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

\+ W.P.(C) 5942/2026, CM APPL. 29195-96/2026

NEW DELHI MUNICIPAL COUNCIL & ORS. .....Petitioners

Through: Mr. Vaibhav Agnihotri, ASC with Mr. Ankit Singh, Mr. Vidit Pratap Singh, Mr. Harshit Kiran and Ms. Suruchi Khandelwal, Advocates.

versus

SUSHIL KUMAR (MALI) .....Respondent

Through: Mr. Surinder Kumar Bhasin and Mr. Gagan Chawla, Advocates.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 11.05.2026

C. HARI SHANKAR, J.

1. The respondent was working as a *Mali*[1] with the New Delhi Municipal Council[2].

2. On 17 August 2016, FIR 156/2016 was registered against the respondent under Sections 354/354A of the erstwhile Indian Penal Code, 1860, in PS Lodhi Colony. Following this, on 26 September 2016, he was suspended. However, the suspension was revoked on 21 December 2017, subject to the outcome of the disciplinary

[1] gardener
[2] "NDMC" hereinafter

proceedings to be instituted against him.

3. On 3 January 2017, the respondent was convicted by the learned Metropolitan Magistrate of having committed offences under Section 354A read with 294 and 509 of the IPC. The sentence was suspended by the learned Additional Sessions Judge[3], in appeal, on 18 January 2017.

4. Even while the sentence imposed on the respondent thus stood suspended, a show cause notice was issued to the respondent requiring him to show cause as to why he be not removed from service. He responded to the show cause notice. Thereafter, on 5 September 2018, the respondent was removed from service under Rule 19 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965[4] without holding an inquiry, on the ground that the allegations against him, which formed subject matter of the criminal proceedings, involved moral turpitude.

5. The respondent preferred an appeal thereagainst. The appeal was dismissed by order dated 26 December 2018.

6. Aggrieved thereby, the respondent approached the Central Administrative Tribunal[5] by way of OA 929/2019.

7. Before the Tribunal, the petitioner/NDMC contended that there

[3] "ASJ" hereinafter
[4] "CCS (CCA) Rules" hereinafter
[5] "Tribunal" hereinafter

was a distinction between suspension of sentence and stay of conviction. It was submitted that the order dated 18 January 2017 of the learned ASJ merely suspended the sentence of the respondent and did not stay his conviction. So long as his conviction remained, the NDMC contended that they were well within their rights to remove him from service under Rule 19 of the CCS (CCA) Rules read with Office Memorandum dated 29 November 1966 of the Department of Personnel and Training[6] as amended on 19 September 1975. It was also submitted that the DOPT OM dated 29 November 1966 specifically allowed them to take action against the employee without awaiting the outcome of the appeal.

8. During the pendency of the proceedings before the Tribunal, the Criminal Appeal preferred by the respondent against the order of conviction and sentence of the learned Metropolitan Magistrate was also allowed by the learned ASJ by judgment dated 29 March 2019. The learned Tribunal has reproduced the relevant paragraphs from the said decision and we deem it appropriate to do so likewise:

> "5. When the depositions of the prosecution witnesses are carefully analyzed, it is noticed that there are various lacunae, shortcomings and inconsistencies in the evidence adduced by the prosecution in its case.
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> 6. PW1 deposed in cross examination that incident took place in the backlane of Market, however, the place of incident is not clearly depicted in the site plan Ex.PW4/B. In the site plan two places are indicated with the alphabets 'A' and 'B' and it is mentioned that point 'A' denotes the place where complainant was standing and point 'B' denotes the place where complainant was standing. Therefore, site plan is vague and misleading. Thus, the place of incident as deposed by PWI is not corroborated by the site

[6] "DoPT" hereinafter

plan.

7. As per the deposition of PW1, appellant after committing the incident ran away and ran to Burger Point and stopped there. PWI alongwith PW3 also went to Burger Point and started questioning the appellant. The natural questions that arises at this stage is how the complainant and her friend came to know that appellant after committing the crime was standing at Burger Point. In any case, in ordinary course of human nature a person after committing the crime tries to run away from the place of occurrence and is not supposed to be moving around in the vicinity of the spot.

8. As per the deposition of PWI, the site plan was prepared by the IO at her instance. However, PWI in her cross examination deposed that she has no knowledge of Block No.17 and 14 as shown in the site plan. The Golden Bakery where PW3 met PW1 is also not shown in the site plan. This creates further doubt over the version given by PW-1.

9. There are contradictions in the deposition of PW1 and PW3 as regards the presence of the public persons when the accused was apprehended. According to PW3 there was a crowd of persons where the appellant was found, however, as per the deposition of PW1 no public person was present there.

10. PWI (complainant) deposed that she saw her friend PW-3 (Devinder) in Khanna Market while PW3 has deposed that he was at B.K.Dutt Colony when PWI called him. PW3 Devinder was called from the house of his friend where he was present which was 250-300 meters away from Khanna Market. Therefore, the place where PW3 was present when PWI called him is not clear and PW-1 and PW3 contradict each other on this aspect. According to PW3 she gave her complaint in the police station. However, it transpires from the deposition of PW-4 SI Karan Singh who is IO of this case that complaint was given by PWI at the spot and thereafter PW-1 prepared the rukka on the basis of the complaint and handed over the same to Ct. Anoop for registration of FIR.

11. As per the deposition of PW-4(IO) the motorcycle of the appellant was seized. However, the seizure memo of the motorcycle is not witnessed by PWI (complainant) or PW3 (Devinder) or the owner of the Burger Point.

12. Interestingly, if the testimonies of the prosecution witnesses are carefully analyzed, five, places of incident are mentioned i.e. (1) Block No. 10, (ii) Golden Bakery, (iii) Back of Khanna Market Lane, (iv) Comer of Block No.17 and (v) Corner of Block No.14.

> Therefore, there is no clarity in the prosecution evidence as regard to the place of occurrence.
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> 13. Moreover, PW1 (complainant) in her examination deposed to have reached the spot alongwith her friend Karishma, however, Karishma has not been examined by the prosecution.
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> 14. These lacunae and contradictions in the case of the prosecution raises serious doubt over the entire prosecution version. It is settled law that benefit of doubt/must be extended to the accused. Accordingly, the appeal succeeds and the appellant is acquitted of charge U/s 354A/294/509 IPC."

9. The Tribunal has allowed the OA filed by the respondent and set aside the decision to remove him from service. In doing so, the Tribunal has proceeded on two considerations. In the first instance, the Tribunal finds that Rule 19 of the CCS (CCA) Rules had to be read with Article 311(2) of the Constitution of India. Dispensing with a disciplinary inquiry could not be a mechanical action and, at the very least, the Disciplinary Authority[7] was required to record reasons as to why the case was fit for dispensing with a disciplinary inquiry. The Tribunal also finds that the respondent was acquitted in the criminal proceedings and, relying on the judgment of the Supreme Court in ***Ram Lal v. State of Rajasthan***[8], the Tribunal observes that the Court could not mechanically proceed on the basis of the use of the words "benefit of doubt" in the judgment of the criminal court and had to examine the order holistically to see as to whether the acquittal was honourable or otherwise.

10. Paragraphs 7.6 to 8.4 of the impugned judgment read thus:

[7] "DA" hereinafter
[8] **(2024) 1 SCC 175**

> "7.6. In the present factual scenario, there is nothing on record to indicate that the alleged "misconduct" had any direct nexus with the applicant's duties or was of such a nature as to be detrimental to the interests of the organization. Misconduct must have a rational connection with the employee's p resent employment and render him unfit or unsuitable to continue in service. The applicant has been acquitted by the competent court of jurisdiction vide judgment and order dated 29.03.2019 for the offence under Sections 354A/294 / 509 IPC, PS Lodhi Colony, FIR No.156/2016. Even if it is argued that the applicant was involved in an offence of moral turpitude, that alone cannot justify disciplinary action in the absence of a proper departmental inquiry.
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> **8. CONCLUSION :**
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> 8.1. In view of the foregoing, we hereby quash and set aside the order of removal of the applicant from service. The applicant shall be reinstated with all consequential benefits, including seniority, notional promotions, fitment of salary, and all other entitlements.
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> 8.2. We are not inclined to grant any back wages, as the applicant has been acquitted in the Criminal Appeal.
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> 8.3. The aforesaid directions shall be complied with within two months from the date of receipt of the certified copy of this order.
> 8.4. The O.A. is allowed in the aforesaid terms. Pending M.A.s, shall stand disposed of. No costs."

11. Aggrieved by the aforesaid decision, the NDMC has come before us in the present writ petition.

12. We have heard Mr. Vaibhav Agnihotri, learned ASC for the petitioners and Mr. Surinder Kumar Bhasin for the respondent.

13. To a query from the Court as to whether there was any opinion by the DA, recorded at any stage, that the case was one which justified dispensing with the holding of the disciplinary proceedings, Mr. Agnihotri places reliance on the concluding paragraphs of Office Order dated 5 September 2018 whereby the respondent was removed

from service. They read thus:

> "**WHEREAS**, in terms of Government of India, MHA's OM No.F.43/57/64-AVD(III) dated 29.11.1966 as amended by G.I., C.S. (Department of Personnel) OM No.371/3/74-AVD(III) dated 19.09.1975, Disciplinary Authority may, if it comes to the conclusion that an order with a view to imposing a penalty on the Government servant on the ground of conduct which has led to his conviction on a criminal charge should be issued, issue such an order without waiting for the decision in the first court of appeal.
>
> **Therefore**, after considering all the facts and circumstances of the case, especially that the conviction of Sh. Sunil Kumar is in the case of moral turpitude, and the fact that there is no stay on conviction dated 03.01.2017 of Shri Sushil Kumar, reply of Sh. Sushil Kumar and record of the case, I am of the considered opinion that ends of justice would be met if a major penalty of **"removal from service which shall not be a disqualification for future employment under the Government"** is imposed upon Sh. Sushil Kumar, Mali, Employee Code No. 297011, NDMC, and his suspension period w.e.f. 17.08.2016 to 21.02.2017 be treated as **"Not Spent on Duty"**.

14. Clearly, these paragraphs do not even reflect application of mind by the DA, as to whether the case was one which justified invocation of Rule 19 of the CCS (CCA) Rules and justified dispensation with the holding of a regular disciplinary inquiry. In fact, a holistic reading of the aforesaid Office Order conveys the distinct impression that the DA has proceeded oblivious of the specifics of Rule 19 of the CCS (CCA) Rules and its various incidents and indicia. There is no application of mind whatsoever, by the DA, as to whether the case was one which justified dispensing with a regular disciplinary inquiry.

15. The learned Tribunal is right in its observation that the decision to dispense with the requirement of holding a formal disciplinary

proceeding before removing an employee from service is not one which can be mechanically or lightly taken. The principles of natural justice are sacrosanct. The law in this regard is well settled from the time of the judgment of the Constitution Bench of the Supreme Court in ***Union of India v. Tulsi Ram Patel***[9]. We deem it appropriate to reproduce various relevant paragraphs from certain decisions on the point thus:

Mritunjay Kumar Singh v. Union of India[10]

> 5. We do not propose to enter into whether that is the reason for dispensing with the GSFC. Suffice it to state that, in the absence of any reason whatsoever, howsoever perfunctory, the decision to dispense with the GSFC cannot sustain in law. We draw sustenance from the judgment of the Supreme Court in ***UOI* v. *Tulsiram Patel*** as well as by the Division Bench of this Court in ***Yacub Kispotta* v. *Director General BSF***[11], which followed ***Tulsiram Patel*** and from which the relevant paragraphs may be extracted as under:
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> > "30. If all the authorities were to be considered in the backdrop of the facts of the present case, there cannot be any doubt that the sudden and inexplicable *volte face* of the BSF, from its earlier decision to hold a General Security Force Court, to altogether dispense with any inquiry and follow Rule 22 is utterly indefensible. The only inkling as to why it was not reasonably practicable to hold an inquiry is that BSF states that its attempt to secure the presence of independent witnesses through the local police was not successful. This explanation, in the counter affidavit, and even on the record is less than credible, to say the least. The BSF at the outset was of opinion that a full-fledged inquiry into the incident was necessary, as evidenced by the fact that the four petitioners and two others, i.e. injured BSF personnel were kept in close arrest, under Rule 36. This procedure is mandatory wherever the charge contemplated is an offence under Section 14-as the present case undoubtedly is. Thirdly, a SCOI was held and thereafter a

[9] **(1985) 3 SCC 398**
[10] **2025 SCC OnLine Del 7956**
[11] **2015 SCC OnLine Del 12437**

Record of Evidence was conducted. Several witnesses deposed about the incident; they were cross examined. The petitioners' statements too were recorded, after administering warnings to them. Rule 47 mandates that in cases involving Section 14 violation, summary proceedings cannot be resorted to. The RoE and the SCOI proceedings showed that not only witnesses were available, but willingly deposed during these proceedings. These proceedings were held for almost a year. 13 BSF personnel deposed; the statements of eight others, mostly villagers who had witnessed the incident-either voters or others posted on election duty, showed that there was no atmosphere of fear which could threaten them. Indeed, to avoid such a situation, the petitioners were kept under close arrest for two years.

31. The law thus, from ***Tulsiram Patel*** onwards is that while the competent authority can dispense with an inquiry if it is not reasonably practicable, that view should be grounded on reasons. The courts can exercise judicial review to decide whether there was any material to determine the reasonableness of such view. ***Singasan Rabi Das***[12] is closest in the facts to the circumstances of the present case. The court rejected the view that holding an inquiry would have resulted in humiliation of the witnesses rendering them ineffective, was sufficient to say that it was not reasonably expedient to hold an inquiry. ***Chandigarh Administration* v. *Ajay Manchanda***[13] is authority for the proposition that vague inferences are insufficient for a sustainable opinion that inquiry is not reasonably practicable."

State (NCT of Delhi) v. Neeraj Kumar[14]

9. The law on this issue is now crystallized. They can be found in the following passages from the judgments of the Supreme Court in ***Tulsiram Patel*** and ***Satyavir Singh***[15]:

Tulsiram Patel

"62. Before, however, any clause of the second proviso can come into play the condition laid down in it must be satisfied. The condition for the application of

[12] **Chief Security Officer v. Singasan Rabi Das, (1991) 1 SCC 729**
[13] **(1996) 3 SCC 753**
[14] **2024 SCC OnLine Del 7472**
[15] **Satyavir Singh v. Union of India, (1985) 4 SCC 252**

each of these clauses is different. In the case of clause (a) a government servant must be guilty of conduct deserving the penalty of dismissal, removal or reduction in rank which conduct has led to him being convicted on a criminal charge. In the case of clause (b) the disciplinary authority must be satisfied that it is not reasonably practicable to hold an inquiry. In the case of clause (c) the President or the Governor of a State, as the case may be, must be, satisfied that in the interest of the security of the State, it is not expedient to hold an inquiry. When these conditions can be said to be fulfilled will be discussed later while dealing separately with each of the three clauses. The paramount thing, however, to bear in mind is that the second proviso will apply only where the conduct of a government servant is such as he deserves the punishment of dismissal, removal or reduction in rank. If the conduct is such as to deserve a punishment different from those mentioned above, the second proviso cannot come into play at all, because Article 311(2) is itself confined only to these three penalties. Therefore, before denying a government servant his constitutional right to an inquiry, the first consideration would be whether the conduct of the concerned government servant is such as justifies the penalty of dismissal, removal or reduction in rank. Once that conclusion is reached and the condition specified in the relevant clause of the second proviso is satisfied, that proviso becomes applicable and the government servant is not entitled to an inquiry. The extent to which a government servant can be denied his right to an inquiry formed the subject-matter of considerable debate at the Bar and we, therefore, now turn to the question whether under the second proviso to Article 311(2) even though the inquiry is dispensed with, some opportunity at least should not be afforded to the government servant so that he is not left wholly without protection. As most of the arguments on this part of the case were common to all the three clauses of the second proviso, it will be convenient at this stage to deal at one place with all the arguments on this part of the case, leaving aside to be separately dealt with the other arguments pertaining only to a particular clause of the second proviso.

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130. The condition precedent for the application of clause (b) is the satisfaction of the disciplinary authority that “it is not reasonably practicable to hold”

the inquiry contemplated by clause (2) of Article 311. What is pertinent to note is that the words used are "not reasonably practicable" and not "impracticable". According to the *Oxford English Dictionary* "practicable" means "Capable of being put into practice, carried out in action, effected, accomplished, or done; feasible". *Webster's Third New International Dictionary* defines the word "practicable" inter alia as meaning "possible to practice or perform : capable of being put into practice, done or accomplished : feasible". Further, the words used are not "not practicable" but "not reasonably practicable". *Webster's Third New International Dictionary* defines the word "reasonably" as "in a reasonable manner : to a fairly sufficient extent". Thus, whether it was practicable to hold the inquiry or not must be judged in the context of whether it was reasonably practicable to do so. It is not a total or absolute impracticability which is required by clause (b). What is requisite is that the holding of the inquiry is not practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation. *It is not possible to enumerate the cases in which it would not be reasonably practicable to hold the inquiry, but some instances by way of illustration may, however, be given. It would not be reasonably practicable to hold an inquiry where the government servant, particularly through or together with his associates, so terrorizes, threatens or intimidates witnesses who are going to give evidence against him with fear of reprisal as to prevent them from doing so or where the government servant by himself or together with or through others threatens, intimidates and terrorizes the officer who is the disciplinary authority or members of his family so that he is afraid to hold the inquiry or direct it to be held. It would also not be reasonably practicable to hold the inquiry where an atmosphere of violence or of general indiscipline and insubordination prevails, and it is immaterial whether the concerned government servant is or is not a party to bringing about such an atmosphere. In this connection, we must bear in mind that numbers coerce and terrify while an individual may not.* The reasonable practicability of holding an inquiry is a matter of assessment to be made by the disciplinary authority. Such authority is generally on the spot and knows what is happening. It is because the disciplinary authority is the best judge of this that clause (3) of Article 311 makes the decision of the disciplinary

authority on this question final. A disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and must fail. The finality given to the decision of the disciplinary authority by Article 311(3) is not binding upon the court so far as its power of judicial review is concerned and in such a case the court will strike down the order dispensing with the inquiry as also the order imposing penalty. The case of ***Arjun Chaubey* v. *Union of India***[16] is an instance in point. In that case, the appellant was working as a senior clerk in the office of the Chief Commercial Superintendent, Northern Railway, Varanasi. The Senior Commercial Officer wrote a letter to the appellant calling upon him to submit his explanation with regard to twelve charges of gross indiscipline mostly relating to the Deputy Chief Commercial Superintendent. The appellant submitted his explanation and on the very next day the Deputy Chief Commercial Superintendent served a second notice on the appellant saying that his explanation was not convincing and that another chance was being given to him to offer his explanation with respect to those charges. The appellant submitted his further explanation but on the very next day the Deputy Chief Commercial Superintendent passed an order dismissing him on the ground that he was not fit to be retained in service. This Court struck down the order holding that seven out of twelve charges related to the conduct of the appellant with the Deputy Chief Commercial Superintendent who was the disciplinary authority and that if an inquiry were to be held, the principal witness for the Department would have been the Deputy Chief Commercial Superintendent himself, resulting in the same person being the main accuser, the chief witness and also the judge of the matter.

131. *It was submitted that where a delinquent government servant so terrorizes the disciplinary authority that neither that officer nor any other officer stationed at that place is willing to hold the inquiry, some senior officer can be sent from outside to hold the inquiry. This submission itself shows that in such a case the holding of an inquiry is not reasonably practicable. It would be illogical to hold that the administrative*

[16] **(1984) 2 SCC 578**

work carried out by senior officers should be paralysed because a delinquent government servant either by himself or along with or through others makes the holding of an inquiry not reasonably practicable.

132. It is not necessary that a situation which makes the holding of an inquiry not reasonably practicable should exist before the disciplinary inquiry is initiated against a government servant. Such a situation can also come into existence subsequently during the course of an inquiry, for instance, after the service of a chargesheet upon the government servant or after he has filed his written statement thereto or even after evidence has been led in part. In such a case also the disciplinary authority would be entitled to apply clause (b) of the second proviso because the word "inquiry" in that clause includes part of an inquiry. *It would also not be reasonably practicable to afford to the government servant an opportunity of hearing or further hearing, as the case may be, when at the commencement of the inquiry or pending it the government servant absconds and cannot be served or will not participate in the inquiry.* In such cases, the matter must proceed ex parte and on the materials before the disciplinary authority. Therefore, even where a part of an inquiry has been held and the rest is dispensed with under clause (b) or a provision in the service rules analogous thereto, the exclusionary words of the second proviso operate in their full vigour and the government servant cannot complain that he has been dismissed, removed or reduced in rank in violation of the safeguards provided by Article 311(2).

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134. It is obvious that the recording in writing of the reason for dispensing with the inquiry must precede the order imposing the penalty. The reason for dispensing with the inquiry need not, therefore, find a place in the final order. It would be usual to record the reason separately and then consider the question of the penalty to be imposed and pass the order imposing the penalty. It would, however, be better to record the reason in the final order in order to avoid the allegation that the reason was not recorded in writing before passing the final order but was subsequently fabricated. *The reason for dispensing with the inquiry need not contain detailed particulars, but the reason must not be vague or just a repetition of the language of*

clause (b) of the second proviso. For instance, it would be no compliance with the requirement of clause (b) for the disciplinary authority simply to state that he was satisfied that it was not reasonably practicable to hold any inquiry. Sometimes a situation may be such that it is not reasonably practicable to give detailed reasons for dispensing with the inquiry. This would not, however, per se invalidate the order. Each case must be judged on its own merits and in the light of its own facts and circumstances."

(Emphasis supplied)

Satyavir Singh

(29) If legislation and the necessities of a situation can exclude the principles of natural justice including the audi alteram partem rule, a fortiori so can a provision of the Constitution such as the second proviso to Article 311(2).

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(50) *The three clauses of the second proviso to Article 311 are not intended to be applied in normal and ordinary situations. The second proviso is an exception to the normal rule and before any of the three clauses of that proviso is applied to the case of a civil servant, the conditions laid down in that clause must be satisfied.*

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(55) *There are two conditions precedent which must be satisfied before clause (b) of the second proviso to Article 311(2) can be applied. These conditions are:*

> *(i) there must exist a situation which makes the holding of an inquiry contemplated by Article 311(2) not reasonably practicable, and*
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> *(ii) the disciplinary authority should record in writing its reason for its satisfaction that it is not reasonably practicable to hold such inquiry.*

(56) Whether it was practicable to hold the inquiry or not must be judged in the context of whether it was reasonably practicable to do so.

(57) It is not a total or absolute impracticability which is required by clause (b) of the second proviso. *What is requisite is that the holding of the inquiry is not practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation.*

(58) The reasonable practicability of holding an inquiry is a matter of assessment to be made by the disciplinary authority and must be judged in the light of the circumstances then prevailing. The disciplinary authority is generally on the spot and knows what is happening. It is because the disciplinary authority is the best judge of the prevailing situation that clause (3) of Article 311 makes the decision of the disciplinary authority on this question final.

(59) *It is not possible to enumerate the cases in which it would not be reasonably practicable to hold the inquiry. Illustrative cases would be-*

> *(a) where a civil servant, particularly through or together with his associates, so terrorizes, threatens or intimidates witnesses who are going to give evidence against him with fear of reprisal as to prevent them from doing so, or*
>
> *(b) where the civil servant by himself or together with or through others threatens, intimidates and terrorizes the officer who is the disciplinary authority or members of his family so that he is afraid to hold the inquiry or direct it to be held, or*
>
> *(c) where an atmosphere of violence or of general indiscipline and insubordination prevails, it being immaterial whether the concerned civil servant is or is not a party to bringing about such a situation.*
>
> *In all these cases, it must be remembered that numbers coerce and terrify while an individual may not.*

(60) *The disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the civil servant is weak and must fail.*

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(64) *The reason for dispensing with the inquiry need not contain detailed particulars but it cannot be vague or just a repetition of the language of clause (b) of the second proviso.*

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> (68) The submission that where a delinquent government servant so terrorizes the disciplinary authority that neither that officer nor any other officer stationed at that place is willing to hold the inquiry, some senior officer can be sent from outside to hold the inquiry cannot be accepted. This submission itself shows that in such a case the holding of an inquiry is not reasonably practicable. It would be illogical to hold that administrative work carried out by senior officers should be paralysed just because a delinquent civil servant either by himself or along with or through others makes the holding of an inquiry by the designated disciplinary authority or inquiry officer not reasonably practicable."

16. Clearly, in the present case, there was no application of mind, much less any recording of opinion, by the DA, regarding the aspect of whether the case justified dispensation with the holding of the regular disciplinary inquiry. Even on this ground, we are in agreement with the Tribunal that the decision to remove the respondent from service was vitiated.

17. We are also in agreement with the Tribunal that, the respondent having been completely acquitted in appeal in the criminal case instituted against him and the decision to remove him from service being founded on the very same allegation, the decision could not sustain. The law in this regard also stands crystalised by the recent decision of the Supreme Court in ***Maharana Pratap Singh v. State of Bihar***[17] which follows the earlier decisions of the Supreme Court in ***G.M. Tank v. State of Gujrat***[18] and ***Ram Lal v. State of Rajasthan***[19]**.** The relevant passages from ***Maharana Pratap Singh*** may be reproduced thus:

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[17] **2025 SCC OnLine SC 890**
[18] **(2006) 5 SCC 446**
[19] **(2024) 1 SCC 175**

> 47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in ***G. M. Tank*** (supra), since reinforced by a decision of recent origin in ***Ram Lal* v. *State of Rajasthan***.

18. Though the learned ASJ has, in the concluding paragraph of his judgement dated 29 March 2019, used the expression "benefit of doubt", a holistic reading of the judgment of the learned ASJ makes it clear that the acquittal of the respondent was on the ground that the prosecution had seriously failed to make out any case against him. The evidence which the prosecution chose to lead was found to be unworthy of acceptance and inherently contradictory in terms. This was not, therefore, a case in which, for example, the respondent was acquitted because witnesses had turned hostile, or for any other similar reason. It was a case in which the learned ASJ found the evidence on which the prosecution chose to make out its case unworthy of acceptance. The case was, therefore, found to be one of no credible evidence to sustain the allegations against the respondent.

19. The acquittal of the respondent, therefore, is a clean acquittal, and not an acquittal on benefit of doubt as Mr. Agnihotri would seek to contend.

20. In such a case, we are in agreement with the Tribunal that the respondent could not have been removed from service solely on the

basis of the criminal case registered against him.

21. We therefore find no cause to interfere with the impugned judgment of the Tribunal which is upheld in its entirety.

22. Compliance with the impugned judgment if not already effected, be effected within a period of four weeks from today.

23. The writ petition is dismissed in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

MAY 11, 2026/pa