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

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*Judgment reserved on: 10.03.2026**Judgment pronounced on: 01.04.2026**Judgment uploaded on: 01.04.2026*

+ W.P.(C) 14040/2018, CM APPL. 42419/2021, CM  
APPL.4844/2026 & CM APPL. 4845/2026  
D. K. SRIVASTAVA .....Petitioner

Through: Petitioner in-person.  
versus

HOUSING & URBAN DEV.COPORATION LTD. (HUDCO)

.....Respondent

Through: Mr. Sonal Kumar Singh and  
Mr. Yashvardhan Singh Gohil,  
Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**J U D G M E N T**

**ANIL KSHETARPAL, J.:**

1. Through the present Petition, the Petitioner assails the order dated 11.10.2018 [hereinafter referred to as 'Impugned Order'] passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 2659/2014, [hereinafter referred to as 'Tribunal'] whereby the challenge to the memorandum of charge dated 12.10.2010, the dismissal Order dated 29.09.2011, and the appellate order dated 06.02.2014, came to be rejected.

2. The controversy in the present Petition is whether the disciplinary proceedings, culminating in the Petitioner's dismissal from service on the allegation that he had lodged a false complaint/FIR imputing demand of illegal gratification to senior



officers of HUDCO, were sustainable in law; whether the *ex parte* inquiry stood vitiated for want of fair opportunity; and whether the Tribunal was justified in declining interference.

### **FACTUAL MATRIX**

3. The Petitioner was appointed as a Law Officer in HUDCO on 17.01.1990. In the late 1990s, on the basis of two complaints made by his wife, criminal proceedings came to be registered against him, leading to his arrest and consequential suspension from service, which remained in force from 08.09.1997 to 17.02.2009. He was thereafter reinstated and posted to the HUDCO Jaipur Regional Office, where he joined with effect from 01.04.2009. Upon rejoining service, disputes arose regarding the treatment of the suspension period and the release of arrears of pay and increments relatable thereto

4. The Petitioner maintained that the aforesaid benefits were being withheld contrary to the applicable rules. It was in the course of this continuing dispute that he levelled allegations that senior officers of HUDCO had demanded illegal gratification for the release of his annual increments and other service-related benefits.

5. While posted at Jaipur, the Petitioner filed a criminal complaint before the Additional Chief Judicial Magistrate, Jaipur, invoking Section 156(3) CrPC. Pursuant to the complaint being forwarded to the police for investigation, FIR No. 318/2009 dated 05.12.2009 under Sections 218, 406, 403, 409, 467, 468, 120(B) of the IPC, came to be registered at Police Station Jyoti Nagar, Jaipur city (South). The Petitioner in the FIR alleged that senior officers of HUDCO had



demanded illegal gratification of Rs. one lakh each for release of his annual increments and other service-related benefits, and that, upon refusal, he was harassed through issuance of memos.

6. The investigation in the aforesaid FIR culminated in Final Report No. 43/10 dated 08.04.2010, filed by the police recommending closure of the case, wherein the allegations levelled by the Petitioner were treated as being of a civil nature. The protest petition preferred by the Petitioner against the said final report was dismissed by the learned ACJM, by order dated 14.07.2010, *inter alia* observing that the complaint did not specify when, where, or before whom the alleged demand of bribe was made, and that the grievance regarding pay increments and service benefits was, in substance, a departmental matter.

7. The Final Report for closure was accordingly accepted. Thereafter, the Respondent-Corporation issued the memorandum of charge dated 12.10.2010 to the Petitioner, alleging that he had lodged a false complaint/FIR imputing demand of illegal gratification to the senior officers of the HUDCO, and had thereby committed misconduct under Rule 4(1)(iii), 5(5) and 5(42) of the HUDCO Conduct, Discipline and Appeal (CDA) Rules.

8. The Petitioner submitted his reply dated 09.11.2010 to the charge memorandum. An Inquiry Officer was thereafter appointed on 10.02.2011. In the meantime, the Petitioner assailed the charge memorandum before the Central Administrative Tribunal, Jaipur Bench, by filing O.A. No. 140/2011. During the pendency of the said proceedings, he was transferred from the Jaipur Regional Office to the



Guwahati Regional Office on 22.02.2011. As no interim stay was granted, the disciplinary proceedings continued.

9. During the inquiry, notices of hearing were issued to the Petitioner through registered/speed post at the addresses available on record. Notice of the proceedings was also published on the official website of HUDCO as well as in national newspapers, *The Indian Express* and *Dainik Jagran*. The Petitioner, however, did not participate in the inquiry proceedings. The inquiry accordingly proceeded *ex parte*, Management witnesses were thereafter examined, and the inquiry culminated in the report dated 29.07.2011 holding the charge proved. A copy of the findings of the Inquiry Officer was thereafter furnished to the Petitioner on 11.08.2011, but no response came to be submitted by him.

10. On the basis of the inquiry report, the disciplinary authority imposed upon the Petitioner the penalty of dismissal from service by order dated 29.09.2011. The challenge to the charge memorandum was thereafter treated as infructuous by the Jaipur Bench, with liberty to assail his dismissal before the appropriate authority. The Petitioner thereafter preferred an appeal dated 09.05.2012 before the HUDCO Board through the Managing Director, which came to be rejected by the Appellate order dated 06.02.2014. Aggrieved thereby, he instituted O.A. No. 2659/2014 before the Tribunal, which has been dismissed by the Impugned Order.

11. The issue is whether the disciplinary proceedings, culminating in the Petitioner's dismissal from service on the allegation that he had lodged a false complaint/FIR imputing demand of illegal gratification



to senior officers of HUDCO, warrant interference in the exercise of the writ jurisdiction.

### **SUBMISSIONS ON BEHALF OF THE PETITIONER**

12. Petitioner appeared in-person and submitted that the Impugned Order of the Tribunal is unsustainable both on facts and in law. It is submitted that the Tribunal has proceeded on patent misreadings of the record in observing that no reply to the charge memorandum had been filed and in treating the Original Application as belated.

13. It is further submitted that the very foundation of the disciplinary proceedings is flawed, since the criminal proceedings had culminated in a Closure Report of the Police treating the matter as one of civil nature, and not in any finding that the complaint/FIR was false.

14. Petitioner submits that the inquiry stood vitiated for want of an effective opportunity, particularly in the backdrop of the Petitioner's transfer to Guwahati during the pendency of the inquiry, the plea regarding non-payment of subsistence allowance/salary, and the non-consideration of his representations seeking examination of the concerned SHO and change of the Inquiry Officer. It is also urged that the appellate authority failed to deal with the Petitioner's grounds in accordance with the law, and that the penalty of dismissal is grossly disproportionate.

### **SUBMISSIONS ON BEHALF OF THE RESPONDENT**

15. *Per contra*, learned counsel for the Respondent submits that no ground warranting interference is made out. It is contended that the



charge cannot be said to be incompetent in law, the allegation being not of mere resort to the criminal process, but of making false imputations of corruption against senior officers of the Corporation. Learned counsel further submits that repeated notices of hearing were issued to the Petitioner and were also published on the official website of HUDCO and in newspapers, yet he chose not to participate in the inquiry. It is submitted that the Petitioner had been paid subsistence allowance during the period of suspension and salary after reinstatement till his transfer on 22.02.2011, and that no salary was payable thereafter since he did not join office at Guwahati. The Respondent submits that the transfer was routine, bore no nexus to the disciplinary proceedings, and the penalty imposed upon the Petitioner does not warrant interference in writ jurisdiction.

### **ANALYSIS AND FINDINGS**

16. At the outset, it requires to be noticed that, in exercise of Writ jurisdiction, the Court does not sit in appeal over findings recorded in a departmental inquiry. Interference is confined to recognised parameters, such as lack of jurisdiction, violation of principles of natural justice, findings based on no evidence, perversity, or penalty so disproportionate as to warrant correction in judicial review.

17. Tested on the aforesaid parameters, the charge memorandum cannot, at the threshold, be said to be incompetent in law merely because it arose out of a complaint made by the Petitioner to the criminal court and the police. The gravamen of the charge framed against the Petitioner was not of having invoked the criminal process *per se*, but of having made false imputations of demand of illegal



gratification against senior officers of HUDCO, thereby attracting misconduct under the HUDCO (CDA) Rules.

18. At the same time, the criminal record requires careful scrutiny. The Final Report treated the matter as being of a civil nature. The protest petition, and the revision thereagainst, came to be rejected on the footing that the allegation of demand lacked material particulars inasmuch as neither the complaint nor the supporting witness statements disclosed with clarity when, where, and before whom the amount was demanded as bribe, and that the grievance regarding pay increments, arrears, and allied service benefits was, in substance, departmental in character. The revisional court, in affirming the order of the ACJM, expressly found no illegality or irregularity in that reasoning.

19. These proceedings undoubtedly cast doubts on the Petitioner's allegations, though they did not, by themselves, amount to a definitive judicial determination that the complaint was knowingly false in the sense proceeded upon by the disciplinary authorities. The disciplinary authority could not, therefore, proceed on the footing that criminal closure, without more, was conclusive of deliberate falsity.

20. Even so, the disciplinary conclusion does not rest solely upon the criminal closure. The Appellate Authority noticed that, the Petitioner in his reply dated 09.11.2010, had not substantiated when, where, and in whose presence the alleged demand of bribe was made. The inquiry report further records that the inquiry proceeded on documentary and oral evidence, including the examination of five management witnesses. Viewed in the light of the Criminal Court



orders and the Petitioner's continued non-participation in the inquiry despite repeated notices, the disciplinary proceedings cannot be characterised as founded on no material whatsoever.

21. The challenge founded on denial of effective opportunity must next be considered. It cannot be said that the Petitioner was shut out of the inquiry at the threshold. It is true that, during the pendency of the disciplinary proceedings, the Petitioner was transferred on 22.02.2011 from Jaipur to Guwahati, and that this aspect formed part of the fairness objection urged before this Court. It is also true that the present petition came to be entertained, at the admission stage, principally on the plea that the Petitioner had not been able to effectively participate in the inquiry. However, during the course of hearing, that the earlier grievance of non-payment of subsistence allowance for the suspension period stood withdrawn, and that the surviving dispute narrowed to non-payment of salary after transfer on 22.02.2011, which the Respondent attributes to the Petitioner's failure to join office at Guwahati. On the record as it stands, these circumstances do not establish such denial of opportunity as would render participation in the inquiry impossible in law.

22. One part of the inquiry report does, however, call for clear disapproval. The Inquiry Officer observed that the Petitioner's non-participation in the inquiry "shows that he has no case to prove his innocence". That is not a sound statement of principle. Non-participation may justify the inquiry proceeding *ex parte*, it cannot, by itself, be elevated into substantive proof of guilt. The finding in a



disciplinary proceeding must stand on the material relied upon in support of the charge, and not on such an inference alone.

23. It is also necessary to notice that the inquiry report contains collateral and prejudicial narration regarding the Petitioner's past conduct and personal history, which had no direct nexus with the article of charge under inquiry. The inclusion of such material was undesirable. Nevertheless, the conclusion recorded by the Inquiry Officer is said to rest on the charge under inquiry, the Petitioner's reply, the criminal proceedings, and the Petitioner's non-participation despite notice.

24. The Appellate Authority, while considering the appeal dated 09.05.2012, adverted to the Petitioner's reply dated 09.11.2010, the steps taken in the inquiry, the notices issued, the publication effected, the criminal proceedings culminating in closure, and the gravity of the misconduct as understood by the Board. In the limited ambit of judicial review, it cannot therefore be said that the ultimate decision remained wholly unsupported by appellate consideration.

25. The Impugned Order of the Tribunal is, however, not free from factual error. The Tribunal proceeded on the footing that the Petitioner had not submitted any explanation to the charge memorandum. That observation is demonstrably inaccurate. The record shows the existence of the reply dated 09.11.2010, both the inquiry report and the Appellate order expressly advert to it.

26. Likewise, the observation by the Tribunal that there was a delay of three years in assailing the Appellate order is unsustainable on the



face of the record, the Appellate order being dated 06.02.2014 and the proceedings before the Tribunal themselves having been instituted as O.A. No. 2659/2014. That observation, therefore, cannot be permitted to stand.

### **CONCLUSION**

27. Once the aforesaid inaccuracies are excluded, the matter still requires examination of the underlying disciplinary proceedings on its own footing. On that examination, this Court is unable to hold that the Petitioner has established such violation of principles of natural justice, absence of an evidentiary basis, or perversity in the disciplinary or appellate process as would justify interference with the dismissal order dated 29.09.2011 or the Appellate order dated 06.02.2014 in the exercise of writ jurisdiction.

28. The observations contained in the Impugned Order, to the extent noticed in paragraphs 25 and 26 hereinabove, are set aside and shall stand effaced. Save to that limited extent, no ground for interference with the disciplinary action or the Appellate order is made out.

29. The present Petition, along with the pending applications, is accordingly dismissed.

**ANIL KSHETARPAL, J.**

**AMIT MAHAJAN, J.**

**APRIL 01, 2026**

*s.godara/ad*