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

+ **W.P.(C) 4788/2017**

PARVEEN KUMAR

.....Petitioner

Through: Petitioner (in-Person).

versus

EXPORT INSPECTION COUNCIL & ORS

.....Respondents

Through: Mr. L.R. Khatana, Advocate for R-1 to 4.

Mr. Nirvikar Verma, SPC with Mr. Varun Kumar, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **10.03.2026**

1. This writ petition arises out of a service dispute which, beneath the volume of accusation and counter-accusation, turns on a much narrower question: whether the Petitioner's dismissal from service for failing to join at Tuticorin after a temporary posting order dated 11th April, 2014 can be sustained in law, having regard to the sequence of leave requests, the charge memorandum dated 5th June, 2014, the departmental inquiry that followed, and the appellate order affirming the penalty. The challenge is to the order dated 5th April, 2016 by which the Petitioner was dismissed from service and the order dated 21st February, 2017 by which his appeal was rejected.

Facts in brief

2. The Petitioner joined service with the Respondent on 8th November, 1989. At the relevant time, he was serving as a Technical Officer in the Export Inspection Agency, Delhi. By order dated 11th April, 2014, he was



relieved from EIA Delhi and directed to join at EIA Chennai, Sub-Office Tuticorin, on what the employer described as a temporary basis owing to administrative exigencies.

3. The Petitioner did not join at Tuticorin. The record shows that letters dated 6th May, 2014, 13th May, 2014, 23rd May, 2014, 27th May, 2014 and 30th May, 2014 were thereafter issued calling upon him to report for duty. In the meantime, the Petitioner submitted a notice seeking voluntary retirement on 16th May, 2014. He also submitted leave applications and representations, first on 16th May, 2014 and then on 27th May, 2014, referring to his wife's illness, his LL.B. examinations, and the pendency of court proceedings in Delhi. The leave application dated 16th May, 2014 was rejected on 23rd May, 2014. The request for voluntary retirement was rejected on 27th May, 2014. By letter dated 30th May, 2014, the Petitioner was once again directed to report at Tuticorin, this time latest by 5th June, 2014.

4. On 5th June, 2014, the Respondents issued a memorandum proposing disciplinary inquiry against the Petitioner. Two articles of charge were framed. Broadly stated, the first alleged wilful disobedience of the office order dated 11th April, 2014 and continued failure to report at Tuticorin despite reminders. The second alleged that the Petitioner's communication dated 27th May, 2014 seeking leave till 14th June, 2014 did not disclose the nature and particulars of leave in proper form and that, despite clear notice that action would follow if he did not report by 30th May, 2014, he remained absent in an unauthorised manner. The memorandum of charges reads as under:

“Annexure I

STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST



SHRI PRAVEEN KUMAR

Article I

Shri Praveen Kumar while functioning as Technical Officer, Export Inspection Agency Delhi was directed by Export Inspection Council of India vide their order bearing no EIC/D(Q/C)/8/2013-14/268/195 dated 11 April 2014 of him being temporarily transferred from EIA Delhi Head office to EIA Chennai SO Tuticorin and thereafter vide office order of Export Inspection Agency Delhi bearing no EIA/DEL/ADMN(8)/2014-15/202 dated 11 April 2014 that he shall be relieved from the services of EIA Delhi on 11 April 2014 in the afternoon and shall join duties at EIA Chennai SO Tuticorin in pursuance with the instructions of Export Inspection Council. Shri Praveen Kumar was issued reminder letters by Joint Director EIA Delhi on 6 May 2014; 13 May 2014; 23 May 2014; 27 May 2014 and 30 May 2014 to report for duties as per instructions of the letters of EIC and EIA Delhi. Shri Praveen Kumar did not report for duties at EIA Chennai SO Tuticorin. Shri Praveen Kumar disobeyed the said office order (s) wilfully but also despite reminders continued to do so by not proceeding to EIA Chennai SO Tuticorin. This act of willful disobedience on part of Shri Praveen Kumar is violation Rule 3(1) (ii) (iii) of CCS (Conduct) Rules 1964 and amounts to grave misconduct on his part

Article II

Shri Praveen Kumar while functioning as Technical Officer, Export Inspection Agency Delhi was directed by Export Inspection Council of India vide their order bearing no EIC/D(Q/C)/8/2013-14/268/195 dated 11 April 2014 of him being temporarily transferred from EIA Delhi Head office to EIA Chennai SO Tuticorin and thereafter vide office order of Export Inspection Agency Delhi bearing no EIA/DEL/ADMN(8)/2014-15/202 dated 11 April 2014 that he shall be relieved from the services of EIA Delhi on 11 April 2014 in the afternoon and shall join duties at EIA Chennai SO Tuticorin in pursuance with the instructions of Export Inspection Council. Shri Praveen Kumar was issued reminder letters by Joint Director, EIA Delhi on 6 May 2014; 13 May 2014; 23 May 2014; 27 May 2014 and 30 May 2014 to report for duties as per instructions of the letters of EIC and EIA Delhi. Shri Praveen Kumar submitted one intimation dated 27 May 2014 (received on 29 May 2014) in the office of Deputy Director EIA Delhi intimating that he be granted leave till 14 June 2014. Shri Praveen Kumar neither indicated the nature of leave or the exact details of his leave and nor was the application for leave filed in a prescribed format, this action of Shri Praveen Kumar demonstrates that Shri Praveen Kumar had willfully disobeyed the instructions contained in



letter dated 11 April 2014, on trivial and extraneous grounds. It was made amply clear to Shri Praveen Kumar in letter dated 23 May 2014; 27 May 2014 and 30 May 2014 that in case Shri Praveen Kumar does not report for duty by 30 May 2014 suitable action would be initiated against him under the rules. Despite clear notices Shri Kumar preferred to be absent in an unauthorized manner and disobeyed the instructions of Office (EIC and EIA)

This act of willful disobedience despite reminders on part of Shri Praveen Kumar is violation Rule 3(1) (ii)(iii) of CCS (Conduct) Rules 1964 and amounts to grave misconduct on his part”

5. The Petitioner submitted a detailed reply on 14th June, 2014. In that reply, he disputed the factual and legal foundation of the charges, referred to the letter dated 30th May, 2014, and specifically requested that he be heard in person. He reiterated his stand in subsequent communications as well.

6. Eventually, by office order dated 10th February, 2015, an Inquiry Officer and Presenting Officer were appointed. The inquiry culminated in a report dated 1st October, 2015 holding both charges proved. The disciplinary authority, by order dated 5th April, 2016, concurred with the report and imposed the penalty of dismissal from service with immediate effect. The statutory appeal preferred by the Petitioner was dismissed on 21st February, 2017.

7. Before turning to the rival submissions, one further fact requires notice. The posting order dated 11th April, 2014 was separately challenged by the Petitioner in W.P.(C) 3873/2014. Dismissing that petition on 14th January, 2015, this Court held the order was a valid “temporary posting” issued for administrative exigencies. The Court rejected the plea of *mala fides*, observing that the alleged link between the transfer and the notice issued under Section 91 Cr.P.C. was factually unfounded. It further held that under SR 114, a duration of less than 180 days is presumed even if the order



is silent. These findings were affirmed in LPA 66/2015 on 31st July, 2015, where the Division Bench noted that a “temporary transfer” is a recognized species of transfer under S.R. 2(18). Crucially, the Division Bench observed that since no stay was granted and the Petitioner had admittedly not joined his post, departmental proceedings for unauthorized absence were validly initiated.

Petitioner’s submissions

8. The Petitioner, who appears in person, has advanced an extensive set of submissions. Stripped of repetition and surplus allegations, his contentions are summarised as follows:

8.1. The Petitioner first raises a jurisdictional challenge, contending that the proceedings were conducted under the authority of the “Export Inspection Council of India,” an entity unrecognized by the Export (Quality Control and Inspection) Act, 1963. He submits that the statutory body is the “Export Inspection Council” and that the use of a non-statutory title is a fundamental defect that renders the entire disciplinary action a legal nullity.

8.2. The posting order dated 11th April, 2014, was not a *bona fide* administrative measure but a retaliatory step taken because he had questioned the qualifications of Respondent No. 2 and set the criminal law in motion. The immediate issue of the posting order on the same day as a police inquiry into the Director’s credentials discloses a design to victimize him.

8.3. The matter could not be treated as a case of simple wilful defiance because he had placed his personal difficulties, including his wife’s illness and his own LL.B. examinations, before the authorities. He contends that his leave applications and representations dated 16th May and 27th May, 2014,



were *bona fide* requests for short accommodation necessitated by practical shifting difficulties and not acts of indiscipline.

8.4. Particular emphasis is placed on the office letter dated 30th May, 2014, by which the Respondents granted him until 5th June, 2014, to report for duty. He submits that once this extension was granted, no disciplinary action could be founded on a failure to report by 30th May. The charge memorandum nevertheless proceeded on the footing that he missed a 30th May deadline, which constitutes a deliberate distortion of the record that vitiates the charge.

8.5. The charge memorandum was unsustainable because it treated his absence as “unauthorised” without deciding his leave requests or considering that he had sufficient leave to his credit. His case is that the authorities chose to convert a request for regularization into a major penalty proceeding directed toward dismissal.

8.6. The disciplinary process violated Rule 11(4) of the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978. The charge memorandum itself required him to indicate whether he desired a personal hearing. In his reply dated 14th June 2014, and again thereafter, he expressly sought such a hearing. This request was ignored, thereby depriving him of an opportunity to explain the matter before the formal inquiry process was initiated.

8.7. The Petitioner then assails the appointment of the Inquiry Officer. He contends that Rule 11(2) contemplated inquiry either by the disciplinary authority itself or by a “public servant” appointed for that purpose. The officer appointed in the present case was a retired officer and, therefore, outside the scope of the rule. He also relies on contemporaneous objections



raised by him during the inquiry and submits that the inquiry was conducted by an authority lacking competence in law.

8.8. The Petitioner complains of procedural unfairness, alleging that the Inquiry Officer lacked neutrality, dictated replies for prosecution witnesses, and failed to properly consider material defence documents. He further points to an impermissible shifting of stand regarding the character of the order dated 11th April, 2014, which was variously described as a temporary posting or a temporary transfer to suit administrative convenience.

8.9. A substantial portion of his argument rests on the communication dated 22nd July, 2014, from the Chairman. He submits that the Chairman reviewed the matter and recorded that his joining at Tuticorin could be deferred for ten months so he could finish his LL.B. This development struck at the very basis of the proceedings and should have been considered by the Disciplinary Authority.

8.10. The Petitioner further alleges bias, submitting that the Disciplinary Authority, the very officer whose credentials the Petitioner had challenged, could not have acted with the detachment required by law. He contends the proceedings were tainted by a closed mind from the outset.

8.11. On the question of punishment, he submits that dismissal from service was wholly excessive and out of proportion to the alleged misconduct, particularly given the pending leave requests and family difficulties. In support, he places reliance on the principles laid down in ***Raghubir Singh v. General Manager, Haryana Roadways.***¹

Respondents' submissions

9. Respondents No. 1 to 4 oppose the writ petition both on preliminary



grounds and on merits. Their submission, in essence are as follows:

9.1. The Petitioner is attempting to reagitate issues that stand concluded by multiple rounds of prior litigation. The legality of the posting order dated 11th April 2014, the plea of *mala fides*, and the arguments regarding SR 114 were rejected by this Court in W.P.(C) 3873/2014 and affirmed in LPA 66/2015. Furthermore, the Petitioner's challenge to the appointment of a retired officer as the Inquiry Officer, a central pillar of the present petition, is no longer *res integra*. In the Petitioner's own case concerning a parallel disciplinary proceeding, this Court in LPA 313/2024 (judgment dated 22nd January, 2026) has categorically held that the appointment of a retired public servant as an Inquiry Authority under the EIA Rules, 1978 is legally permissible and that such an officer falls within the definition of a "public servant."

9.2. The petition is an exercise in hyperbole, substituting cogent evidence with "shocking" allegations of fraud and conspiracy. The Respondents argue that the Petitioner has sought to personalize a straightforward disciplinary matter by impleading officers by name and imputing malicious motives without an iota of proof.

9.3. The posting was an administrative necessity in public interest. The Petitioner adopted a defiant stance from the outset, failing to report at Tuticorin despite five written reminders issued between 6th May, and 30th May, 2014.

9.4. As regards the leave applications, the Respondents submit that the Petitioner never acquired any right to remain away from duty merely because he made representations seeking leave. According to them, the

¹ (2014) 10 SCC 301.



leave request dated 16th May, 2014 was considered and rejected on 23rd May, 2014. His request for voluntary retirement was also rejected on 27th May, 2014. Once leave had not been sanctioned, and the Petitioner had been repeatedly directed to report for duty, his continued absence could legitimately be treated as unauthorised.

9.5. The Petitioner's argument based on the letter dated 30th May, 2014 is overstated. The Petitioner was given a final opportunity to join by 5th June, 2014 and that he still did not report for duty. The core misconduct was not confined to a single date, but consisted of continuing wilful disobedience of the order dated 11th April, 2014 and persistent failure to report despite repeated directions.

9.6. On the departmental process, it is asserted that the inquiry was conducted in strict adherence to the 1978 Rules. The Petitioner cross-examined witnesses, produced his own evidence, and submitted detailed representations against both the inquiry report and the penalty. It is also pointed out that the Petitioner availed the appellate remedy and was given a personal hearing in appeal on 27th September, 2016.

9.7. Addressing Rule 11(4), the Respondents contend that the requirement for a personal hearing at the initial stage is not mandatory. The principles of natural justice were satisfied as the Petitioner was granted a full opportunity to present his case during the inquiry and was subsequently heard at length by the Appellate Authority.

9.8. The Chairman's note dated 22nd July 2014 is of no assistance to the Petitioner. The note was conditional, was not part of the inquiry record, and could not retroactively wipe out the misconduct of failing to report for duty since April 2014.



9.9. Finally, the Respondents submit that dismissal is a proportionate penalty for a sustained and wilful refusal to serve at a designated post. They argue that such a recalcitrant attitude by a public servant warrants the highest degree of disciplinary action and does not call for interference in writ jurisdiction.

Analysis and Findings

10. In view of the prior litigation and the subsequent developments during the pendency of this petition, the field of controversy now stands considerably narrowed. To assess the remaining challenge on the settled principles of judicial scrutiny, the Court must first separate the foundational issues that have attained finality from the grounds that have been expressly abandoned by the Petitioner.

I. Finality of the Posting Order dated 11th April, 2014

11. A significant portion of the present petition seeks to re-litigate the legality of the initial posting order dated 11th April, 2014, and the alleged *mala fides* behind it. However, that order was already the subject of an exhaustive challenge in W.P.(C) 3873/2014. In dismissing that petition, this Court explicitly rejected the Petitioner's pleas founded on transfer policy, the arguments based on SR 114, and the allegations of *mala fides*.

12. The Division Bench, in LPA 66/2015, affirmed this reasoning and observed that the technical debate over whether the order constituted a "temporary posting" or "temporary transfer" had become academic, given the Petitioner's admitted failure to join.

13. These decisions conclude the foundational challenge to the validity of the 11th April, 2014 order. The Petitioner cannot be permitted to reopen these issues indirectly by attacking the subsequent disciplinary proceedings



on the same grounds. This Court must, therefore, proceed on the footing that the posting order was a lawful administrative directive issued for exigency, the challenge to which has attained absolute finality.

II. Grounds expressly not pressed (LPA 313/2024)

14. Moreover, during the course of oral submissions, the Petitioner expressly stated that Grounds Y, Z, and AA, which assailed the appointment and eligibility of Shri Inder Singh as Inquiry Officer, were not being pressed.

15. This abandonment was a direct consequence of the judgment dated 22nd January, 2026, rendered by the Division Bench in LPA 313/2024. In that case, which involved this very Petitioner, the Court categorically held that the appointment of a retired public servant as an Inquiry Authority under Rule 11(2) of the EIA Rules, 1978, is legally permissible.

16. In light of that settled position, the challenge to the inquiry, insofar as it rests on the alleged ineligibility of the Inquiry Officer, is treated as abandoned and requires no further adjudication.

III. The Surviving Issues

17. With the legality of the posting order settled and the challenge to the Inquiry Officer withdrawn, the controversy is narrowed to the procedural and substantive validity of the disciplinary proceedings themselves. The issues that survive for adjudication are:

- (i) Whether the use of the nomenclature “Export Inspection Council of India” instead of the statutory “Export Inspection Council” renders the proceedings a nullity.
- (ii) Whether the alleged denial of a personal hearing at the pre-inquiry stage, as contemplated under Rule 11(4), vitiates the process.



(iii) Whether the Charge Memorandum is defective for citing a 30th May deadline despite the Respondents' own letter granting an extension until 5th June.

(iv) Whether the communication dated 22nd July, 2014, suggesting a ten-month deferment of the posting, effectively superseded the disciplinary proceedings.

(v) Whether the Petitioner's pending leave requests and available leave credit prevent his absence from being categorized as "unauthorized."

(vi) Whether the ultimate penalty of dismissal is so disproportionate to the alleged misconduct as to warrant interference.

IV. Whether the proceedings are vitiated because they were taken in the name of "Export Inspection Council of India"

18. The Petitioner has sought to build a jurisdictional challenge around the use of the expression "Export Inspection Council of India" in the charge memorandum, the disciplinary order and the appellate order, whereas, according to him, the statutory body recognised under the governing enactment is "Export Inspection Council".

19. This submission, in the facts of the present case, cannot be accepted. The material on record shows that the Petitioner's service lay within the EIC/EIA structure and that the impugned steps were taken by officers acting under that service framework. The Petitioner was throughout dealing with the very establishment under which he served. No real case is made out that the charge memorandum, the inquiry, the disciplinary decision or the appellate decision were taken by a stranger to the service relationship or by an authority lacking disciplinary competence in substance.

20. Mere variation in nomenclature, absent demonstrated failure of



competence or prejudice, cannot by itself vitiate proceedings of this nature. The matter is one of description, not of jurisdictional nullity. This ground must, therefore, fail.

V. Whether denial of a separate personal hearing before inquiry vitiates the proceedings

21. The Petitioner relies on Rule 11(4) and on the fact that the memorandum dated 5th June, 2014 called upon him to state whether he desired to be heard in person. He submits that he expressly sought such hearing in his reply dated 14th June, 2014 and again thereafter, yet no personal hearing was granted before the inquiry was set in motion.

22. The submission does not carry the matter far enough to warrant interference. The Petitioner submitted a detailed written defence on 14th June, 2014. He later submitted a further reply dated 27th July, 2014. A regular inquiry was then held. He participated in that inquiry. He cross-examined the management witnesses. He examined himself as a defence witness. He filed a response to the Presenting Officer's brief. After the inquiry report, he submitted a further representation. He thereafter filed a statutory appeal and was also heard in person at the appellate stage on 27th September, 2016.

23. In these circumstances, even assuming that the Petitioner desired a separate oral hearing at the initial stage, the record does not disclose such prejudice as would justify setting aside the entire proceedings on that account. The rule no doubt required the employee to be given opportunity to state whether he wished to be heard in person. But the present case did not stop at that stage. A full inquiry followed, and the Petitioner availed the opportunities provided therein. The principles of natural justice are



concerned with fairness in substance. On the record of this case, it cannot be said that the Petitioner was denied a fair opportunity to defend himself.

VI. Whether the charge memorandum is vitiated by the reference to 30th May, 2014 despite the letter dated 30th May, 2014 granting time till 5th June, 2014

24. This is the point on which the Petitioner emphasised, and it therefore requires closer examination.

25. It is correct that by letter dated 30th May, 2014, the Petitioner was directed to report for duty at EIA Chennai, Sub-Office Tuticorin, latest by 5th June, 2014. It is equally correct that Article II of the charge memorandum refers to, *inter alia*, 30th May, 2014 and states that the Petitioner had been made aware that, if he did not report for duty by 30th May, 2014, suitable action would follow. On that basis, the Petitioner submits that the charge is fundamentally defective.

26. This submission cannot be accepted in the broad manner in which it is advanced. The charge memorandum must be read as a whole. Its substance is not confined to a single date. The gravamen of the charge is the Petitioner's continued failure to comply with the order dated 11th April, 2014 and his continued non-reporting despite repeated reminders. Article I, in particular, alleges wilful disobedience of the posting order and continued failure to report for duty despite the reminder letters dated 6th May, 2014, 13th May, 2014, 23rd May, 2014, 27th May, 2014 and 30th May, 2014. That article does not rest exclusively on the date of 30th May, 2014.

27. Article II, though not properly articulated in this regard, cannot be read in isolation from the rest of the memorandum and the accompanying material. The Petitioner was fully aware of the case he had to meet. Indeed,



in his own reply dated 14th June, 2014, he specifically addressed the letter dated 30th May, 2014, the date of 5th June, 2014, and the grievance he sought to build upon that circumstance. There was, therefore, no uncertainty as to the factual basis on which the Respondents were proceeding.

28. Pertinently, the Petitioner admittedly did not report for duty by 5th June, 2014 either. Nor did he report thereafter. The alleged misconduct was, therefore, not a one-day default resting on a stray or isolated date. It was the Petitioner's continuing refusal to comply with the posting order and the repeated directions issued thereafter. In that setting, the reference to 30th May, 2014 in Article II does not go to the root of the matter in the manner suggested by the Petitioner. It neither displaces Article I nor establishes such prejudice as would vitiate the proceedings.

29. The Petitioner also contended that no cause of action could arise on 5th June, 2014 itself. That submission cannot be accepted in the context of a case of continuing non-compliance, which had commenced after the order dated 11th April, 2014 and continued even beyond 5th June, 2014.

30. The Court is, therefore, not persuaded that either the charge memorandum or the findings ultimately returned in the disciplinary proceedings are liable to be set aside merely because Article II refers to 30th May, 2014.

VII. Whether the leave requests prevent the absence from being treated as unauthorised

31. The Petitioner next contends that he had genuine personal difficulties, had leave to his credit, and had sought only short accommodation. On that basis, he submits that the matter ought not to have been treated as one of unauthorised absence or grave misconduct.



32. The record does show that the Petitioner submitted leave applications and representations. It also shows that his leave request dated 16th May, 2014 was rejected on 23rd May, 2014. His request for voluntary retirement was rejected on 27th May, 2014. Thereafter, by letter dated 30th May, 2014, he was again directed to join at Tuticorin by 5th June, 2014.

33. Once leave had not been sanctioned, and once the order of posting had already survived challenge in the earlier round before this Court, the Petitioner could not assume unto himself a right to remain away from duty and yet insist that such absence be treated as regular merely because he had submitted representations seeking leave. The fact that he referred to family difficulties, examinations and other personal circumstances may explain the position he adopted. It does not, however, transmute non-compliance of an office order into lawful absence.

34. The Petitioner's reliance on ***Raghubir Singh*** is misplaced. In that case, the Supreme Court treated unauthorized absence as leave without wages because the workman faced a "genuine constraint", i.e., judicial custody, and had been assured reinstatement upon acquittal. In the present case, the Petitioner faced no physical or legal impossibility of performance. His absence was a choice to withhold compliance with a posting order that had already attained judicial finality. ***Raghubir Singh*** does not mandate regularization where the conduct in question amounts to deliberate administrative insubordination. Equitable considerations meant to protect a falsely implicated workman cannot be invoked to justify wilful defiance of lawful orders.

VIII. Effect of the Chairman's note dated 22nd July, 2014



35. The Petitioner placed considerable reliance on the communication dated 22nd July, 2014 made on his representation to the Chairman. The note records that he may be allowed to draw GPF from EIA Kolkata irrespective of place of posting and, further, that “based upon undertaking from him that he will withdraw the court case and that he will join in Tuticorin immediately after completion of his LLB Course, his joining for posting may be deferred for next ten months.”

36. This noting cannot carry the Petitioner to the result he seeks. To begin with, it is plainly conditional in nature. The contemplated deferment was not absolute. It was made dependent upon an undertaking from the Petitioner that he would withdraw the court case and join at Tuticorin immediately after completion of the LL.B. course. Nothing has been shown on record to establish that the condition was fulfilled in the manner contemplated or that the noting thereafter matured into an operative order modifying, superseding, or recalling the earlier posting order.

37. There is also a more basic difficulty in the Petitioner’s reliance on this document. The noting is dated 22nd July, 2014, whereas the charge memorandum had already been issued on 5th June, 2014. The misconduct alleged in the memorandum related to the Petitioner’s failure to report pursuant to the order dated 11th April, 2014 and the repeated reminders issued thereafter. A subsequent internal noting of the kind in question cannot retrospectively efface that earlier conduct.

38. At the highest, the said noting might have been invoked as a circumstance bearing on mitigation. It does not, however, subvert the legal foundation of the charge, nor does it render the disciplinary proceedings *non est*.



IX. Whether the findings or punishment warrant interference in writ jurisdiction

39. This Court must finally consider the matter in the light of the settled limitations on judicial review of disciplinary action. The Court is not sitting in appeal over the disciplinary authority. It is concerned with legality, procedural fairness, perversity, and punishment so disproportionate as to shock the conscience.²

40. In the present case, once the challenge to the Inquiry Officer stands abandoned, and once the legality of the posting order dated 11th April, 2014 and the plea of mala fides behind it stand concluded against the Petitioner in the earlier round, the surviving grounds are not sufficient to displace the disciplinary action.

41. The Petitioner did not report at Tuticorin despite repeated directions. His leave request was not sanctioned. His challenge to the posting order failed before this Court and again in appeal. Yet he continued to withhold compliance. The inquiry found the charge proved. The disciplinary authority accepted that finding. The appellate authority declined to interfere. The Court does not find perversity in the core conclusion that the Petitioner had wilfully failed to comply with the posting order and remained absent without authority.

42. Nor is the Court persuaded that the penalty of dismissal is liable to be interfered with on proportionality grounds. The misconduct was not treated by the employer as a mere technical lapse, but as sustained and deliberate defiance of a lawful office order. Whether another authority might have imposed a lesser penalty is not the test. The question is whether the penalty



imposed is so outrageously disproportionate as to justify interference under Article 226. On the facts of this case, that threshold is not crossed.

X. Conclusion

43. The petition, in substance, seeks to reopen what already stood decided against the Petitioner in the earlier round and to convert a case of persistent non-compliance with a lawful posting order into a case of institutional illegality. The record does not support that exercise.

44. The grounds directed against the appointment and eligibility of the Inquiry Officer having been expressly abandoned, and the remaining grounds being devoid of merit, no case for interference is made out with either the disciplinary order dated 5th April, 2016 or the appellate order dated 21st February, 2017.

45. The writ petition is, accordingly, dismissed.

SANJEEV NARULA, J

MARCH 10, 2026

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² *UOI & Ors. v. P. Gunashekar* (2015) 2 SCC 610.