



2026:DHC:2940-DB



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

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Judgment reserved on: 12.02.2026
Judgment pronounced on: 09.04.2026

+ **W.P.(C) 2758/2006**

K.P.SINGH III

.....Petitioner

Through: Mr. S.S.Tiwari, Advocate.

versus

UOI & ORS.

.....Respondents

Through: Mr. Ripudaman Bhardwaj
CGSC with Mr. Kushagra
Kumar Advocate. ASP
Abhishek Rastogi, HQ
Bulandsaher Division.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

AMIT MAHAJAN, J.

1. The present petition has been filed against the order dated 03.03.2005 (hereafter '**impugned order**') passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 500/2004 as well as the Order dated 10.05.2005 passed by the learned Tribunal in R.A. No. 100/2005 in O.A. No. 500/2004, whereby the learned Tribunal dismissed both, the O.A. as well as the Review Application filed by the Petitioner herein.



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2. Succinctly put, the relevant facts germane to the adjudication of the present petition are as follows:

2.1. The Petitioner was working as a Public Relations Inspector (Postal) Bulandshahar. The Petitioner was proceeded against under Rule 14 of CCS (CCA) Rules, 1965 by Respondent No. 4 *vide* Memo No. B-4/K-25 dated 04.08.2000. The charge against the Petitioner was that on 28.02.2000, when one Shri Ram Gopal, Postmaster, Bulandshahar was talking to one Shri Jagdish Singh, ASPOs in connection with the shortage of Postal Assistants, the Petitioner entered the Divisional Office and started hurling offensive words to Shri Ram Gopal. It is alleged that when the said Shri Ram Gopal objected to such behaviour, the Petitioner inflicted beatings on him with his '*chappal.*' At that time, Shri Jagdish Singh (ASPOs), Shri B. Arya (SDI), Shri J.R. Meena (CI) and Shri Veer Singh (OA), who were present at the spot, came to the rescue of Shri Ram Gopal.

2.2. Consequently, a departmental inquiry was conducted against the Petitioner. The inquiry was conducted on the following days: 28.08.2000, 11.09.2000, 29.09.2000, 16.10.2000 and 20.10.2000. By inquiry report dated 14.11.2000, the inquiry officer concluded that the charges against the Petitioner stood proved. The copy of the inquiry report dated 14.11.2000 was sent to the Petitioner and was delivered to him on 18.11.2000. The Petitioner was thereafter requested to submit his defence representation, if any, within a period of 15 days. No defence representation was sent by the Petitioner within the stipulated time and no extension was sought by him for submission of



his defence representation. Consequently, in view of evidences presented during the course of inquiry and the available material on record, the Petitioner was found guilty of the alleged misconduct and *vide* Punishment Order dated 05.12.2000, the Petitioner was dismissed from service with immediate effect by the concerned authority.

2.3. Thereafter, the appeal preferred by the Petitioner against the Punishment Order dated 05.12.2000 was also dismissed by the Appellate Authority *vide* order dated 05.11.2001. It was noted that ample opportunity was provided to the Petitioner to defend his case. It was also noted that there were five witnesses to the incident all of whom had confirmed the occurrence of the alleged incident. Consequently, the appeal preferred by the Petitioner against the Punishment Order also came to be dismissed and the Punishment of dismissal from service was upheld by the Appellate Authority.

2.4. Thereafter, in the revision petition preferred by the Petitioner, *vide* order dated 04.03.2002, the penalty of dismissal from service imposed on the Petitioner was reduced to compulsory Retirement. It was however noted that the reduction in penalty did not in any way affect the gravity of the established charges of misconduct/misbehaviour against the Petitioner.

2.5. Subsequently, the Review Petition preferred by the Petitioner was also dismissed by order dated 24.12.2002.

2.6. In this backdrop, the Petitioner filed the subject O.A. No. 500/2004 before the learned Tribunal challenging the Punishment



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Order dated 05.12.2000, Appellate Order dated 05.11.2001, Revision Order dated 04.03.2002, and Review Order 24.12.2002 which also came to be dismissed by the impugned order. The learned Tribunal, by the impugned order, noted that the issues raised by the Petitioner were dealt extensively by the Disciplinary/Appellate and Reviewing Authorities. It was noted that no cogent ground was raised by the Petitioner to highlight any infirmity in the orders passed by the concerned authorities. One ground was raised by the Petitioner contending that during the course of the inquiry proceedings, the Petitioner sought to examine one D.K. Vashishtha, Accountant Bulandshahar, however, since the said witness expressed his unwillingness to testify, the inquiry proceedings were closed. It was the contention of the Petitioner that the action ought to have been taken by the inquiry officer against the said witness. In that regard, the learned Tribunal noted that since the Petitioner did not dispute that the said D.K. Vashishtha expressed his refusal to testify, the sole reason that no action was initiated by the inquiry officer, cannot be a ground to conclude that the inquiry proceedings stood vitiated. Consequently, the subject O.A. was dismissed. The review application against the dismissal of the original application being R.A. No. 100/2005 was also dismissed.

3. Before this Court, the learned counsel for the Petitioner has raised a singular ground to urge that the inquiry proceedings stood vitiated. It was argued that in the inquiry proceedings, the Petitioner sought to examine Sh. D.K. Vashishtha, Accountant Bulandshahar, as



a defence witness. He argued that for the said purpose, the inquiry proceedings were adjourned from 20.10.2000 to 30.10.2000. He submitted that the inquiry proceedings were closed by the inquiry officer by stating that Sh. D.K. Vashishtha had shown his unwillingness to attend the inquiry.

4. He placed reliance Section 5 of the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 (hereafter '**the Act**'), and submitted that the Inquiry Officer was authorised and was, in fact, under a duty to summon and enforce the attendance of the witness. It was argued that since the same was not done, the entire inquiry stood vitiated.

5. *Per contra*, the learned counsel representing the Respondents drew the attention of the Court to paragraph 16(m) of the counter affidavit and submitted that upon the refusal of Sh. D.K. Vashishtha to participate in the inquiry, a Memo No. I.O./ASR-HO/2000 dated 21.10.2000 was sent to the Petitioner along with the comments of Sh. D.K. Vashishtha. It was contended that in response, the Petitioner sent his written brief on 14.11.2000, considering which, the inquiry was concluded on same date. It was consequently contended that no ground to warrant interference by this Court was made out.

6. At the outset, it is pertinent to note that the scope of judicial review under Article 226 of the Constitution of India is well settled. This Court in exercise of power under Article 226 does not sit in appeal over the findings recorded by the Disciplinary Authority and



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assume the role of an Appellate authority. It would be improper for this Court to interfere with the findings recorded during the course of departmental inquiry by the Disciplinary Authority or the inquiry officer as a matter of routine. Reappreciation of evidence and arrival of findings of facts is thus impermissible unless the findings are shown to be perverse or patently illegal.

7. Before advertng to deal with the contention made on behalf of the Petitioner, it is pertinent to note that this Court, by order dated 01.12.2025 had directed the Respondents to produce before this Court the file containing the inquiry proceedings. On the next date of hearing, that is, on 12.02.2026, the learned counsel representing the Respondents submitted that the original file was not traceable in the office. This Court thus is saddled to deal with the contention of the Petitioner without the benefit of original file.

8. Before resorting to do so, it is pertinent to note that the Petitioner has not denied that Sh. D. K. Vashishtha had refused to take part in the enquiry or that a memo in that regard was given to him. The sole edifice of the Petitioner's grievance is that as per Section 5 of the Act, the inquiry officer was authorised and was, in fact, under a duty to summon and enforce the attendance of the witness failing which the inquiry proceedings stood vitiated. No other ground has been highlighted by the Petitioner to point towards any infirmity in the inquiry proceedings.



9. For this purpose, in order to deal with the limited ground raised by the Petitioner, this Court deems it apposite to take note of the true import of Section 5 of the Act which reads as under:

'5. Power of authorised inquiring authority to enforce attendance of witnesses and production of documents.—

(1) Every inquiring authority authorised under section 4 (hereafter referred to as the "authorised inquiring authority") shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) requiring the discovery and production of any document or other material which is producible as evidence;

(c) the requisitioning of any public record from any court or office.

(2) Notwithstanding anything contained in sub-section (1), the authorised inquiring authority shall not compel the Reserve Bank of India, the State Bank of India, any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970),—

(a) to produce any books of account or other documents which the Reserve Bank of India, the State Bank of India, the subsidiary bank or the corresponding new bank claims to be of a confidential nature, or

(b) to make any such books or documents a part of the record of the proceedings of the departmental inquiry, or

(c) to give inspection of any such books or documents, if produced, to any party before it or to any other person.

(3) Every process issued by an authorised inquiring authority for the attendance of any witness or for the production of any document shall be served and executed through the District Judge within the local limits of whose jurisdiction the witness or other



person, on whom the process is to be served or executed, voluntarily resides or carries on business or personally works for gain, and, for the purpose of taking any action for the disobedience of any such process, every such process shall be deemed to be a process issued by the District Judge.

(4) Every authorised inquiring authority making any departmental inquiry under this Act shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898).'

10. From a reading of Section 5 of the Act as reproduced *supra*, it is apparent that the authorised inquiring authority has the same power as vested in a Civil Court under the provisions of CPC in respect of summoning and enforcing the attendance of any witness and examining him on oath. While Section 5 of the Act vests an amplitude of power on the authorised inquiring authority, the same cannot be construed to be a binding provision thereby casting a duty on the inquiry officer to compel and enforce the attendance of a witness in every case but merely an enabling provision thereby equipping the inquiring authority with the requisite procedural tools. Even Section 32 of the CPC which provides the penalty for default lays down that the Court ‘*may*’ compel the attendance of any person to whom summons have been issued under Section 30 and for that purpose, the Court may resort to the steps as follows:

“32. Penalty for default.—The Court may compel the attendance of any person to whom a summons has been issued under Section 30 and for that purpose may—

(a) issue a warrant for his arrest;

(b) attach and sell his property;

(c) impose a fine upon him [not exceeding five thousand rupees];



(d) order him to furnish security for his appearance and in default commit him to the civil prison.”

11. This Court thus does not find itself in agreement with the contention raised by the Petitioner that merely because the inquiry officer was equipped with powers akin to those of a Civil Court as per Section 5 of the Act, the same translated into a rigid obligation on the inquiry officer to compel the attendance of the said witness failing which the inquiry proceedings stood vitiated. The inquiry officer is required to exercise the authority as provided under Section 5 of the Act judiciously and not mechanically. The argument of the Petitioner thus, in the opinion of this Court, though pressed with significant emphasis, is untenable.

12. Even otherwise, even if this Court were to take the case of the Petitioner at the highest, the Petitioner has not demonstrated any prejudice that was caused to him. The enquiry report highlights that there were five witnesses to the alleged incident namely – Jagdish Singh, B. Arya, S.K. Gupta, J. Ram Meena, and Veer Singh. All the said witnesses, in their prior statements as well as the evidence recorded during the course of the inquiry proceedings, deposed that the Petitioner had hit the complainant with a chappal. The said witnesses also confirmed the presence of other witnesses on the spot at the time when the incident took place. On the contrary, the defence witnesses – M.S. Dagur and Radhey Shyam failed to highlight anything to point towards the innocence of the Petitioner. Sh. M.S. Dagur stated that only an altercation took place between the parties and Sh. Radhey Shyam Rajput deposed that a quarrel had taken place



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whereafter the Petitioner and the complainant had entered into a compromise. The standard of proof in departmental proceedings is not one beyond reasonable doubt but of preponderance of probabilities which in the present case has been met.

13. In the light of the aforesaid discussion, this Court does not find any infirmity in the impugned order so as to warrant interference by this Court and the same cannot be faulted with.

14. The present petition is accordingly dismissed.

AMIT MAHAJAN, J.

ANIL KSHETARPAL, J.

09 APRIL, 2026

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