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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8522/2007 & CM APPL. 415/2015**

Date of Decision: 06.04.2026

IN THE MATTER OF:

SATYADEV

.....Petitioner

Through: Mr. Chirayu Jain with Ms. Raksha A
wasya, Advocates.

versus

DELHI FIANCIAL CORPORATION & ORSRespondents

Through: Mrs Avnish Ahlawat, Standing
Counsel GNCTD with Mr Nitesh
Kumar Singh, Ms Aliza Alam&Mr
Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The instant petition has been filed seeking the following reliefs:

- "i.) To quash and set aside the punishment order of removal from service dated 9.11.06.*
- ii.) To quash and set aside the appellate authority order dated 12.6.07.*
- iii.) To issue writ of mandamus for reinstating the petitioner in service with all consequential benefits.*
- iv.) To allow the writ petition with exemplary costs"*

2. It is the case of the petitioner that by way of the impugned order dated 09.11.2006, he was removed from service by respondent no. 1, on the basis of a report submitted by the Departmental Committee ("**the Committee**")

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constituted by respondent no. 1 to examine a sexual harassment complaint filed against him.

3. The petitioner submits that the inquiry proceedings conducted by the Committee were in violation of the principles of natural justice. Learned counsel appearing on behalf of the petitioner contends that a copy of the complaint was never furnished to him. It is further submitted that the complainant was not examined during the proceedings. Accordingly, it is argued that the impugned order deserves to be set aside. Reliance is placed on the following decisions: *Union of India v. Dilip Paul*,¹ *Sur Enamel and Stamping Works v. Workmen*,² *Abraham Mathai v. State of Kerala*,³ *PS Thapar v. DDA and Ors.*,⁴ *Institute of Hotel Management, Catering Technology & Applied Nutrition v. Suddhasil Dey*,⁵ and *Jawaharlal Nehru University v. Flora Gupta*.⁶

4. The respondents are represented by Ms. Aliza Alam, learned counsel. In response to the aforesaid contentions, she submits that throughout the course of the inquiry proceedings, the petitioner never sought a copy of the complaint. She further submits that the allegations against him are substantiated by the statements of two witnesses, and therefore, the impugned order is good in law and warrants no interference. Reliance is placed on the decision of the Supreme Court in the case of *Apparel Export Promotion Council v. A.K. Chopra*.⁷

5. I have considered the submissions made by the learned counsel

¹2023 SCC OnLine SC 1423

²1963 SCC OnLine SC 97

³2024 SCC OnLine Ker 7081

⁴(2005) 79 DRJ 57

⁵2020 SCC OnLine Cal 3320

⁶2012 SCC OnLine Del 5722

⁷(1999) 1 SCC 759

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appearing for the parties and have perused the record.

6. The following charges were framed against the petitioner:

“Statement of Article of Charge framed against Shri Satyadev. Staff Car Driver. Delhi Financial Corporation.”

Annexure I

Shri Satyadev while working in the Corporation as Staff Car Driver committed following act of misconduct/misbehaviour and indiscipline.

Article I

That on 17.12.03, Shri Satyadev posted as Staff Car Driver in Branch Office (Rohini) visited the Head Office without any apparent purpose. Around 4.30 p.m. he entered Chief General Manager's Staff Room and addressed Ms. Swaran Kaur Grewal, P.A. to CGM, who was alone in the room, with comments which amounted to indecency and implied unwelcome conduct subjecting Ms. Grewal to harassment. Ms. Grewal also suspected Shri Satyadev being drunk.

Thus the above act of Shri Satyadev amounts to misconduct, indiscipline and misbehaviour and unbecoming of an employee of the Corporation under Staff Regulations 41(1) of the DFC Staff Regulations.”

7. It appears that the charges against the petitioner were sought to be substantiated by a list of witnesses, which was also annexed to the Office Memorandum dated 09.01.2004. The said list contained the names of the following two witnesses:

- (i) Mr. Dalbir Singh, Peon
- (ii) Mr. Raj Kumar, Peon

8. However, a perusal of the inquiry report reveals that the only material witness in support of the allegation was one Mr. R.P. Singh. Despite this, he was not named as a witness in the said list. Moreover, even the statement given by Mr. R.P. Singh does not reveal any material facts establishing the petitioner's guilt. It appears that he did not state anything other than that he

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noticed the complainant looking very disturbed and upset.

9. The conclusion drawn by the Committee in its report is extracted as under:

“Since there is no eyewitness to the alleged incident but from the material on record, deposition of witnesses the probability that the charged official had interacted with the complainant appears heavy in favour of the complainant and against the charged official. In view of the above facts and the totality of circumstances, which have emerged, we have no hesitation to hold the complaint of the complainant have substance in it and accordingly hold the charged official guilty of misbehaviour but it cannot be conclusively stated that the charged official was drunk at that point of time.”

10. A perusal of the entire record indicates that there is no evidence to substantiate the allegations levelled against the petitioner. The Committee seems to have acted in a manner unknown to law, inasmuch as the burden of proof was effectively shifted on the petitioner to explain as to why the complainant herein would furnish a false complaint. Thus, the Committee’s finding that the charges against the petitioner stand proved is based on no evidence at all.

11. In **Kuldeep Singh v. Commissioner of Police & Ors.**,⁸ the Supreme Court has held that even in departmental inquiries, the findings must be based on some cogent evidence pointing towards the guilt of the delinquent, and such evidence must be of a nature that does not leave the matter in a state of mere suspicion. Paragraph 7 of the said decision is extracted as under:

“7. In Nand Kishore Prasad v. State of Bihar² it was held that the disciplinary proceedings before a domestic tribunal are of quasi-judicial character and, therefore, it is necessary that the Tribunal

⁸(1999) 2 SCC 10



should arrive at its conclusions on the basis of some evidence, that is to say, such evidence which and that too, with some degree of definiteness, points to the guilt of the delinquent and does not leave the matter in a suspicious state as mere suspicion cannot take the place of proof even in domestic enquiries. If, therefore, there is no evidence to sustain the charges framed against the delinquent, he cannot be held to be guilty as in that event, the findings recorded by the enquiry officer would be perverse.”

12. It is also a well-known principle that suspicion, however high may be, can, under no circumstances, be held to be a substitute for legal proof. This principle has been reiterated by the Supreme Court time and again in various decisions, including, ***Ravishankar Tandon v. State of Chhattisgarh***,⁹ ***Varkey Joseph v. State of Kerala***,¹⁰ and ***Digamber Vaishnav v. State of Chhattisgarh***.¹¹

13. Furthermore, the record indicates that the petitioner was not supplied with a copy of the complaint. The contention of the learned counsel for the respondents that the petitioner did not seek a copy of the complaint cannot be accepted, as the same is a basic requirement for adherence to the principles of natural justice. It also appears from the record that the complainant was not examined during the inquiry proceedings.

14. For all the aforesaid reasons, this Court is of the view that the inquiry proceedings, culminating in the termination of the petitioner's services, cannot be sustained in law. The entire inquiry and the conclusions drawn therein are vitiated for non-adherence to the principles of natural justice, and are hereby set aside. Accordingly, the impugned order of termination also stands set aside.

⁹2024 SCC OnLine SC 526

¹⁰1993 Suppl (3) SCC 745

¹¹(2019) 4 SCC 522

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15. The Supreme Court, in *Manorama Verma v. State of Bihar*,¹² has held that the normal rule is that, in case termination of service is set aside as illegal, the consequential order of grant of back-wages ought to follow. The relevant portion of the same is extracted below, for reference:

“4. We do not see any justification for the High Court not allowing the appellant back wages after it came to the conclusion that the termination was illegal. Ordinarily, the consequential order of grant of back wages must follow, unless there are reasons on record which would justify a departure from the normal order. We do not see any reasons on record to come to the conclusion that the appellant was not entitled to back wages. There is also nothing on record to show that during the period she was out of service, she was gainfully employed elsewhere. In the circumstances we allow this appeal and set aside that part of the High Court's order by which the appellant was denied back wages and award her back wages from the date of termination of service till she was reinstated in service under the impugned order of the High Court. The appellant will be paid her back wages within three months from today. There will be no order as to costs.”

16. However, the Supreme Court, in *Salim Ali Centre for Ornithology & Natural History v. Mathew K. Sebastian*,¹³ has held that the initial burden to establish that he was not gainfully employed during the period of termination lies on the petitioner, and only thereafter, the burden to prove otherwise would shift to the respondents. The relevant portion of the said decision is extracted below, for reference:

“8.2. That as per the settled position of law, it is the employee who has to prove by leading evidence that he was not gainfully employed during the period he remained out of employment. Reliance is placed upon the decisions of this Court in State of U.P. v. Atal Behari Shastri,¹⁴; Kendriya Vidyalyaya Sangathan v. S.C. Sharma,¹⁵; J.K. Synthetics Ltd. v. K.P.

¹²1994 Supp (3) SCC 671

¹³(2022) 20 SCC 692

¹⁴1993 SCC (L&S) 423

¹⁵(2005) 2 SCC 363

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Agrawal,¹⁶; P. Karupaiah v. Thruuvalluvar Transport Corpn. Ltd.¹⁷”

17. It is seen that in the present case, the petitioner has, nowhere in the petition, taken a stand that he was not gainfully employed during the period of termination. In fact, he was hale and hearty at the time of termination and as such, cannot be expected to have remained idle. He has also not placed on record any affidavit to establish that he was not gainfully employed in the meantime.

18. In view of the forgoing discussion, since the termination of the petitioner is wholly illegal and based on no justification, the Court deems it appropriate to direct reinstatement of the petitioner with all consequential benefits, limiting the back wages to the extent of twenty five percent of the last drawn salary.

19. In view of the aforesaid, the writ petition stands disposed of. Pending applications also stand disposed of.

PURUSHAINdra KUMAR KAURAV, J

APRIL 6, 2026

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¹⁶(2007) 2 SCC 433

¹⁷(2018) 12 SCC 663

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