotment procedure and without orders of the competent authority, thereby causing loss to the Board.

22. It is the further submission of the learned standing counsel that the FMB sketches were issued by the petitioner suo motu in respect of the two commercial plots enabling the unauthorised transactions based on expired allotment orders of the year 1987 and 1989 respectively without any request from the allotment wing. It is the further submission of the learned counsel that no material whatsoever in the form of written request was produced by the said petitioner to prove that such a requisition has been made and merely requesting for production of the file pertaining to the allotment wing without marking the copy of the document, which has been issued to him to provide the FMB sketch is



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nothing but an attempt on the part of the petitioner to wriggle from the delinquency.

23. It is the further submission of the learned standing counsel that the act of the other petitioners in executing the sale deed and acting as witnesses clearly prove their delinquency, as there is no allotment order based on which the said sale deed could be executed. It is the further submission of the learned standing counsel that the plea of threat and coercion taken by the petitioner in support of her plea is totally a fabricated plea as such plea has not been advanced by the petitioners, who have stood witness for the execution of the sale deed.

24. It is the further submission of the learned standing counsel that though the aforesaid plea has been taken and further the plea that the entire happening was witnessed by the staff members yet the petitioners have not chosen to examine any witness to vindicate their stand that there was threat and coercion from outside forces, which was the reason for their executing the said sale deeds.

25. It is the further submission of the learned standing counsel that the matter concerns public property and public revenue and the execution of the



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aforsaid sale deeds have caused grave financial loss to the Board and it is not a mere technical or trivial lapse, but a calculated attempt to dupe the Board of its rightful ownership of the property.

26. It is the further submission of the learned standing counsel that the mere delay in passing orders in the appeal would not nullify the disciplinary and entitle automatic reinstatement, more especially when the allegations against the petitioners are grave and involves public money.

27. It is the further submission of the learned standing counsel that adequate opportunity was given to the petitioners to establish their innocence, but they did not choose to produce any evidence and further it is submitted that mere non examination of witnesses would not render the disciplinary proceeding impermissible as the present case revolves on the documents executed by the petitioners, which have since been cancelled by the Board. It is further submitted that the petitioners have not examined any witness to prove that there was threat and coercion at that particular point of time, which alone prevailed upon the petitioners to execute the sale deed.



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28. It is the further submission of the learned standing counsel that the scope of judicial review in regard to disciplinary proceedings is limited and the courts shall not interfere ordinarily with the punishment unless the punishment is disproportionate or shocks the conscience of the courts and in the present case, the enquiry proceedings had afforded all opportunity to the petitioners and the explanation of the petitioners have been properly considered before passing the impugned orders and, therefore, interference may not be made to the well considered orders passed by the authorities.

29. In fine, it is the submission of the learned standing counsel that the authorities have properly considered the issue based on the materials available before it and in the absence of any proper materials placed by the petitioners, both oral and documentary, vindicating their case and their innocence, the gravity of the delinquency committed by the petitioners does not call for any leniency and, therefore, this Court may not interfere with the order of dismissal passed by the authorities and, accordingly, prays for dismissal of the present writ petitions.



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30. In support of the aforesaid submissions, learned standing counsel for the respondents placed reliance on the following decisions :-

- i) *S.Janaki Iyer – Vs – Union of India & Ors. (2025 (8) SCC 696); and*
- ii) *Airports Authority of India – Vs – Pradip Kumar Banerjee (2025 (4) SCC 111).*

31. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing for the parties and perused the materials available on record.

32. The Hon'ble Supreme Court, in ***B.C. Chaturvedi – Vs - Union of India, (1995 (6) SCC 749)***, while dealing with the issue pertaining to the power of the Court relating to judicial review of the order passed by the disciplinary authority, held as under :

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or



whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant.



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Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”

(Emphasis Supplied)

33. The above view has been reiterated by the Hon'ble Supreme Court in ***Principal Secy. Govt. of A.P. - Vs - M. Adinarayana, (2004 (12) SCC 579)***, wherein, it has been held as under :-

“23. We have read this charge in the light of allegations in support thereof. In the instant case, it is not disputed that the respondent has neither supplied any prior information on the Government nor did he send any prior intimation to the Government. By not doing this, he has contravened the provisions of Rule 9. The Tribunal has also categorically held that the respondent has not applied for prior information before he purchased the items from the competent authority nor he intimated to the competent authority forthwith soon after the purchase of the several items. Therefore, in our view, the charged officer has violated Rule 9 of the Conduct Rules and thus is guilty of misconduct within Rule 2-H (sic) of the Andhra Pradesh Disciplinary Amendment Act, 1993. In view of



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the abovesaid finding we hold that respondent is guilty of both the charges framed against him within Rule 2 (b) of the Conduct Rules of 1961 framed under the Amendment Act, 1993.

* * * * *

26. In our opinion, judicial review cannot extend to the examination of the correctness of the charges as it is not an appeal but only a review of the manner in which the decision was made. We have, therefore, no hesitation in setting aside the order of the Andhra Pradesh Administrative Tribunal and the judgment of the Division Bench of the High Court for reasons stated (supra). The order passed by the Government removing the respondent from service is in order and, therefore, the appeal filed by the appellant State stands allowed. Further, there will be no order as to costs."

34. In ***Director General of Police, RPF & Ors. - Vs – Rajendra Kumar Dubey (C.A. No.3820/2020 dated 25.11.20)***, the Hon'ble Supreme Court, advertent to the various decisions of the Apex Court relating to the interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings, including the decision in *Chaturvedi's case (supra)*, held as under:-

"12.1 It is well settled that the High Court must not act as an appellate authority, and re-appreciate the evidence led before the enquiry officer.



We will advert to some of the decisions of this Court with respect to interference by the High Courts with findings in a departmental enquiry against a public servant.

*In **State of Andhra Pradesh v S.Sree Rama Rao**, a three judge bench of this Court held that the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed themselves to be influenced by irrelevant considerations, or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. If however the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition.*



*These principles were further reiterated in the **State of Andhra Pradesh v Chitra Venkata Rao**. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The court exercises the power not as an appellate court. The findings of fact reached by an inferior court or tribunal on the appreciation of evidence, are not re-opened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ court, but not an error of fact, however grave it may be. A writ can be issued if it is shown that in recording the finding of fact, the tribunal has erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence. A finding of fact recorded by the tribunal cannot be challenged on the ground that the material evidence adduced before the tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point, and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal.*

*In subsequent decisions of this Court, including **Union of India v. G. Ganayutham, Director General RPF v. Ch. Sai Babu, Chennai Metropolitan Water Supply and Sewerage Board v T.T. Murali, Union of India v. Manab Kumar Guha**, these principles have been consistently followed.*

*In a recent judgment delivered by this Court in the **State of Rajasthan & Ors. v. Heem Singh** this Court has summed up the law in following words :*

“33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule



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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."

*In **Union of India v. P. Gunasekaran**, this Court held that the High Court in exercise of its power under Articles 226 and 227 of the Constitution of India shall not venture into re-appreciation of the evidence. The High Court would determine whether : (a) the enquiry is held by the competent authority; (b) the enquiry is held according to the procedure prescribed in that behalf; (c) there is violation of the principles of natural justice in conducting the proceedings; (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations which are extraneous to the evidence and merits of the case; (e) the authorities have allowed themselves*



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to be influenced by irrelevant or extraneous considerations; (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion; (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence; (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding; (i) the finding of fact is based on no evidence.

In paragraph 13 of the judgment, the Court held that :

“13. Under Articles 226 / 227 of the Constitution of India, the High Court shall not :

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in the case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.”

(Emphasis Supplied)



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35. From the ratio laid down above, it is implicitly clear that the Courts, in exercise of its power of judicial review, cannot extend the examination to the correctness of the act of the disciplinary authority, but only limit itself to the manner in which the decision has been arrived at by the authority and whether the same is in accordance with law. This Court is to test only the correctness of the decision arrived at by the disciplinary authority on the basis of the evidence before it, which has since been confirmed by the appellate authority and not proceed with the case as if it is an appeal against the order of punishment.

36. It has been further held in the said decisions that so long as the enquiry is not defective the Court has to only see whether there was a *prima facie* case for dismissal and whether the employer had come to the *bona fide* conclusion that the employee was guilty of misconduct. What is further to be seen is that the conclusion arrived at by the employer is *bona fide* as to the guilt of the employee and that there was no unfair labour practice or victimization involved and to satisfy itself with regard to the punishment imposed. However, if the enquiry is found to be defective for any reason, this Court would have to consider for itself on the evidence adduced before it whether the dismissal was justified.



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37. The Hon'ble Supreme Court, in *Rajendra Kumar Dubey's case (supra)*, following the ratio laid down in *Gunasekaran's case* has held that the High Court, sitting under Article 226 of the Constitution, while determining its scope of interference in a departmental proceedings is only bound to determine whether *(a) the enquiry is held by the competent authority; (b) the enquiry is held according to the procedure prescribed in that behalf; (c) whether there is violation of the principles of natural justice in conducting the proceedings; (d) whether the authorities have disabled themselves from reaching a fair conclusion by some considerations which are extraneous to the evidence and merits of the case; (e) whether the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations; (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion; (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence; (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding; (i) the finding of fact is based on no evidence.*



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38. It is to be stressed that the Court in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court. It has been the consistent view of the Courts that the nature of evidence required in a disciplinary proceeding is not on the same level as required in a criminal trial, as in the disciplinary proceedings, the finding is arrived at on the basis of preponderance of probabilities. In such a scenario, it is not the function of the High Court under its writ jurisdiction to review the evidence and arrive at an independent finding on the evidence. If the enquiry is properly held within the boundaries of legal necessities, then the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition. An error of law which is apparent on the face of the record can be corrected by a writ court, but not an



error of fact, however grave it may be. High Court in exercise of its power under Articles 226 and 227 of the Constitution of India shall not venture into re-appreciation of the evidence and further the Supreme Court has also codified the circumstances under which re-appreciation of evidence is permissible.

39. The words of eminent jurist V.R.Krishna Iyer, J., resonates loud, where His Lordship (as he then was), had stated that *“The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and wordly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny”*.

40. The judicial precedents on the above subjects have been placed before this Court by either side by referring to very many decisions, which have been noted above, but the ratio laid down being one and the same, this Court is not multiplying the number of authorities, but suffice to point out the ratio, which alone would be necessary to decide the issues raised in the present *lis*. Keeping the abovesaid principles on which the facts have to be appreciated, this Court



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would venture into the materials to find out whether interference is warranted with the punishment imposed upon the petitioners.

41. The departmental proceedings were initiated on the allegation that sale deeds were executed with regard to two plots of commercial land on the basis of the allotment way back in the year 1987 for a sale consideration of about Rs. 1 Lakh and odd which was not paid resulting in deemed cancellation. While one of the petitioners was the Manager, who executed the sale deed, two other petitioners stood as witnesses to the said execution and one other petitioner had provided the FMB sketch, that too without any requisition made by the competent authorities.

42. The petitioner, who executed the sale deeds was working as the Manager (Marketing and Sales) with the Board. Though grounds of violation of principles of natural justice, non-speaking order and other usual grounds have been raised, it is to be pointed out that the said petitioner has not taken a stand that she has not executed the sale deed. There is a clear admission on the part of the said petitioner that she has executed the sale deed. The only ground on which the petitioner lays her defence is that there was threat and coercion and



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that she was forced to execute the sale deed and out of fear, she has executed the sale deed.

43. It is to be pointed out that while taking the said defence, the petitioner has also stated in her averment that the said threat and coercion was known to all the staff members in the office. In this regard, though it is the stand of the petitioner that the respondents have not examined any of the staff members, who were present on that day as witness and, therefore, claims that non-examination of any oral evidence is fatal to the case of the respondents, however, it is to be pointed out that when the execution has not been denied by the petitioner, that too, admitting allotment of the year 1987 and only the original amount was sought to be paid after a long lapse of time inspite of deemed cancellation, the petitioner ought to have examined staff members present on that day in the office to establish threat and coercion. However, the petitioner has not taken any steps to examine any witness, yet turns the finger on the respondents and claims that no witnesses were examined to prove the case.

44. It is the specific case of the respondents that the petitioner had colluded and executed the sale deed, which execution has been admitted, then



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to negate the collusion on her part, the petitioner ought to have examined witnesses to prove her innocence. But no witnesses have been examined and the failure on the part of the petitioner to examine witnesses to establish her case cannot be turned against the respondents to fasten liability on them contending that non-examination of witnesses is fatal to the case of the respondents.

45. Turning to the FMB sketch, which has been issued by the petitioner in WP No.2139/24, it is to be pointed out that it is the specific case of the petitioner that on the written request, the FMB sketch has been issued. To establish the written request the petitioner sought to rely on the files at the office of the other petitioners, which files, were alleged to have been lost/misplaced and on this premise, it is the claim of the petitioner that in the absence of any proof to show that the FMB sketch has been given without any written request, no liability can be fastened on the petitioner.

46. It is to be pointed out that it is even the case of the petitioner that a written request was issued to the petitioner to issue FMB sketch. If that be the case, the written request would be very much in the files of the petitioner, which the petitioner could have very well placed at the time of the enquiry to absolve



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himself of the charges. However, the petitioner wants the respondents to produce the files, which, according to the other petitioners could not be traced and based on the said non-availability, the petitioner wants this Court to hold that he cannot be fastened with any liability. When a material, which is very much in his possession, the written request, which is alleged to have emanated from the other petitioners ought to have been produced by the petitioner to establish his innocence and the failure of the petitioner to produce the same, definitely the adverse inference drawn cannot be held to be perverse, arbitrary or unreasonable.

47. Insofar as the petitioners, who have stood as witness to the execution is concerned, it is to be pointed out that except for the Manager, who had executed the sale deed, none of the other petitioners have claimed that there was any threat or coercion to execute the sale deed. The whole case of the petitioner relates to non-examination of witnesses and marking of documents and there is no whisper about threat or coercion. Further, there is also no reason put forth by the petitioner to claim the reason for their standing as witnesses. Therefore, the plea of the petitioners is counter-offensive against each other and



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the said stand cannot form the basis for this Court to interfere with the order passed by the disciplinary authority.

48. One of the grounds advanced by the petitioners relate to violation of principles of natural justice; in that they claim that the enquiry officer has not granted sufficient opportunity to put forth their case. However, except for a bald averment on that front, there is no worthwhile materials, which have been placed to suggest that there is violation of principles of natural justice by not granting opportunity to the petitioners. There is no material to show that the petitioners sought for time, but the same was rejected. In the absence of any affirmative material, the mere allegation of violation of principles of natural justice cannot stand the test of scrutiny.

49. The next contention canvassed on behalf of the petitioners relate to the impugned orders being alleged to be bereft of reasons and is a non-speaking order. In this regard, a careful perusal of the order passed by the disciplinary authority reveals that right from the allegations to the enquiry report to the recommendations of the committee and all the other materials connected therewith have been taken into consideration by the disciplinary authority while



considering the case of the petitioners. There is no necessity for the disciplinary authority to record any specific reason for accepting or rejecting the enquiry report. The mind of the disciplinary authority to the materials should be evident in the order issued by the disciplinary authority and consideration of the materials thereof. Each and every material need not be dissected by the disciplinary authority to substantiate his case for accepting the enquiry report.

50. Similarly, it is to be pointed out that the duty of the appellate authority is to consider whether the order passed by the disciplinary authority is just and reasonable and that all the materials have been taken into consideration before passing the order. When any specific finding is recorded for or against the delinquent, then it is incumbent on the part of the appellate authority to record separate reasons. However, if the appellate authority concurs with the view arrived by the disciplinary authority and if the said order reveals application of mind to the materials as also the order of the disciplinary authority, separate reasons on the various heads is not required to be recorded by the appellate authority. A careful perusal of the order passed by the appellate authority reveals that due consideration has been made to all the materials, including the order passed by the disciplinary authority and in such a backdrop, the said order



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cannot be held to be a non-speaking order or an order bereft of any details and, therefore, the said contention also deserves to be negated.

51. One other ancillary contention, which has been advanced on behalf of the petitioners is that the sale deeds, which are alleged to have been executed in connivance and collusion by the petitioners to the detriment of the Board has since been cancelled and there has been no financial loss to the Board and, therefore, the action taken against the petitioners is erroneous and even if at all proceedings are initiated against the petitioners, the punishment imposed on the petitioners are disproportionate to the delinquency and, therefore, this Court has to interfere with the punishment.

52. It is to be noted that the sale deeds, which have been collusively executed has since been cancelled and there is no financial loss to the Board, but that would not erase or efface the collusive act of the petitioners to defraud the Board and cause financial loss to the Board. If the sale deed had not been cancelled by the Board at the appropriate time, definitely there would have been an enormous financial loss to the Board, but for the timely action of the officials, the delinquency had been identified and had been set right. The mere fact that



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there is no financial loss to the Board cannot alone be a determinative factor to hold that the delinquency of the petitioners can be erased. The intention of the petitioners in the collusive act is more dangerous than the real financial loss that would otherwise had been caused. To presume for a moment that this fraud had not been found out and set right at the appropriate time, this would have given a leverage for persons like the petitioners to perpetrate the same act again and again, which would have eroded the finances of the Board and would have pushed the Board into bankruptcy and to take up litigations against various persons. Therefore, the intention of the petitioners in committing the offence is more important than the actual offence as weeding out such persons would be the only way in which the Board could be safeguarded. Therefore, the disciplinary action taken by the Board against the petitioners cannot be faulted with and necessarily it has to be upheld.

53. Now the only issue that requires determination is the proportionality of the punishment inflicted on the petitioners. The precedents on the issue of interference with the punishment imposed has been oft considered by the Courts and it has been the consistent view of the Courts that it is always within the domain of the disciplinary authority to decide on the punishment to be imposed



on the delinquent, which should be proportionate to the act of the delinquent.

Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere in the same in exercise of powers under Article 226.

In **Prem Nath Bali – Vs - High Court of Delhi (2015 (16) SCC 415)**, the Supreme Court held as under :-

“20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing



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authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.”

(Emphasis Supplied)

54. From the ratio laid down by the Apex Court above, it is crystal clear that the power to interfere with the punishment should be exercised only if the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges and, thereby, shocking the conscience of the Court or if it is in contravention of the Rules.

55. The act of the petitioners is usurpation of the public property by an act of collusion. When the petitioners have been entrusted with the task of handling public property it is necessary that high degree of honesty and integrity is required of such employees and any infraction is nothing but a direct and frontal attack on the confidence reposed by the public and such act is not only shocking the conscience of the Court, but erodes the faith, which the general public had invested in the Board. The gravity of the offence, which has been alleged against the petitioners, which had been proved, clearly does not eke any sympathy at the hands of this Court. Any sympathy given to the petitioners would be a mistaken



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sympathy, as it would be against the interest of justice and would be a travesty of justice to the general public, who had reposed faith in the Board and the act of its employees had, in turn, would only portray the Board in bad light in the eyes of the general public. The appellate authority, appreciating the materials, had confirmed the order of dismissal passed by the disciplinary authority, which, both on facts, as well as law, is justified and this Court does not find any infirmity in the same warranting interference.

56. For the reasons aforesaid, all these writ petitions lack merit and, accordingly, the same are dismissed confirming the order impugned herein. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

05.03.2026

Index : Yes / No

GLN



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To

1. The Secretary to Government
Housing & Urban Development
(HBI (2)) Department
Fort St. George, Chennai 600 009.
2. The Managing Director
Tamil Nadu Housing Board
493, Anna Salai, Nandanam
Chennai 600 035.



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M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NOS.2139 & 5964 OF 2024
AND
W.P. NO.17888 OF 2025**

**Pronounced on
05.03.2026**