



2026:DHC:163



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

Date of decision: 7th JANUARY, 2026

IN THE MATTER OF:

+ **LPA 70/2023**

GYAN PRAKASH

.....Appellant

Through: Mr. Harshit Bhardwaj and Mr. Shubham, Advocates with Appellant in person

versus

DELHI TRANSCO LTD

.....Respondent

Through: Ms. Avnish Ahlawat, Standing Counsel

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The challenge in this Appeal is to the Judgment dated 11.11.2022 passed in W.P.(C) No.2814/2006 whereby the learned Single Judge has dismissed the Writ Petition.
2. The Appellant in the Writ Petition had challenged the Order dated 20.04.2005 passed by the Respondent imposing a penalty of compulsory retirement upon the Appellant, and has also prayed for a consequential direction for being taken back in the work retrospectively from the date of the order of compulsory retirement. Further, the Appellant has also sought to challenge a memo dated 18.02.2005 by which the Respondent had initiated a fresh case against the Appellant. Apart from the above prayers, a prayer has



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also been made for issuance of direction to the Respondent to count the previous service of the Appellant from 1973 to 1991 as part of the total service for the purposes of calculating the salary, seniority, back wages, etc.

3. Shorn of unnecessary details, the facts leading to the filing of the present Appeal are that the Appellant, from 1973 to September, 1991, worked in the Ministry of Defence, Home, Environment and Forests, Government of India. Thereafter, the Appellant sought to be employed with the Respondent Delhi Transco Limited.

4. In the year 1991, the Appellant was selected by the Respondent, where he worked as Manager (EDP), Operations, from October, 1991 to December, 1996. In January, 1997, the Appellant was given the post of Manager (Systems), which position he held till September, 1998.

5. It is the case of the Appellant that while working as Manager (Systems), the Appellant had pointed out certain infirmities in the system of collection of money and stated that the said system was being manipulated. The Appellant also prayed for adopting a new system instead of the old system.

6. In September, 1998, the Appellant was again posted as Manager (Operations) till December, 1999. It is stated that in January, 2000, the Appellant had been given the charge of development of a new system, however, he continued to deal with bounced cheques.

7. On 02.06.2000, the Appellant was served with a charge memo wherein the primary allegation was *qua* dereliction of his duty as he was not taking proper and effective security measures to limit the access to the database system which resulted in the data fed in the computer came to be manipulated and fake entries were made in a manner that there was no way



to identify the individual who manipulated the data and fed fake entries in the computer. Further, the Appellant was also charged with acting in a highly prejudicial manner against the financial interests of the Respondent. Two articles of charge framed against the Appellant, read as under:-

“ARTICLE 1

That Shri Gyan Prakash, Manager (EDP) while working as such in EDP Deptt. of Delhi Vidyut Board during the year 1996-98 with malafide intention, ulterior motive and in grave dereliction of duty did no take proper and effective security to limit the access to the data base system with the result that data fed in the computer came to be manipulated and fake entries came to be posted in a manner that there was no way to identify the guilty officials who manipulated the data and fed fake entries in the computer, which is a misconduct grave enough warranting imposition of stiff major penalty upon the said Shri Gyan Prakash.

ARTICLE 2

That the said Shri Gyan Prakash while working as aforesaid during the period aforesaid at EDP functioned in a highly irresponsible and in a manner highly prejudicial financial interests of Delhi Vidyut Board whose overall interests he was duty bound to protect which again misconduct grave enough warranting imposition of stiff major penalty upon him.

By his aforesaid acts Shri Gyan Prakash failed to maintain absolute integrity and devotion to duty and acted in a Manager Highly unbecoming of an employee of Delhi Vidyut Board contravening thereby Rule 3 (1) of CCS (Conduct) Rules, 1964 applicable to Board employees.”



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8. After being served with the charge memo, the Appellant was suspended on 05.10.2000 for another case regarding missing page in the Operations Register. An FIR was registered against the Appellant being FIR No. 403/2000 dated 06.10.2000 at Police Station I.P. Estate for offences under Section 420, 468, 471, 120-B, 201 IPC read with Section 66 of the I.T. Act.

9. In respect of the memo served on 02.06.2000, an Enquiry Officer was appointed and a detailed enquiry was conducted. The Enquiry Officer held that the Appellant was guilty of Article 1 Charge. However, the Enquiry Officer came to the conclusion that Article 2 Charge did not stand proved. In accordance with the procedure, the matter was referred to the Central Vigilance Commission (CVC) which gave a recommendation on 11.03.2004 for imposition of major penalty.

10. The Enquiry Report dated 18.11.2003 along with the recommendation of the CVC was furnished to the Appellant, to which he tendered his reply. Thereafter, a second charge memo dated 18.02.2005 was issued to the Appellant on the basis of findings in the investigation related to the missing pages in the operation register for which he was held under suspension on 05.10.2000. The said memorandum reads as under:-

“Shri Gyan Prakash, while functioning as Manager (EDP) in EDP Centre Shakti Sadan, New Delhi for erstwhile DVB during the year 1999-2000, with malafide intentions and ulterior motives/instructed his sub—ordinate to open a fresh/new register for the billing month of May 99 by copying the relevant control status on the first page from the previous register and for reprocessing of the data of Dist. Civil Lines for the billing of Cycle-9 for May, 99 to cover up the frauds in which bogus JEs were fed in the accounts of various consumers of Distt.



Lines and Distt-. Shakti Nagar in the months of May 99 and Jan, 2000. In addition to this, 52 Pages (from Serila No.97 to 148) of the previous operating register of Cycle—9 were torn up in the EDP Deptt. to remove the evidence of manipulations in the data.

Thus the said Shri Gyan Prakash failed to maintain absolute integrity devotion to duty and acted in a manner unbecoming of an employee of erstwhile DVB/ Delhi Transco Limited thereby violated the provisions of Rule 3 (1) (i) (ii) & (iii) of CCS (Conduct) Rules, 1964, as applicable to the employees of erstwhile DVB/Delhi Transco Limited. ”

11. After considering the reply, a penalty of compulsory retirement was imposed on the Appellant by the Respondent *vide* Order dated 20.04.2005 with respect to the first charge memo dated 02.06.2000. The said Order reads as under:-

“ARTICLE-I

That Shri Gyan Prakash, Manager (EDP), while working as such in EDP Department of Delhi Vidyut Board during the year 1996-98 with malafide intention, ulterior motive and grave dereliction of duty did not take proper and effective security measures to limit the access to the data base system with the result that data fed in the computer came to be manipulated and fake entries came to be posted in a manner that there was no way to identify the guilty officials who manipulated the data and fed fake entries in the computer, which is a misconduct grave enough warranting imposition of stiff major penalty upon said Gyan Prakash.

ARTICLE-II

That the said Shri Gyan Prakash while working as aforesaid during the period aforesaid at EDP



functioned in a highly irresponsible and in a manner highly prejudicial to the financial interest of Delhi Vidyut Board whose overall interests he was duty bound to protect which again is a misconduct grave enough warranting imposition of stiff major penalty upon Shri Gyan Prakash.

And whereas, on denial of the charges by Shri Gyan Prakash, a departmental inquiry was ordered to be conducted. The Inquiry Authority submitted the report and held the first article of charge as "PROVED" and second as "NOT PROVED".

And whereas, enquiry report, alongwith Central Vigilance Commission's OM No-99-DVB-049- 4344 dated 11.03.04 was forwarded to Shri Gyan Prakash vide memo dated 05.04.2004. Shri Gyan Prakash submitted his reply dated 28.04.04 against the memo dated 05-04.2004. And whereas, personal hearing was granted to Shri Gyan Prakash on 22.09.2004 by the CMD.

And whereas the Board of Directors of Delhi Transco Limited carefully considered the reply dated 28.04.04 of Shri Gyan Prakash alongwith all the facts and circumstances of the case in its meeting dated 11.03.05. It is observed that the Charged Officer (CD) has argued that there was no need of password at user level and that the existing system to its full capacity it is essential that officials at each level perform their duties as per the norms of the system- Thus the CO has tried to shift the blame on the user of the system instead of accepting that he could not devise measures so as to stop the cases of fraudulent manipulation of the system- In view of the gravity of the charged and lapses on the part of the CO leading to huge financial loss to the organization, the Board has resolved to impose the major penalty of compulsory retirement on Shri Gyan Parkash.



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Now Therefore, the undersigned communicates the above decision of the Board accordingly.”

12. The Appellant filed an appeal against the order of compulsory retirement, which was dismissed by the Appellate Board *vide* Order dated 20.01.2006. Thereafter, the Appellant approached this Court by filing W.P.(C) 2814/2006 challenging the said Order dated 20.04.2005 as also the second memo dated 18.02.2005.

13. In the meanwhile, during the pendency of the aforesaid writ petition, the Appellant was found guilty in the second enquiry. Therefore, a second order of compulsory retirement was passed against the Appellant on 23.04.2008.

14. The learned Single Judge after considering all the facts, dismissed the writ petition by holding that the Appellant was guilty of grave dereliction of duty as he was found to have not taken proper and effective security measures to limit the access to the data base system with the result that the data filled in the computer came to be manipulated and fake entries came to be posted in a manner that there was no way to identify the guilty officials who manipulated the data and fed fake entries in the computer which resulted into financial losses to the Respondent, erstwhile Delhi Vidhyut Board.

15. The learned Single Judge also held that the Appellant failed to incorporate a password at the user level as according to him there was no need of the password at the user level and it was for the officials at each level to perform their duties as per the norms of the system and thus there was a dereliction of duty on the part of the Appellant. The learned Single



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Judge was therefore of the opinion that the decision of the Board of Directors of the Respondent dated 20.04.2005 imposing a major penalty of compulsory retirement cannot be found fault with and that the Appellant has already been paid his pensionary benefits by counting services rendered by him in the Respondent. Thus, prayer *qua* quashing of memo dated 18.02.2005 therefore had become infructuous.

16. The said Judgment passed by the learned Single Judge is subject matter of challenge in the instant Appeal.

17. Learned Counsel for the Appellant contends that the Appellant is a victim of malafides. He states that it was because of the Appellant, the malpractices done by the officials was unearthed and that he saved more than Rs.26 lakhs for the Respondent. He states that the complaints made by the Appellant resulted in action being taken against several powerful employees of the Respondent and in order to fix him up, an enquiry has been initiated against the Appellant.

18. Learned Counsel for the Appellant contends that even though the Appellant had been constantly complaining about the flaws in the system, but they fell on deaf ears. He states that the fact that the Appellant was indeed providing complaints has been recorded in the Enquiry Report and this fact has not been taken into account when the penalty of compulsory retirement was imposed on the Appellant.

19. Learned Counsel for the Appellant contends that the Appellant has been duly exonerated in the criminal case and therefore after being exonerated on the very same material, it was not open for the disciplinary authorities to proceed further. He states that the second charge memo was



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issued on 18.02.2005, which was five years after the incident. He states that it is trite law that stale enquiries cannot be permitted to be proceeded with.

20. Learned Counsel for the Appellant also places reliance on the fact that the Enquiry Officer himself exonerated the Appellant of the second charge and the CVC has not disagreed with the said findings on the second charge and therefore the order of compulsory retirement could not have been passed, and therefore, the punishment of compulsory retirement should not have been imposed on the Appellant.

21. It is pertinent to mention that in the grounds of appeal, there is no challenge to the rejection of the prayer for counting of the previous service of the Appellant from 1973 to 1991 and no ground has been raised by the Appellant for taking into account the services rendered by him from 1973 to 1993, i.e., till the date of appointment of the Appellant in the Respondent.

22. *Per contra*, learned Counsel for the Respondent supports the findings of the learned Single Judge. She states that two enquiries were initiated against the Appellant and both the enquiries ended up in culpability of the Appellant and therefore the Impugned Judgment does not warrant any interference. She states that it is trite law that criminal proceedings and civil proceedings can proceed simultaneously. The criminal proceedings proceed on the principle of '*proof beyond reasonable doubt*' whereas the civil cases proceed on the basis of '*preponderance of probabilities*'. She states that the acquittal of the Appellant in a criminal case need not necessarily mean that the case against the Appellant in departmental enquiry should fail.

23. Learned Counsel for the Respondent states that because of the negligence of the Appellant, the Respondent has suffered enormous losses and that the order of compulsory retirement cannot be said to be excessive



against the Appellant. She states that this is not a case of a minor dereliction of duty. She states that even the recommendation of the CVC was to impose a major penalty.

24. Learned Counsel for the Respondent states that by not setting up password at the user level, the Appellant has failed to perform his duties which has resulted in manipulation of the system resulting in losses to the Respondent. She, therefore, states that no interference is called for in the present case.

25. Heard the Counsels for the parties, and perused the material on record.

26. Based on the above, what is borne out for consideration by this Court is relevancy of an acquittal in the criminal proceedings of an employee and if the principles of natural justice were followed by the Enquiry Officer in the proceedings.

27. It is trite law that acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the Disciplinary Authority. The Apex Court in numerous pronouncements has laid the law to this effect. The Apex Court in Southern Railway Officers' Association vs. Union of India, (2009) 9 SCC 24, held as follows:

“37. Acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the disciplinary authority. The High Court did not say that the said fact had not been taken into consideration. The revisional authority did so. It is now a well-settled principle of law that the order of dismissal can be passed even if the delinquent official had been acquitted of the criminal charge.”



28. In Deputy Inspector General of Police and Anr. vs. S. Samuthiram, (2013) 1 SCC 598, the Apex Court has held as follows:

“26. As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so.

27. We have also come across cases where the service rules provide that on registration of a criminal case, an employee can be kept under suspension and on acquittal by the criminal court, he be reinstated. In such cases, the reinstatement is automatic. There may be cases where the service rules provide that in spite of domestic enquiry, if the criminal court acquits an employee honourably, he could be reinstated. In other



words, the issue whether an employee has to be reinstated in service or not depends upon the question whether the service rules contain any such provision for reinstatement and not as a matter of right. Such provisions are absent in the Tamil Nadu Service Rules.”

29. The Apex Court in State of Rajasthan and Ors. vs. Heem Singh, (2021) 12 SCC 569, has laid as follows:-

“38. In the present case, we have an acquittal in a criminal trial on a charge of murder. The judgment of the Sessions Court is a reflection of the vagaries of the administration of criminal justice. The judgment contains a litany of hostile witnesses, and of the star witness resiling from his statements. Our precedents indicate that acquittal in a criminal trial in such circumstances does not conclude a disciplinary enquiry. In Southern Railway Officers Assn. v. Union of India [Southern Railway Officers Assn. v. Union of India, (2009) 9 SCC 24 : (2009) 2 SCC (L&S) 552] , this Court held : (SCC p. 40, para 37)

“37. Acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the disciplinary authority. The High Court did not say that the said fact had not been taken into consideration. The revisional authority did so. It is now a well-settled principle of law that the order of dismissal can be passed even if the delinquent official had been acquitted of the criminal charge.” (emphasis supplied)

39. In State v. S. Samuthiram [State v. S. Samuthiram, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229] , a two-Judge Bench of this Court held that unless the accused has an “honourable acquittal” in their criminal trial, as opposed to an acquittal due to witnesses turning hostile or for



technical reasons, the acquittal shall not affect the decision in the disciplinary proceedings and lead to automatic reinstatement. But the penal statutes governing substance or procedure do not allude to an “honourable acquittal”. Noticing this, the Court observed : (SCC pp. 609-10, paras 24-26)

“Honourable acquittal

24. The meaning of the expression “honourable acquittal” came up for consideration before this Court in RBI v. Bhopal Singh Panchal [RBI v. Bhopal Singh Panchal, (1994) 1 SCC 541 : 1994 SCC (L&S) 594] . In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions “honourable acquittal”, “acquitted of blame”, “fully exonerated” are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression “honourably acquitted”. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

25. In R.P. Kapur v. Union of India [R.P. Kapur v. Union of India, AIR 1964 SC 787] it was held that even in the case of acquittal, departmental proceedings may follow where the acquittal is other than honourable. In State of Assam v. Raghava Rajgopalachari [State of Assam v. Raghava Rajgopalachari, 1972 SLR 44 (SC)] this



Court quoted with approval the views expressed by Lord Williams, J. in Robert Stuart Wauchope v. Emperor [Robert Stuart Wauchope v. Emperor, 1933 SCC OnLine Cal 369 : ILR (1934) 61 Cal 168] which is as follows : (Raghava case [State of Assam v. Raghava Rajgopalachari, 1972 SLR 44 (SC)] , SLR p. 47, para 8)

'8. ... The expression "honourably acquitted" is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extra-judicial tribunals. We said in our judgment that we accepted the explanation given by the appellant, believed it to be true and considered that it ought to have been accepted by the government authorities and by the Magistrate. Further, we decided that the appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what government authorities term "honourably acquitted".' (Robert Stuart case [Robert Stuart Wauchope v. Emperor, 1933 SCC OnLine Cal 369 : ILR (1934) 61 Cal 168] , ILR pp. 188-89)

26. As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is



entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so.” (emphasis supplied)

40. In the present case, the respondent was acquitted of the charge of murder. The circumstances in which the trial led to an acquittal have been elucidated in detail above. The verdict of the criminal trial did not conclude the disciplinary enquiry. The disciplinary enquiry was not governed by proof beyond reasonable doubt or by the rules of evidence which governed the criminal trial. True, even on the more relaxed standard which governs a disciplinary enquiry, evidence of the involvement of the respondent in a conspiracy involving the death of Bhanwar Singh would be difficult to prove. But there are, as we have seen earlier, circumstances emerging from the record of the disciplinary proceedings which bring legitimacy to the contention of the State that



to reinstate such an employee back in service will erode the credibility of and public confidence in the image of the police force.”

30. Accordingly, in view thereof, mere exoneration of an accused in a criminal case is itself not sufficient as the disciplinary proceedings were independent therefrom.

31. Regarding the other aspect involved, there is no material on record to show that the enquiry has been conducted in violation of the principles of natural justice. A writ court has to only consider as to whether the decision-making process is just, fair, reasonable, and whether a proper opportunity has been given to the employee to plead his case and there is no element of bias or that the entire proceedings were oriented only to punish and victimize the delinquent officer. In the absence of any such criteria, the writ court does not substitute its own conclusion to the one arrived at by the disciplinary authorities.

32. The Apex Court in B. C. Chaturvedi v. Union of India & Ors., (1995) 6 SCC 749, has observed as under:-

“18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate



authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof. ”

33. Similarly, in State Bank of India & Anr. v. K. S. Vishwanath, (2022) 15 SCC 190, the Apex Court has observed as under:-

“17. From the impugned judgment and order [SBI v. K.S. Vishwanath, 2021 SCC OnLine Kar 15232] passed by the High Court it appears that the High Court has dealt with and considered the writ petition under Articles 226/227 of the Constitution of India challenging the decision of the Bank/management dismissing the delinquent officer as if the High Court was exercising the powers of the appellate authority. The High Court in exercise of powers under Articles 226/227 of the Constitution of India has reappreciated the evidence on record which otherwise is not permissible as held by this Court in a catena of decisions.

18. Recently in N. Gangaraj [State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423 : (2020) 1 SCC (L&S) 547] after considering other decisions of this Court on judicial review and the power of the High Court in a departmental enquiry and interference with the findings recorded in the departmental enquiry, it is observed and held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is further observed and held that the High Court is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. It is further observed that if there is some evidence, that the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably



support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition under Article 226 of the Constitution of India to review/reappreciate the evidence and to arrive at an independent finding on the evidence.

19. *In paras 9 to 14, this Court had considered other decisions on the power of the High Court on judicial review on the decisions taken by the disciplinary authority as under : (N. Gangaraj case [State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423 : (2020) 1 SCC (L&S) 547] , SCC pp. 426-30, paras 9-14)*

“9. In State of A.P. v. S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, 1963 SCC OnLine SC 6 : AIR 1963 SC 1723] , a three-Judge Bench of this Court has held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. The Court held as under : (AIR pp. 1726-27, para 7)

‘7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the



delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence.'

10. In B.C. Chaturvedi v. Union of India [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] , again a three-Judge Bench of this Court has held that power of 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 eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence. It was held as under : (SCC pp. 759-60, paras 12-13)

'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 the 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 co-extensive 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/Tribunal. In Union of India v. H.C. Goel [Union of India v. H.C. Goel, 1963 SCC OnLine SC 16 : (1964) 4 SCR 718 : AIR 1964 SC 364] , this Court held at SCR p. 728, AIR pp. 368-369 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.'



11. In High Court of Bombay v. Shashikant S. Patil [High Court of Bombay v. Shashikant S. Patil, (2000) 1 SCC 416 : 2000 SCC (L&S) 144] , this Court held that interference with the decision of departmental authorities is permitted if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry while exercising jurisdiction under Article 226 of the Constitution. It was held as under : (SCC p. 423, para 16)

'16. The Division Bench [Shashikant S. Patil v. High Court of Bombay, 1998 SCC OnLine Bom 97 : (2000) 1 LLN 160] of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the enquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for



canvassing before the High Court in a writ petition filed under Article 226 of the Constitution.'

12. In State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya [State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721] , this Court held that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be ground for interfering with the findings in departmental enquiries. The Court held as under : (SCC pp. 587-88, paras 7 & 10)

'7. It is now well-settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala



fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] , Union of India v. G. Ganayutham [Union of India v. G. Ganayutham, (1997) 7 SCC 463 : 1997 SCC (L&S) 1806] and Bank of India v. Degala Suryanarayana [Bank of India v. Degala Suryanarayana, (1999) 5 SCC 762 : 1999 SCC (L&S) 1036] , High Court of Bombay v. Shashikant S. Patil [High Court of Bombay v. Shashikant S. Patil, (2000) 1 SCC 416 : 2000 SCC (L&S) 144] .)

10. The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceeding invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non-challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him.'



13. In another judgment reported as Union of India v. P. Gunasekaran [Union of India v. P. Gunasekaran, (2015) 2 SCC 610 : (2015) 1 SCC (L&S) 554] , this Court held that while reappreciating evidence the High Court cannot act as an appellate authority in the disciplinary proceedings. The Court held the parameters as to when the High Court shall not interfere in the disciplinary proceedings : (SCC p. 617, para 13)

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

- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in 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.’*

14. On the other hand the learned counsel for the respondent relies upon the judgment reported as Allahabad Bank v. Krishna Narayan Tewari [Allahabad Bank v. Krishna Narayan Tewari, (2017) 2 SCC 308 : (2017) 1 SCC (L&S) 335] , wherein this Court held that if the disciplinary authority records



a finding that is not supported by any evidence whatsoever or a finding which is unreasonably arrived at, the writ court could interfere with the finding of the disciplinary proceedings. We do not find that even on touchstone of that test, the Tribunal or the High Court could interfere with the findings recorded by the disciplinary authority. It is not the case of no evidence or that the findings are perverse. The finding that the respondent is guilty of misconduct has been interfered with only on the ground that there are discrepancies in the evidence of the Department. The discrepancies in the evidence will not make it a case of no evidence. The inquiry officer has appreciated the evidence and returned a finding that the respondent is guilty of misconduct.”

20. *That thereafter this Court has observed and held in paras 7, 8 and 15 as under : (N. Gangaraj case [State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423 : (2020) 1 SCC (L&S) 547] , SCC pp. 426 & 430)*

“7. The disciplinary authority has taken into consideration the evidence led before the IO to return a finding that the charges levelled against the respondent stand proved.

8. We find that the interference in the order of punishment by the Tribunal as affirmed [State of Karnataka v. N. Gangaraj, 2011 SCC OnLine Kar 4510] by the High Court suffers from patent error. The power of judicial review is confined to the decision-making process. The power of judicial review conferred on the constitutional court or on the Tribunal is not that of an appellate authority.

15. The disciplinary authority agreed with the findings of the enquiry officer and had passed an



order of punishment. An appeal before the State Government was also dismissed. Once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by reappreciating evidence as if the courts are the appellate authority. We may notice that the said judgment has not noticed the larger Bench judgments in S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, 1963 SCC OnLine SC 6 : AIR 1963 SC 1723] and B.C. Chaturvedi [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] as mentioned above. Therefore, the orders passed by the Tribunal and the High Court [State of Karnataka v. N. Gangaraj, 2011 SCC OnLine Kar 4510] suffer from patent illegality and thus cannot be sustained in law.”

21. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has committed a grave error in interfering with the order passed by the disciplinary authority dismissing the respondent delinquent officer from service. The High Court has erred in reappreciating the entire evidence on record and thereafter interfering with the findings of fact recorded by the enquiry officer and accepted by the disciplinary authority. By interfering with the findings recorded by the enquiry officer which as such were on appreciation of evidence on record, the order passed by the High Court suffers from patent illegality. From the findings recorded by the enquiry officer recorded hereinabove, it cannot be said that there was no evidence at all which may reasonably support the conclusion that the Delinquent officer is guilty of the charge.”

34. In view of the foregoing, since the Appellant has not been able to show that the impugned order passed by the learned Single Judge suffers



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from patent illegality and/or there exists an error apparent on the face of the record. Thus, this Court does not find any infirmity with the Impugned Judgment or the enquiry proceedings which warrants interference under Article 226 of the Constitution of India as the facts reveal that the conclusion arrived at by the Respondent and by the learned Single Judge of there being dereliction of duty on the part of the Appellant resulting in manipulation of the system by certain guilty officials, does not warrant any interference in the present appeal.

35. Resultantly, the appeal stands dismissed. No order as to the costs. Pending application(s), if any, stand disposed of.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

JANUARY 07, 2026

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