



2025:DHC:8973



\$~J

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Judgment pronounced on: 09.10.2025***+ **W.P.(C) 10301/2023 and CM APPL.39851/2023**

CENTRAL BANK OF INDIA

.....Petitioner

Through: Mr. Sandeep Sethi, Sr. Advocate
along with Mr. Sanjay Kapur and
Mr. Surya Prakash, Advocates.

versus

SH SOHAN KUMAR AND ANR.

.....Respondents

Through: Mr. Anurag Mishra, Mr. Divyanshu
Agarwal and Mr. Utkarsh Dwivedi,
Advocates for R-1.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition has been filed by the petitioner assailing orders dated 03.11.2022 (being minutes of hearing dated 21.10.2022) and 14.07.2023 (being minutes of hearing dated 07.07.2023) issued by the National Commission for Scheduled Castes (NCSC / respondent no.2) in File bearing No. S-48/Bank-50/2019/SSW-II (hereinafter collectively referred to as '*the impugned order(s)*') and any further proceedings emanating thereof.

2. The present petition has been preferred in the background of written complaint dated 12.08.2016 filed by an account holder of the petitioner bank (not a party in the present proceedings) against the respondent no.1 (former employee of the petitioner bank, employed as a clerk / SWO-A at the



Selakui Branch, Dehradun) alleging that on 10.08.2016, the respondent no.1 had unauthorisedly withdrawn a sum of Rs. 20,000/- from the complainant's bank account.

3. It is stated that on 16.08.2016, considering the gravity of offence, the respondent no.1 was placed under suspension. Thereafter, the departmental enquiry initiated against the respondent no.1 culminated in an Enquiry Report, whereby, charges against the respondent no.1 were found to have been established. The said Enquiry Report was submitted by the Enquiry Officer before the Disciplinary Authority on 16.01.2018.

4. On 02.02.2018, a written statement was submitted by the respondent no.1 in response to the aforesaid Enquiry Report. Subsequently, on 27.03.2018, a show cause notice was issued by the Disciplinary Authority to the respondent no.1 and on 07.04.2018, the respondent no.1 was granted a personal hearing.

5. Upon conclusion of the aforesaid proceedings, the Disciplinary Authority *vide* order dated 26.06.2018, *inter alia*, directed that the respondent no.1 be compulsorily retired with superannuation benefits. The operative portion of the said order dated 26.06.2018 reads as under –

“Attention of Shri Sohan Kumar (Employee No. 088239) S.W.O-A/ Clerk (Suspended), Branch Selakui is invited to the final order No. RO:MSV-DAD:2018-19:29 dated 26.06.2018 issued by the disciplinary authority Mr. B. P. Gaur, Deputy Regional Manager, Regional Office, Dehradun after completion of the departmental inquiry in reference to Charge sheet No. RO:MSV:DAD-2017-1880 dated 11.09.2017. The Disciplinary Authority vide the said final order has ordered that Mr. Sohan Kumar be compulsorily retired with superannuation benefits i.e. Pension and/or Provident fund and gratuity as would be otherwise have been payable under the rules and regulations prevailing at the relevant and without disqualification for future employment under clause 6(c) of



2025:DHC:8973



Memorandum of Settlement on Disciplinary Action Procedure for Workmen dated 10th April 2002.”

6. Aggrieved by the aforesaid order, an appeal was filed by the respondent no.1 before the Appellate Authority / Regional Manager, Dehradun. The said appeal was dismissed by the Appellate Authority *vide* order dated 25.02.2019 and consequently, decision of the Disciplinary Authority dated 26.06.2018 came to be confirmed.

7. In the aforesaid conspectus, a complaint / representation dated 03.09.2019 was preferred by the respondent no.1 before the National Commission for Scheduled Castes/respondent no.2 (NCSC), seeking restoration of his service. The said complaint reads as under –

“Sub: Regarding giving CRS on the basis of caste

Sir,

I, Sohan Kumar, humbly submits that I was working as SWOA in the Branch Sonakui. The branch manager used to increase my level daily, due to which I used to make transaction of receiving Rs.25000/- from the counter and payment of Rs.25000/-. In the village in the branch, the customers used to get the form filled up by me, hence, I filled up the payment form of Shri Lal Bahadur Bahora for Rs.20,000/-. The customers only put their signatures. On 18/8/20, I filled up the payment form of Shri Lal Bahadur Bahora for Rs.20,000/-. He had signed the form. One deposit form of Rs.20,000/- was also filled up on 20.8.20 by me. I have been suspended (CRS) from the Bank by alleging that I have embezzled the money by withdrawing from the bank account. When I submitted the letter from Shri Lal Bahadur Bahora that withdrawal and deposit of money was done by him, they refused to take it and I have been given CRS by alleging charges on me. You are requested to restore me against the CRS given on the basis of caste. Please give justice to me.

*Applicant
Sohan Kumar”*

8. On 03.11.2022, an order came to be passed by the NCSC containing



the following directions -

“2. The Authority informed the commission that as per enquiry record, the Central Forensic Science Laboratory report presented during the course of the enquiry states that the disputed withdrawal from dated 10.08.2016 for Rs.20/000/- was neither written by the complainant/account holder nor signed by him. Also, the deposit slip dated 12.08.2016 for Rs.20/000/- as filled in by the employee Mr. Sohan kumar. Hence, disciplinary action procedure was held as per disciplinary action and employee was given full opportunity to defend his case. There were adequate evidences to prove the charge.

3. After hearing both the parties in detailed, the commission observed that punishment awarded to the petitioner i.e. compulsorily retirement is unjustified. The Commission recommends the petitioner to file an appeal. The Commission recommends the concerned authority to consider the matter on humanitarian and sympathetical ground and resolve the matter amicably as per rules.

4. Action Taken Report (ATR) to be submitted to the Commission within 21 days from the date of issuing of the minutes.”

9. Pursuant thereto, the Board of Directors of the petitioner bank examined the case of the respondent no.1 and *vide* communication dated 06.01.2023 communicated their decision to the respondent no.2 that the punishment *qua* the respondent no.1, decided by the Disciplinary Authority does not warrant reconsideration inasmuch as an appeal against the said decision has already been dismissed. The same reads as under –

“CO: HRD: SCT: 2021-22: 411

Date: 06.01.2023

*Shri Arun Halder
Hon'ble Vice-Chairman
National Commission for Scheduled Castes
Government of India
New Delhi*

Sir,

Reg: Representation received from Shri. Sohan Kumar,



Emp.No.088239, SWO-A, Branch office Selakui, Regional office Dehradun regarding discrimination and harassment in services.

Ref: Minutes of hearing, File No.S-48/Bank -50/2019/SSW-II dated 10.11.2022

We have received the Minutes of the Hearing held by the Hon'ble National Commission for Scheduled Caste on 11.11.2022 under the cover letter dated 10.11.2022. In the case of complaint filed by Shri Sohan Kumar (Ex-staff) regarding discrimination and harassment in service. The Hon'ble commission vide said Minutes had recommended as follows:-

"After hearing both the parties in detailed, the commission observed that punishment awarded to the petitioner i.e. compulsorily retirement is unjustified. The commission recommends the petitioner to file an appeal. The commission recommends the concerned authority to consider the matter on humanitarian and sympathetical ground and resolve the matter amicably as per rules."

In compliance with the directions of the Hon'ble commission, the matter was examined by the Board of Directors of the Bank in the light of the applicable Rules and Regulations.

The provision for review of penalty for Award Staff employees was introduced by the 11th Bipartite Settlement, w.e.f. 01.11.2020. Prior to the 11th Bi-Partite, there was no provision of review of penalty in the case of Award staff employees. Since Shri Sohan Kumar was inflicted the penalty vide final order dated 26.06.2018 and upheld by Appellate Authority vide order dated 25.02.2019, the said provision of Review is not applicable in his case.

The Board of Directors after examining the factual position of the case in the light of the applicable rules/regulation and also with a humanitarian approach concluded that due to lack of any provision, Bank is unable to accede to the suggestion of the Hon 'ble National Commission.

We may inform that Bank is bound by the Rules/regulations of Bipartite Settlement in all service matters including Disciplinary Action. Bipartite Settlement is settled at industry level and applicable across the Bank. The action taken by the Bank in the subject matter is in conformity to the Rules and Regulations of Bank and the statutory legal provisions and is therefore in accordance with law.



As such, after considering the case of Shri Sohan Kumar sympathetically in the light of applicable Rules and Regulations, due to absence of any provision for reviewing the penalty in the case of Shri Sohan Kumar, no further action can be taken at Bank's level as the matter has attained finality."

10. After considering the aforesaid response by the petitioner bank, the Commission *vide* order dated 14.07.2023 observed that the petitioner bank failed to reconsider the case of the respondent no.1 on “*sympathical and humanitarian grounds*” and recommended the presence of the Board members along with the Chief Managing Director of the petitioner bank before the Commission on the next date of hearing. The relevant portion of the said order reads as under –

“3. In the last hearing, after hearing both the parties in detailed, the commission observed that punishment awarded to the petitioner i.e. compulsorily retirement is unjustified. The Commission recommends the petitioner to file an appeal. The Commission recommends the concerned authority to consider the matter on humanitarian and sympathetical ground and resolve the matter amicably as per rules.

4. The Bank in reply stated that as such, after considering the case of Sh. Sohan Kumar in the light of applicable Rules and regulations, no further action can be taken at Bank's level as the matter has attained finality. Further all the terminal dues have already been paid to Shri Sohan Kumar.

5. The authorities during the hearing on 07.07.2023 informed that all the options are exhausted and reinstatement of Petitioner is not possible. The Petitioner requested for the same again as he has dependent family with daughters for which he requires the job.

6. After hearing both the parties in detailed the Commission observed that the petition of Sh. Sohan kumar before the Board is not considered in sympathetical and humanitarian ground. The Commission recommends that on the next date of hearing the Board members along with CMD shall be present in the Commission. The next date of hearing fixed by the Commission-11/08/2023.”



11. In the aforesaid conspectus, the present petition has been filed by the petitioner contending that complaint / representation dated 24.06.2019 preferred by the respondent no.1 before NCSC cannot be sustained inasmuch as the NCSC lacks the power to judicially review a complaint of the aforesaid nature. In this regard, reliance has been placed on the judgment in **Karnataka Antibiotics and Anothers v. National Commission for SC and ST Other** ILR 2008 KAR 3305 passed by the Karnataka High Court whereby it has been held as under –

“12. Article 338 of Constitution of India specifies for constitution of National Commission for Schedule Castes and Schedule Tribes. The Supreme Court in All India Indian Overseas Bank SC and ST employees' welfare association v. Union of India (Supra) held that “all the procedural powers of civil court given to the National Commission for Schedule Caste and Schedule Tribe by Article 338(8) of the Constitution of India are for the limited purpose of investigating any matter under Article 338(5)(a) or inquiring into any complaint, under 338(5)(b). The powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading, of clause (8) of Article 338 of the Constitution. The Commission having not been specifically granted any power to issue interim injunctions, lacks the authority to issue an order of the type found in the letter dated 4.3.1993 directing the Bank to stop the promotion process pending further investigation and final verdict in the matter”.”

12. Learned senior counsel for the petitioner draws attention to Article 338(5)(a) and (b) of the Constitution of India which reads as under –

“338. National Commission for Scheduled Castes.—

...

(5) It shall be duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of



rights and safeguards of the Scheduled Castes;”

13. In view of the above, it is submitted that the complaint made by the respondent no.1 before the NCSC (respondent no.2) is not maintainable inasmuch as the same assails the outcome of departmental proceedings based on particular charge/s; no case for discrimination or harassment or deprivation of rights has been made out by the respondent no.1 in said the complaint.

14. Learned senior counsel for the petitioner also submitted that it is now settled law that the NCSC lacks the inherent jurisdiction to entertain a complaint filed by an employee assailing disciplinary proceedings which have culminated in a penalty. Reliance in this regard is placed on ***Era Rani Shubh v. SBI*** (2018) SCC OnLine Del 11247; ***Counsel for Advancement of People v. National Commission for SC*** (2015) SCC OnLine Del 6508 and ***SBI v. National Commission for SC*** (2016) SCC OnLine Del 5217.

15. In view of the aforesaid position of law, learned senior counsel for the petitioner further submitted that the complaint filed before the NCSC is misconceived and the NCSC lacks inherent jurisdiction to adjudicate the same.

16. Learned senior counsel for the petitioner further points out that the respondent no.2 has proceeded to summon the presence of the Board of Directors of the petitioner bank including the Chief Managing Director *vide* order dated 14.07.2023 which is impermissible. Reliance in this regard is placed on the judgment of the Supreme Court in ***State of Uttar Pradesh v. Dr. Manoj Kumar*** (2021) 7 SCC 806 and ***SBI v. National Commission for***



SC (supra).

17. Learned counsel on behalf of the respondent no.1 submitted that the impugned orders have been passed within the ambit and scope of powers conferred upon the respondent no.2 under Article 338 of the Constitution of India inasmuch as the said provision empowers respondent no.2 to inquire and investigate into the specific complaints with respect to deprivation of the rights of the Schedule Castes. Therefore, the reliefs sought by the petitioner before this Court are impermissible in law.

18. It is further submitted that the respondent no.2 upon considering all relevant aspects (including the report of the Central Forensic Science Laboratory) *vide* order dated 03.11.2022 observed that the compulsory retirement imposed upon the respondent no.1 by the petitioner is unjustified and merely recommended that (i) the respondent no.1 to file an appeal before the petitioner (ii) the petitioner to consider the aforementioned appeal on “humanitarian and sympathetical ground” and resolve the matter as per rules. It is contended that impugned orders cannot be referred/construed as interim order or injunction order as they merely record observations and recommendations of the respondent no.2, in accordance with the applicable rules.

19. Learned counsel for respondent no.1 also submitted that no fraudulent act was committed by respondent no.1 and that the penalty imposed upon him, which was subsequently affirmed by the Appellate Authority, was decided (i) without taking into consideration certain evidences that clearly establishes the bonafides of the respondent no.1 (ii) solely on the ground that respondent no.1 belongs to a Scheduled Caste. Such conduct, being in direct



violation of the fundamental rights of respondent no.1, compelled him to seek redressal before respondent no.2.

20. Learned counsel for respondent no.2 reiterates the submissions of respondent no.1 and submitted that the Commission has merely discharged its functions under Article 338 of the Constitution of India, aimed at safeguarding the rights of members of the Scheduled Castes. It is further submitted that the Commission has neither committed any error of law nor acted beyond its jurisdiction, as the impugned order merely contains recommendations and does not issue any binding direction/s to the petitioner. In this regard, reliance has also been placed upon Rule 7.2(a) (i) and 7.2 (a) (vii) of the Notification G.S.R 414(E)- Rules of Procedure of the National Commission for Scheduled Caste dated 25.03.2009, which reads as under:-

“7.2 (a) (i) The Commission may hold sittings for investigation into matters relating to safeguards, protection, welfare and development of the Scheduled Castes for inquiry into specific complaints for which the Commission decided to take up investigation or inquiry directly. Such sittings may be held either at the Headquarters of the Commission or at any other place within the country.

xxx

xxx

xxx

*(vii) Where the property, service/employment of Scheduled Castes and other related matters are under immediate threat and prompt attention of the Commission is required, the matter shall be taken cognizance by issue of telex/fax to the concerned authority for making it known to them that **the Commission is seized of the issue and that authority will be prohibited to take any action till the completion of the enquiry in the matter by the NCSC.** Urgent reply by telegram or fax shall be called from the concerned authority. In case no reply is received within three working days, the authority concerned may be required to appear before the Commission at a three days' notice for enquiry”*

REASONING AND CONCLUSION



21. In a catena of decisions courts have deprecated the practice of the NCSC summoning senior officials in cases which do not necessitate their presence. In this regard, reference is apposite to an order dated 01.08.2017 passed by a coordinate Bench of this Court passed in W.P.(C) 3471/2013 titled as ***State Bank of India and Anr. v. National Commission for Scheduled Castes and Anr.***, wherein by placing reliance on judgment rendered by the Supreme Court in ***State of Uttar Pradesh and Ors. Vs Jasvir Singh and Ors.*** (2011) 4 SCC 288 it has been observed as under –

“4. It is apparent from the above that although, the Commission has the powers to summon and enforce the attendance of any person from any part of India and examining him on oath, the said powers are for the specific purpose of enquiring into a complaint or for taking evidence. Thus, the Commission needs to be circumspect while exercising those powers and ensure that the same are used only for the purpose of performing their functions.

5. Undisputedly, senior officers of the petitioner bank or for that matter any other organisation can be summoned by the Commission, provided that a need is felt for examining those officers for the purpose of enquiry. Such summons to senior most officers or heads of organisations cannot be issued as matter of routine without considering as to whether their presence is necessary for the inquiry/investigation.

*6. The Supreme Court in several cases has deprecated the practice of Courts and other Tribunals to issue summons to senior officers without examining the necessity of requiring their presence. In the case of ***State of Uttar Pradesh and Ors. v. Jasvir Singh and Ors.*** (2011) 4 SCC 288, the Supreme Court had, in the context of summoning of officers in writ petitions, observed as under:-*

“16. The normal procedure in writ petitions is to hear the parties through their counsel who are instructed in the matter, and decide them by examining the pleadings /affidavit /evidence /documents /material. Where the Court seeks any information about the compliance with any of its directions, it is furnished by affidavits or reports supported by relevant documents. Requiring the presence of the senior officers of the Government in court should be as a last



resort, in rare and exceptional cases, where such presence is absolutely necessary, as for example, where it is necessary to seek assistance in explaining a complex policy or technical issues, which the counsel is not able to explain properly. The Court may also require personal attendance of the officers, where it finds that any officer is deliberately or with ulterior motives withholding any specific information required by the Court which he is legally bound to provide or has misrepresented or suppressed the correct position.” ”

22. In the present case as well, a perusal of the impugned order dated 14.07.2023 reveals that the same is devoid of any cogent rationale for summoning senior officials of the petitioner bank. Furthermore, the respondent no.2 precipitated the matter by recommending presence of the Board of Directors along with the Chief Managing Director (CMD) of the petitioner bank, which is clearly unsustainable.

23. On 25.04.2025, during the course of proceedings, the learned counsel on behalf of the respondent no.1 conceded to that the impugned order dated 14.07.2023 be set aside to the extent that it directs summoning of the Board of Directors including the Chief Managing Director (CMD) of the petitioner bank before the respondent no.2. However, the learned counsel continues to agitate that the complaint filed by the respondent no.1 before respondent no.2 is maintainable, alleging that the disciplinary action has been taken by the petitioner primarily on account of the respondent no.1 falling in the category of Scheduled Castes.

24. Considering the observations of the Supreme Court in ***State of Uttar Pradesh and Ors. vs. Jasvir Singh and Ors.***(supra) and considering that the respondent no.2, clearly overreached itself while directing the personal



presence of the Board of Directors and the Chief Managing Director (as contained in the order dated 14.07.2023), the said order dated 14.07.2023 is set aside.

25. As regards the jurisdiction of the NCSC to entertain what is essentially a service matter, perusal of the legal position brought out by the learned senior counsel on behalf of the petitioner reveals that in terms of judgments rendered by a coordinate Bench of this Court in ***State Bank of India v. The National Commission for Scheduled Castes and Ors.*** 2016 SCC OnLine Del 5217 as well as a Division Bench of the Bombay High Court in ***Union of India, through the Secretary and Others v. National Commission for Scheduled Castes and Another*** (supra), the NCSC constituted in terms of Article 338 of the Constitution of India does not have the jurisdiction to interfere with a decision taken by an employer to grant compulsory retirement to an employee.

26. In ***State Bank of India v. The National Commission for Scheduled Castes and Ors.*** (Supra), a coordinate Bench of this Court observed as under—

“19. There is not even a single averment that the disciplinary proceeding initiated against the respondent No. 2 is in violation of any of the instructions issued with regard to the reserved category candidates/instructions/OMs issued by the Government of India/the Bank. It is only, when such allegations are made, does the Commission get the jurisdiction to initiate the process as contemplated under Article 338 of the Constitution of India. The Notification dated March 25, 2009, as gazetted on June 15, 2009 issued by the Central Government, which are statutory in nature clearly specifies so. I reproduce Rule 7.4.1 in this regard as under:

“7.4.1 The following aspect may be kept in mind while filing complaints before the Commission-



- (a) The complaint should be directly addressed to the Chairman/Vice-Chairman/Secretary, National Commission for Scheduled Castes, New Delhi or the heads of its State Offices.
- (b) The complainants should disclose his full identity and give his full address and should sign the representation.
- (c) Complaints should be legibly written or typed and, where necessary, supported by authenticated documents.
- (d) Complaints should clearly disclose the violation of Reservation policy, DOPT OMs, Government of India Orders, State Government Orders, PSUs and Autonomous Bodies orders or any other violation Rules of Reservation.
- (e) No action will be taken on matters, which are subjudice. Hence subjudice matter need not be referred to the Commission as complaint(s).
- (f) Cases pending in courts or cases in which a court has already given its final verdict may not be taken up afresh with the Commission.
- (g) The cases of Administrative nature like transfer/posting/grading of ACRs will not be taken up by the Commission unless there is caste based harassment of petitioner.
- (h) No action will be taken on the matters where there is no mention of violation of Reservation policy, DOPT OMs, Government of India Orders, State Government Orders, PSUs and Autonomous Bodies orders or any other violation of Rules of Reservation. Hence the matters where there is no mention of violation of above Rules need not be referred to the Commission as complaints.”

20. Suffice to state, the Commission could not have entertained the representations/complaints. That apart, it is an admitted position that the respondent No. 2 has not challenged the penalty order imposed on him by the Disciplinary Authority/Appellate Authority. In the absence of any challenge to the said orders in any judicial forum, the same have attained finality and could not have been commented upon as has been done in the impugned order dated February 9, 2016, more particularly when the petitioner has exercised his right of appeal to the next higher authority, who has also dismissed the appeal. The plea that the petitioner Bank is estopped from raising the issue of maintainability of complaint, as no such plea was raised before the commission is concerned, in view of the notification dated March 25, 2009, which is statutory in nature when the commission lacked inherent jurisdiction to entertain the complaint, the plea of estoppel is unsustainable. The first and foremost issue needs to be considered by the Commission whether the complaint is, in terms of



Article 338, for which the Commission is constituted is at all entertainable. If not, the same should be rejected at the threshold. Even otherwise, the representations/complaints could not have been entertained as the Commission is not a parallel forum for adjudicating any dispute between two litigants. On this ground itself, the recommendation/observation given on February 9, 2016 need to be set aside and I do so accordingly. The writ petition is allowed. No costs.”

27. While taking into consideration the aforesaid judgment, a Division Bench of the Bombay High Court in ***Union of India, through the Secretary and Others v. National Commission for Scheduled Castes and Another*** 2022 SCC OnLine Bom 1588 held as under –

“7. It is not in dispute that against an order of her compulsory retirement, the respondent no. 2 has exhausted all the legal remedies available to her and could not succeed. When the respondent no. 2 could not succeed impugning order of compulsory retirement, the respondent no. 2 filed an application before the respondent no. 1 inter alia praying for setting aside the order of compulsory retirement and to consider her in service till retirement along with service benefits.

8. A perusal of the order/recommendation made by the respondent no. 1 indicates that after observing that the compulsory retirement granted to the respondent no. 2 who is Scheduled Caste employee is draconian in nature, the respondent no. 1 ordered the concerned authority to re-investigate the whole matter.

9. In our view the respondent no. 1 Commission has no such jurisdiction to interfere with the decision already taken by the employer against the respondent no. 2 after following procedure and granting compulsory retirement which action has been upheld in various proceedings filed by respondent no. 2 and has attained finality. The respondent no. 1 Commission cannot act as an appellate authority against an order passed by an employer taking disciplinary action against an employee by the employer.

10. This Court in case of Sadhana B. Bendbhar (supra) considered the facts where the respondent no. 1 had recommended to appoint the respondent no. 5 on a post though she was not senior-most and was not selected in the employment. This Court after adverting to the judgment of



the Supreme Court in case of Collector, Bilaspur v. Ajit P. Jogi, (2011) 10 SCC 357 : AIR 2012 SC 44 and construing Article 338 (5) (b) of the Constitution of India, quashed and set aside the decision taken by the respondent no. 1 Commission and holding that the said decision was totally without jurisdiction. The principles laid down by this Court in the said judgment apply to the facts of this case. We do not propose to take any different view in the matter. Similar view is taken by the Delhi High Court in case of State Bank of India v. National Commission for Scheduled Castes (supra) after adverting to the various provisions of law including Article 338(6) of the Constitution of India quashing and set aside the order/recommendation made by the respondent no. 1 Commission by which the respondent no. 1 had sought to interfere with the decision of the employer. The principles laid down by the Delhi High Court would apply to the facts of this case. We respectfully agree with the views expressed by the Delhi High Court.

11. In our view, it was within the powers of the employer to take disciplinary action against the employee and once having exercised such powers by the employer and such action having been upheld in all the proceedings filed by an employee, such employee cannot file such application before the respondent no. 1 Commission to interfere with the action initiated by the employer in accordance with the service conditions and in accordance with law. The respondent no. 1 Commission has totally acted without jurisdiction and in the teeth of Article 338 (5) (b) of the Constitution of India. In our view the proceedings initiated by the respondent no. 2 itself were totally without jurisdiction. Consequently the order passed by the respondent no. 1 is totally without jurisdiction and deserves to be quashed and set aside.

12. We accordingly pass the following order:—

- (a) Impugned order dated 2nd March, 2022 and its observations dated 10th March, 2022 made by the respondent no. 1 Commission are quashed and set aside.*
- (b) The complaint filed by the respondent no. 2 before the respondent no. 1 is dismissed.*
- (c) Writ petition is allowed in the aforesaid terms. Rule is made absolute accordingly. No order as to costs.*
- (d) The parties to act on the authenticated copy of this order.”*

28. In the aforesaid conspectus, the issue of maintainability of the proceedings initiated by the respondent no.1 before the respondent no.2



merits serious consideration. Needless to say, there is no scope for the respondent no.2 to interfere with disciplinary actions taken by the petitioner against any of its delinquent employees in accordance with the extant Service Rules. It would be wholly beyond the jurisdiction of the respondent no.2 to exercise supervisory / appellate jurisdiction with regard thereto or undertake a parallel adjudicatory exercise in respect of a service related dispute.

29. However, this Court also takes note of the submissions made on behalf of the respondent no.2 that it is seized of the matter under Rule 7.2 (a)(i) & (a)(vii) of the Notification G.S.R 414(E)- Rules of Procedure of the National Commission for Scheduled Caste dated 25.03.2009¹ in terms of which NCSC may hold sittings for investigation into matters relating to safeguards, protection, welfare and development of the Scheduled Castes, particularly, in the context of threat to the properties, service/employment of Scheduled Castes.

30. As such, this Court leaves it to the respondent no.2 to examine the matter in right perspective, taking into account the judgments in *State Bank of India v. The National Commission for Scheduled Castes and Ors.*

¹7.2..... (a) (i) The Commission may hold sittings for investigation into matters relating to safeguards, protection, welfare and development of the Scheduled Castes for inquiry into specific complaints for which the Commission decided to take up investigation or inquiry directly. Such sittings may be held either at the Headquarters of the Commission or at any other place within the country.

xxx

xxx

xxx

(vii) Where the property, service/employment of Scheduled Castes and other related matters are under immediate threat and prompt attention of the Commission is required, the matter shall be taken cognizance by issue of telex/fax to the concerned authority for making it known to them that the Commission is seized of the issue and that authority will be prohibited to take any action till the completion of the enquiry in the matter by the NCSC. Urgent reply by telegram or fax shall be called from the concerned authority. In case no reply is received within three working days, the authority concerned may be required to appear before the Commission at a three days' notice for enquiry"



2025:DHC:8973



(supra) *and Union of India, through the Secretary and Others v. National Commission for Scheduled Castes and Another* (supra), and take an appropriate decision. The respondent no.2 is directed to decide the preliminary issue of jurisdiction/maintainability by way of a reasoned order, before proceeding further in the matter.

31. The present petition is disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

OCTOBER 09, 2025/dn, sl