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

Judgment reserved on: 13.02.2026

% Judgment delivered on: 04.06.2026

\+ **LPA 500/2025&CM APPL. 47680/2025**

JAMIA MILLIA ISLAMIA .....Appellant

Through: Mr. Pritish Sabharwal, S.C. with Ms. Shweta Singh, Mr. Sanjeet Kumar, Mr. Abhishek Malhotra, Mr. Shiv Chopra, Mr.Adesh Lohia, & Mr.Mehmish Khan, Advs.

versus

M G HUSSAIN .....Respondent

Through: Ms. Sumita Hazarika & Mr. Prakhar Gupta, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

CM APPL. 47681/2025 (*Delay*)

1. The present application has been filed on behalf of the appellant seeking condonation of delay of 193 days delay in filing the present appeal.

2. Having heard the counsel of the parties and for the averments made in the application, the same is allowed and the delay of 193 days in filing the present appeal is condoned.

3. The application stands disposed of.

LPA 500/2025 & CM APPL. 47680/2025

1. Jamia Millia Islamia (hereinafter referred to as University) seeks to question the judgment and order dated 17.12.2024 passed by the learned Single Judge, whereby W.P.(C) 1943/2016 instituted by the respondent has been allowed and the order of punishment of compulsory retirement and the charge-sheet together with the inquiry proceedings have been quashed. The respondent by the impugned judgment has been declared to be entitled for notional reinstatement up to the date of his superannuation with all consequential benefits.

2. Before we advert to the competing submissions made by the learned counsel for the parties, it will be appropriate to state certain facts, which are as under: -

2.1 The respondent joined the appellant-University as Reader in the year 1980 in the Department of Social Work and Applied Social Sciences. He was thereafter promoted as a Professor. Vide an order dated 05.09.2011, the respondent was placed under suspension in contemplation of disciplinary proceedings. The suspension of the respondent was endorsed by the Executive Council of the appellant University in its meeting held on 28.09.2011. It was further resolved by the Executive Council to initiate appropriate disciplinary proceedings against the respondent. Accordingly, the Memorandum of Charge was issued to the respondent, dated 15.11.2011, which was accompanied by the Article of Charges and the imputation of misconduct/misbehavior in support of the Article of Charges.

2.2 There from four following charges were mentioned in the Memo of Charges: -

"STATEMENT OF ARTICLE OF CHARGES FRAMED AGAINST PROF. M.G.HUSAIN (UNDER SUSPENSION), DEPARTMENT OF PSYCHOLOGY

ARTICLE-I

While discharging duties as the Hony. Director, Centre for Coaching and Career Planning (between 12.12.2007 to 30.7.2009), Prof. M.G. Husain (Charged Officer) committed grave misconducts of financial irregularities, laxity in administration, lack of devotion and commitment to the important task of achieving the focal object of the Centre for Coaching and Career Planning to provide adequate skills and conscientiously impart knowledge to the underprivileged sections of society as also to prepare them to face competitions. The sheer lack of concern, negligence, financial bungling and casual approach on the part of the Charged Officer is unbecoming of a teacher of an institution of higher learning and is culpable under Statute 37 of the Jamia Millia Islamia Act, 1988.

ARTICLE-II

While holding the statutory position of the Head, Department of Psychology (between 01.7.1998 to 31.06.2001) the Charged Officer (Prof. M.G. Husain) indulged in financial misdemeanour by submitting wrongful Bills to the Finance and Accounts Department of the Jamia (bearing Nos. P002567, P002566, P002568, P002519 dated 31.3.2007) for a total amount of Rs. 10,86,860.00 (Rupees Ten Lakhs Eighty Six Thousand Eighty Hundred and Sixty only). Vide letter bearing No. Bill I/AO/JMI/2007 dated 3.4.2007, the Accounts Officer returned the said bills requiring the Charged Officer to provide relevant documents in support of the sought payment. The Charged Officer maliciously did not respond to the same. However, later on realizing that the purchase of equipment would not materialize with pending serious objections from the Finance and Accounts Department, gave up the plan of buying the said items.

The attempt to defraud, and financially dupe the University of public funds, by the Charged Officer is a misconduct cognisable under Statute 37 of the Jamia Milia Islamia Act, 1988.

ARTICLE-III

The Vice Chancellor, Jamia Millia Islamia in his capacity as the principal academic and executive Officer of the University, and duly empowered by an enactment of the Parliament of India to exercise due supervision and control over the affairs of the University had directed the Vigilance Officer of the University (vide Notification No. F. No. 1337(MGH)/RO/Estt/2011/10/497 dated 4.4.2011) to inquire into the factum of complaints in the expenditure of funds for the XIth International and 42nd National Conference of IAAP on Applied Psychology for a Peaceful World. The Charged Officer, in his response, submitted a letter addressed to the Vigilance Officer which lacked clarity and the contents communicated shrewd intent to evade the queries so

addressed. The non-co-operation of the Charged Officer is evident of his complicity in financial irregularities/bungling during the Conference (held when he was the Head, Department of Psychology).
The Charged Officer's lack, and wilful intent to elude and block rightful investigation in financial misdemeanours, amount to insubordination which is culpable under Statute 37 of the Jamia Millia Islamia Act, 1988 read with Para 6 (a) (ii) of the Agreement of Service.

ARTICLE-IV

Prof. M.G. Husain (the Charged Officer) was sanctioned extraordinary leave (w.e.f 2.9.1996) to work in International Islamic University, Malaysia. He re-joined the Jamia on 1.7.1998. It has been revealed that the Charged Officer secured payment of his salary from his foreign employers till 10.7.1998. With intent to secure double payment, the said fact was not revealed to the Jamia authorities and resultantly, the Charged Officer with intent to cheat secured payments of salary for the said period from both, the Jamia Millia Islamia and the International Islamic University, Malaysia.
The misconduct of the Charged Officer is cognizable under Statute 37 of the Jamia Millia Islamia Act, 1988."

2.3 One Mr. M.S. Sabharwal, a retired District and Sessions Judge, was appointed as the Inquiry Officer, who on completion of the inquiry submitted the inquiry report on 14.03.2013, wherein the charge nos. 2, 3 and 4 were found proved against the respondent, while the charge no.1 was found partly proved. The Inquiry Officer in his report further concluded that the respondent had failed to discharge his duties with utmost integrity, honesty, devotion and diligence and deliberately violated rules, regulations, guidelines and orders of the superior authorities.

2.4 The said inquiry report was considered by the Executive Council in its meeting held on 26.04.2013. On consideration of the inquiry report the Executive Council decided to give an opportunity to the respondent to submit his representation against findings of inquiry. Pursuant to the said decision of the Executive Council, vide memorandum dated 21.05.2013 the respondent was furnished with a copy of the inquiry report and was also

given an opportunity to submit his representation against the findings of inquiry. The respondent submitted his representation against the findings of the Inquiry Officer.

2.5 The Executive Council thereafter in its meeting held on 28.06.2013 considered the inquiry report submitted by the Inquiry Officer and also the representation made by the respondent against the findings recorded in the inquiry report and on deliberation, the Executive Council finally resolved to inflict punishment of removal from service upon the respondent.

2.6 Pursuant to the said decision of the Executive Council taken in its meeting dated 28.06.2013, vide order dated 09.07.2013, the respondent was removed from services of the appellant University w.e.f. 05.09.2011 i.e. from the date of suspension.

2.7 It appears that challenging the said order of punishment of removal from service, the respondent instituted W.P.(C) 6/2014, which was disposed of by means of an order dated 10.07.2014 recording the statement made before the Court on behalf of the appellant University that statutory appeal filed by the respondent against the order of punishment of removal shall be considered by the Executive Council.

2.8 The statutory appeal preferred by the respondent against the order of punishment of removal from service was considered by the Executive Council of the appellant University in its meeting held on 07.05.2015. On consideration of the facts, the Executive Council of the appellant University resolved to alter the punishment of removal from service to compulsory retirement w.e.f. the date of suspension i.e. 05.09.2011.

2.9 In pursuance of the said resolution of the Executive Council of the University whereby the punishment order of removal from service was

converted to that of compulsory retirement, an order dated 10.06.2015 was communicated to the appellant intimating the respondent that punishment of removal from service had been converted to compulsory retirement from the date of suspension. It was further intimated that retirement benefits to the respondent will be subject to adjustment of subsistence allowance already paid and also the adjustment of an amount of Rs.5,77,163/-, which was remitted by the appellant University to the Ministry of Social Justice and Empowerment on account of refund of grant for a research study, which was sanctioned to be conducted by the respondent and the said amount remain unsettled by him.

2.10 Challenging the decision of the Executive Council, dated 07.05.2015 and the order dated 10.06.2015, the respondent instituted W.P.(C) 1943/2016, which has been allowed by the learned Single Judge by passing the impugned judgment and order whereby the learned Single Judge has quashed the order of punishment of compulsory retirement and the order dated 10.06.2015, the learned Single Judge has also quashed the charge-sheet and the inquiry proceedings, which had emanated there from and was conducted against the respondent.

3. Having noticed the necessary facts, we now proceed to consider the submissions made on behalf of the parties.

4. It has primarily been argued by the learned counsel for the appellant University that the learned Single Judge while passing the impugned judgment and order has completely erred in law inasmuch as that the learned Single Judge has gone into the findings of the facts and the evidence, which while exercising the power of judicial review under Article 226 of the Constitution of India by this Court, is not permissible unless there is any

perversity in the findings of fact. It has further been argued on behalf of the appellant that scope of judicial review is not akin to appeal in such matters and the Court while exercising jurisdiction under Article 226 of the Constitution in matters of disciplinary proceedings is not expected to go into the findings of facts rather what all is required is to be seen by the Court is as to whether the disciplinary proceedings were conducted in accordance with the rules, by following the principles of natural justice and with fairness.

5. The submission on behalf of the appellant in this regard is that the learned Single Judge while passing the impugned judgment and order has exceeded the jurisdiction available to this Court while exercising the power of judicial review in disciplinary matters, which vitiates the impugned judgment and order.

6. Impeaching the impugned judgment and order passed by the learned Single Judge, learned counsel for the appellant has also submitted that without there being any material to establish malice for issuing the charge-sheet or without there being any assertion on behalf of the respondent that charge-sheet was not issued by the competent authority, the learned Single Judge has quashed the charge-sheet and the proceedings which emanated there from as well. Such an approach, according to the learned counsel for the appellant, is erroneous and, therefore, on this count as well the impugned judgment is not tenable. In this regard a further submission made on behalf of the appellant is that the learned Single Judge has not recorded any reason for quashing the charge-sheet, which was issued against the respondent for grave charges of misconduct.

7. On behalf of the appellant University, it has also been averred that reliance placed by the learned Single Judge on the judgment in the ***State Bank of India & Ors. v. Narendra Kumar Pandey (2013) 2 SCC 740*** is misplaced for the reason that facts as available on record of the disciplinary proceedings in this case reveal that the documents relied in support of the charges in fact were proved through oral evidence. The Appellant further makes a submission that the charges against delinquent officer/employee in disciplinary proceedings are to be proved on the preponderance of probability for which strict rules of evidence need not be resorted to.

8. Learned counsel for the appellant has placed reliance on ***Narendra Kumar Pandey*** *(supra),* ***B C Chaturvedi v. Union of India & Ors.[(1995) 6 SCC 749]*** and ***Naveen Arora v. High Court of Delhi &Anr. 2023 SCC OnLine Delhi 1762*** opposing the appeal.

9. Learned counsel representing the respondent has defended the impugned judgment and order passed by the learned Single Judge and has submitted that decision of the Executive Council inflicting the punishment of compulsory retirement and the departmental proceedings, which preceded the said punishment suffers from a number of irregularities, which have been noticed by the learned Single Judge and, therefore, the impugned judgment passed by the learned Single Judge does not warrant any interference by this Court in this appeal. It has further been argued that the Inquiry officer has wrongly rejected the testimonies of the defence witnesses by observing that the same do not have any consequence merely observing that defence witnesses had not stated anything relevant to the charge.

10. It has also been argued that the respondent was, in fact, the founder of Department of Psychology in the appellant University, who developed the

department with his hard work and ran many Centres at the department to help students, many of whom come from underprivileged backgrounds. It was also stated that the respondent is a member of the Academic Council of the respondent University and has even served as Acting Vice-Chancellor for some time. Further submission is that the departmental proceedings were initiated against him with an ill motive, which started with a roving vigilance inquiry at the behest of certain interested persons in the department and, therefore, in these background facts, the charges against the respondent are not sustainable.

11. Pointing out to the inquiry report where the Inquiry Officer has observed that in departmental proceedings normally the question of proof of documents does not arise because various documents consist of record maintained by official sources and are produced in original which constituted primary evidence, it has been argued by learned counsel for the respondent that such an approach by the Inquiry Officer, who concluded that charge nos.2, 3 and 4 were proved and charge no.1 was partly proved, is erroneous for the reason that the employer relying upon documents in support of the charge need to prove the charges. It has thus been argued that the learned Single Judge has considered the aforesaid aspect of the matter and referring to the settled law, has concluded that without the documents being proved, reliance placed by the Inquiry Officer on such documents was erroneous. It has further been submitted by the learned counsel for the respondent that though the respondent, during the course of departmental proceedings examined certain defence witnesses namely Mr. Manoj Kumar Saxena, Mohd. Ilyas, Mr. Sayed Sameer Ahmed, Mr. Shamsher Ali Ansari, etc., however the Inquiry Officer has not even discussed the statements of

these defence witnesses, who are the employees of the appellant University by merely stating that the testimonies of defence witnesses were of no consequence and they have not stated anything relevant to the charges.

12. It is further argued by the respondent that it has not been discussed by the Inquiry Officer as to how the statement of defence witnesses were of no consequence and as to how such statements were not relevant to the charges and without discussion of these statements, he had jumped to the conclusion and, therefore, the approach adopted by the Inquiry Officer was not tenable.

13. Relying upon ***Nathaniel Ghosh v. Union Territory of Arunachal Pradesh (1980) 2 SLR 733*** it has been argued by the learned counsel for the respondent that an Appellate Authority though modified the punishment of removal from service to compulsory retirement, however it has not given any reason for the same and it is settled law that Appellate Authority must assign some reason and there should be some discussion of the evidence on record.

14. On the aforesaid counts it has been urged by the learned counsel for the respondent that appeal be dismissed.

15. We have given our thoughtful consideration to the submissions made by the learned counsel for the parties and have also perused the records available before us.

16. It is settled principle of law that a Writ Court while exercising its jurisdiction under Article 226 of the Constitution of India has to be slow in interfering with the findings of fact recorded during the course of departmental inquiry on the basis of evidence available on record, however it is equally settled that where findings recorded during the course of departmental proceedings are not supported by evidence, the Court under

Article 226 of the Constitution of India will be justified to examine the matter and relief can be granted in appropriate cases.

17. Reference in this regard may be made to a judgment of Hon'ble Supreme Court in ***Allahabad Bank & Ors. v. Krishna Narayan Tewari [Civil Appeal No.7600/2014]***, rendered on 02.01.2017.Paragraph 7 of ***Krishna Narayan Tewari*** *(supra)* is relevant for the purposes of instant appeal, which is extracted herein below: -

> *"7. We have given our anxious consideration to the submissions at the bar. It is true that a writ court is very slow in interfering with the findings of facts recorded by a Departmental Authority on the basis of evidence available on record. But it is equally true that in a case where the Disciplinary Authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at, the writ court would be justified if not duty bound to examine the matter and grant relief in appropriate cases. The writ court will certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself was vitiated on account of violation of principles of natural justice, as is alleged to be the position in the present case. Non-application of mind by the Enquiry Officer or the Disciplinary Authority, non-recording of reasons in support of the conclusion arrived at by them are also grounds on which the writ courts are justified in interfering with the orders of punishment. The High Court has, in the case at hand, found all these infirmities in the order passed by the Disciplinary Authority and the Appellate Authority. The respondent's case that the enquiry was conducted without giving a fair and reasonable opportunity for leading evidence in defense has not been effectively rebutted by the appellant. More importantly the Disciplinary Authority does not appear to have properly appreciated the evidence nor recorded reasons in support of his conclusion. To add insult to injury the Appellate Authority instead of recording its own reasons and independently appreciating the material on record, simply reproduced the findings of the Disciplinary Authority. All told the Enquiry Officer, the Disciplinary Authority and the Appellate Authority have faltered in the discharge of their duties resulting in miscarriage of justice. The High Court was in that view right in interfering with the orders passed by the Disciplinary Authority and the Appellate Authority."*

18. Having discussed the scope of judicial review in the matter relating to disciplinary proceedings, we may now examine the impugned judgment passed by the learned Single Judge. The learned Single Judge has recorded a finding that it was not open to the Inquiry Officer to take the documents tendered by the appellant University in evidence without their proof by witnesses, only on the ground that they were obtained from official records and received through the Presenting Officer and/or they were taken on record without any objection to their genuineness. Learned Single Judge has further proceeded to observe that documents not proved through oral evidence cannot be relied upon by the Inquiry Officer.

19. Therefore, the first issue we need to reflect upon here is as to whether the documents though relied upon by the University in evidence which were placed before the Inquiry Officer but were not proved in the sense that contents thereof were not proved through oral evidence, could form the basis of the conclusion arrived by the Inquiry Officer.

20. We may note that the Inquiry Officer while submitting his inquiry report has stated that since the documents relied upon by the appellant University were obtained from official records and received through the Presenting Officer or they were taken on record without any objection to their genuineness, therefore, they were not required to be proved by the appellant University through oral evidence. Such an approach, in our opinion, is erroneous for the reason that nature of departmental proceedings is quasi-judicial, and the Inquiry Officer performs a quasi-judicial function and, therefore, the charges leveled against delinquent employee must be found to have been proved by the Inquiry Officer, only then they can be the basis of awarding punishment. We may also observe that in departmental

proceedings the Inquiry Officer is duty bound to arrive at a particular finding on consideration of the material brought on record. Merely because certain documents were sourced from the official sources by the appellant University would not absolve the appellant of the burden of proving such documents by producing some official, who could have, in his deposition, proved the documents even if the genuineness was not disputed by the respondent.

21. It is trite law that even in case of an ex parte departmental proceedings, the employer is bound to prove the charges though not on the strict principle of evidence, but on the basis of preponderance of probabilities. Regard in this respect maybe have to certain observations made by Hon'ble Supreme Court in ***Roop Singh Negi v. Punjab National Bank & Ors. (2009) 2 SCC 570***, where certain documents were relied upon by the employer, however no witness was examined to prove such documents and in these circumstances the Supreme Court observed that reliance placed by the Inquiry Officer on a document, which was tendered by the employer during the course of inquiry but was not proved could not be relied upon by the Inquiry Officer. We may note that reliance in ***Roop Singh Negi*** *(supra)* was placed on a First Information Report (FIR), however the Hon'ble Supreme Court observed that merely by placing FIR, if contents whereof were not proved by the witnesses, such FIR could not have been treated as evidence. Paragraph 14 of the judgment in ***Roop Singh Negi*** *(supra)* is extracted herein below: -

> *"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the*

materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence."

22. We may also refer to another judgment of Hon'ble Supreme Court in State of ***Uttar Pradesh v Ram Prakash Singh (2025) INSC 555***, wherein the Apex Court while discussing the nature of departmental proceedings has concluded that documents relied upon by the department in the inquiry cannot be termed as legal evidence worthy of forming the basis or finding of guilt, if the contents of such document are not spoken to by persons competent to speak about them. The Court has gone to the extent of observing that a document does not prove itself and, therefore, contents of relied upon documents have to be proved by examining the witness having knowledge of contents of such documents who could depose as regards its authenticity. Paragraph 14 of the judgment in ***Ram Prakash Singh*** *(supra)* is extracted herein below: -

"14. What follows from a conjoint reading of the above two decisions is and what applies here is that, 'materials brought on record by the parties' (to which consideration in the enquiry ought to be confined) mean only such materials can be considered which are brought on record in a manner known to law. Such materials can then be considered legal evidence, which can be acted upon. Though the Indian Evidence Act, 1872 is not strictly applicable to departmental enquiries, which are not judicial proceedings, nevertheless, the principles flowing therefrom can be applied in specific cases. Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross- examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair play have their root in such Act. In such light, the documents referred to in the list of documents forming part of the annexures to the chargesheet, on which the department seeks to rely in the enquiry, cannot be treated as legal evidence worthy of forming the basis for a finding of guilt if the contents of such

documents are not spoken to by persons competent to speak about them. A document does not prove itself. In the enquiry, therefore, the contents of the relied-on documents have to be proved by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity. In the present case, no such exercise was undertaken by producing any witness."

23. A Division Bench of this Court in ***Punjab National Bank & Ors. v. S.K.Jain 2024 SCC OnLine Del 8916,*** has also observed that in absence of evidence having been led by any witness, who would support the document on which the department relies upon to prove the charges, the Inquiry Officer would be in error in holding the charges to be proved. Paragraphs 28 and 30 of the judgment in ***S.K.Jain****(supra)* are apposite to noticed here, which are extracted as under: -

"28. On the second ground, however, we are of the view that the learned Single Judge has correctly held that, in the absence of evidence having been led of any witnesses who would support the documents on which the appellants proposed to confirm the charges against the respondent, the IO was in error in holding the charges to be proved and, consequently, the DA was also in error in agreeing with the IO and penalizing the respondent.

30. We, therefore, agree with the learned Single Judge that, as the documents were not proved through oral evidence, the IO could not have relied on the documents and that, therefore, the finding that charges against the respondent stood proved, was unsustainable in law."

24. Thus, in our opinion learned Single Judge has rightly observed that the documents tendered by the University in evidence without having been proved by the witness could not have been relied upon by the Inquiry Officer to prove the charges.

25. We have also perused the original proceedings of the disciplinary enquiry which were tendered by the learned counsel for the appellant University for our examination during the course of the hearing. On scrutinizing the inquiry proceedings what we find is that admittedly the

Inquiry Officer has placed reliance on certain documents, which were tendered during the course of disciplinary enquiry by the appellant University, to conclude the guilt of the respondent, however, such documents were not proved by examining any witness. The Inquiry Officer has recorded in this regard that since such documents were obtained from official record and were received from the Presenting Officer, the question of proof of document did not arise. The relevant extract of such observations made by the Inquiry Officer in the inquiry report is extracted hereunder: -

> *"I may point out at the very outset that in such like inquiries normally the question of proof of documents does not arise because the various documents consist of records maintained on official source through capacity and are produced in original which constitute primary evidence. Further these are received by the inquiry officer from the official source through the presenting officer and their genuineness cannot be doubted. Once a document if taken on record by the inquiry officer without any objection as to its genuineness no independent proof is required about its contents."*

26. We have already noticed that such an approach would be against the law laid down by Hon'ble Supreme Court in ***Roop Singh Negi*** *(supra)* where a FIR was relied upon by the department to prove the charge against the delinquent employee, however no witness was produced to prove the authenticity of the contents of the FIR and in these circumstances the Hon'ble Supreme Court observed that reliance could not have been placed by the Inquiry Officer on the FIR in absence of any witness having proved the contents thereof, and that the FIR could not have been treated as evidence. Accordingly, even if the documents relied upon by the employer which formed basis of the conclusion of the inquiry report by the Inquiry Officer were sourced from official sources or were produced by the Presenting Officer, the contents thereof ought to have been proved by the

appellant University by producing some witnesses, in absence whereof, we are of the opinion, that in view of the afore-discussed principles as enunciated by the Hon'ble Supreme Court, the Inquiry Officer has completely misdirected himself.

27. The learned Single Judge has discussed the aforesaid aspect of the matter and has thus found that the approach of the Inquiry Officer was erroneous. Having regard to the discussions as made above, we are in agreement with the findings recorded by the learned Single Judge in this regard in the impugned judgment and order.

28. The other issue, which arises in this appeal to be considered is as to whether testimonies of the witnesses produced by the respondent could have been discarded by the Inquiry Officer in the manner it has been done while submitting the inquiry report. In respect of the deposition made by the defence witnesses, the Inquiry Officer in the inquiry report has only recorded that, "*the testimonies of defence witnesses are of no consequence and they have not stated anything relevant to the charges*". Such conclusion has been drawn by the Inquiry Officer without discussing the depositions made by the witnesses and without giving reasons as to why and how the deposition of the defence witnesses were of no consequence and further as to how the deposition so made by the defence witnesses were not relevant to the charges.

29. We may also note that on the aforesaid two aspects of the matter, the decision taken by the Executive Council firstly while inflicting the punishment of removal from service and thereafter converting the same into the punishment of compulsorily retiring the respondent, do not make any discussion. Compulsory retirement from service is one of the major

penalties as per the rules which if inflicted upon an employee, visits him with serious civil consequences and, therefore, we are unable to approve of the approach adopted by the Inquiry Officer while conducting the inquiry.

30. There is yet another aspect of the matter, which we now need to consider. Ordinarily, once some flaw is found in the departmental proceedings, the matter needs to be remitted for conducting the inquiry afresh from the stage, it is found to be vitiated, however in a given situation the course of remand may not be the only course available to the Courts. There may be situations where because of long time lag or any other supervening circumstances, the Court may consider it unfair, harsh or otherwise unnecessary to direct for a fresh inquiry or for a fresh order to be passed by the Disciplinary Authority.

31. Such a legal proposition has been laid down by Hon'ble Supreme Court in ***Krishna Narayan Tewari*** *(supra*) where after noticing certain facts and circumstances, the Court did not find it appropriate to remit the matter for conducting the inquiry afresh from the stage it was found to be vitiated. The Supreme Court noticed that delinquent employee in the said case was placed under suspension in the year 2004 and dismissed in the year 2005, which was challenged in the year 2006 before the High Court where the writ petition was decided in the year 2013 and during the intervening period the employee had superannuated in the year 2011. It was also noted by Hon'ble Supreme Court in the said case that the delinquent employee had suffered a heart attack which had rendered him physically disabled and confined to bed and that he would have turned 65 years of age. In these circumstances, the Hon'ble Supreme Court observed that any remand either to the Inquiry Officer for afresh inquiry or to the Disciplinary Authority for afresh order or

even to the Appellate Authority, will be very harsh. Such observations have been made in paragraph 8 of the judgment in ***Krishna Narayan Tewari*** *(supra*), which is extracted herein below: -

> *"8. There is no quarrel with the proposition that in cases where the High Court finds the enquiry to be deficient either procedurally or otherwise the proper course always is to remand the matter back to the concerned authority to redo the same afresh. That course could have been followed even in the present case. The matter could be remanded back to the Disciplinary Authority or to the Enquiry Officer for a proper enquiry and a fresh report and order. But that course may not have been the only course open in a given situation. There may be situations where because of a long time lag or such other supervening circumstances the writ court considers it unfair, harsh or otherwise unnecessary to direct a fresh enquiry or fresh order by the competent authority. That is precisely what the High Court has done in the case at hand. The High Court has taken note of the fact that the respondent had been placed under suspension in the year 2004 and dismissed in the year 2005. The dismissal order was challenged in the High Court in the year 2006 but the writ petition remained pending in the High Court for nearly seven years till 2013. During the intervening period the respondent superannuated on 30th November, 2011. Not only that he had suffered a heart attack and a stroke that has rendered him physically disabled and confined to bed. The respondent may by now have turned 65 years of age. Any remand either to the Enquiry Officer for a fresh enquiry or to the Disciplinary Authority for a fresh order or even to the Appellate Authority would thus be very harsh and would practically deny to the respondent any relief whatsoever. Superadded to all this is the fact that the High Court has found, that there was no allegation nor any evidence to show the extent of loss, if any, suffered by the bank on account of the alleged misconduct of the respondent. The discretion vested in the High Court in not remanding the matter back was, therefore, properly exercised."*

32. In the present case as well, in our opinion, circumstances exist which do not persuade us to remand the matter back either to the Inquiry Officer or to the Disciplinary Authority or to the Appellate Authority. The respondent was placed under suspension in the year 2011 and was punished initially by the Executive Council with the punishment of removal from service on 28.06.2013, thereafter the Appellate Authority in this case converted the punishment of removal from service to compulsory retirement on

10.06.2015. The writ petition filed by the respondent in the year 2016 was decided by the learned Single Judge on 17.12.2024, that is to say it remained pending for about 8 years. The respondent had joined the appellant University as Reader in the year 1980 and he would have retired on attaining the age of superannuation by now. In these circumstances following the dictum of Hon'ble Supreme Court in ***Krishna Narayan Tewari*** (*supra*), to give a quietus, we do not find it appropriate to remit the matter either to the Inquiry Officer or to the Disciplinary Authority or to the Appellate Authority.

33. For the aforesaid reasons, we do not find any good ground to interfere with the impugned judgment and order passed by the learned Single Judge. Let the file containing original proceedings of disciplinary enquiry, handed over during the course of hearing, be returned to the learned counsel for the appellant University.

34. Resultantly, the appeal along with pending applications is dismissed.

35. There will, however, be no orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

JUNE 04, 2026/*S.Rawat*