



2025:DHC:8630-DB



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

Reserved on: 25.08.2025
Pronounced on: 26.09.2025

+ W.P.(C) 6860/2009 & CM 2099/2009
DIRECTOR GENERALPetitioner

Through: Mrs. Avnish Ahlawat, SC
(Services), GNCTD with
Mr. Nitesh Kumar Singh,
Advocate.

versus

SANJEEV KUMARRespondent

Through: Ms. Saahila Lamba and Ms.
Shayna Das Pattanayak,
Advocates.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. This petition has been filed challenging the Order dated 21.07.2008 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A No. 1640/2007, titled as *Sanjeev Kumar v. Director General and Anr.*, whereby the learned Tribunal allowed the O.A. filed by the respondent herein and issued the following directions:



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“22. However, on careful perusal of all relevant facts and circumstances as well as the records of the case, we do not find any grounds on which the charges against the applicant can be sustained, even less proved. We are afraid, the submissions and arguments made on behalf of the respondents are not convincing.

23. In this view of the matter, we have no hesitation in quashing the impugned order. The OA is accordingly allowed. The impugned orders are quashed and the applicant is entitled to all consequential benefits in accordance with law. No costs. ”

BRIEF FACTS

2. The brief facts pertaining to the present petition are that the respondent, Sanjeev Kumar, was serving as an Assistant Superintendent in the Central Jail, Tihar in the year 2003. During his posting in Jail No. 1, three separate complaints were filed by the undertrial prisoners (hereinafter referred to as “UTPs”), namely Shyamu Samrat, Shankar Singh, and Sarfaraz, through their counsels to the respective Trial Courts. These complaints, alleging ill-treatment and extortion of money, were forwarded to the Jail Authority by the Courts.

3. With respect to the complaint filed by UTP Sarfaraz, a report was prepared and submitted before the Court of the learned Additional Sessions Judge, Tiz Hazari Courts, Delhi by the Jail Authority on 13.12.2003. Regarding UTP Shankar Singh’s complaint, the report prepared was submitted to the learned Additional Sessions Judge,



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Patiala House Courts, New Delhi, on 13.12.2003. As for, UTP Shyamu Samrat, the report prepared with respect to the complaint, was submitted before the Court of learned Metropolitan Magistrate, Patiala House Courts, New Delhi District, New Delhi, on 17.12.2003. On the same date, the Deputy Superintendent of Jail No. 1 also prepared a report, observing the possibility of the respondent's involvement in the alleged misconduct and recommended respondent's transfer.

4. Since the complaints were received directly from various Courts against the respondent, the Department considered it necessary to conduct an enquiry into the matter. Consequently, Disciplinary Proceedings were initiated under Rule 14 of CCS (CCA) Rules, 1965. A charge sheet was issued *vide* office memorandum dated 22.01.2004, along with a statement of imputation of misconduct, in support of the articles of charge, was issued based on the complaints received from:

- (i) Shri Sanjeev Kumar, MM, Patiala House Courts dated 23.12.2003,
- (ii) Shri T.D. Keshav, ASJ, Tis Hazari Courts dated 12.12.2003, and
- (iii) Additional Sessions Judge, Patiala House Courts dated 10.12.2003.

5. The respondent denied the allegation in his written replies dated 05.02.2004 and 23.02.2004. An Enquiry Officer was appointed to conduct the proceedings. Notices were issued to the three complainants, but only one complainant, UTP Sarfaraz, appeared and



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tendered his evidence. The Enquiry Officer also recorded the statement of Shri S.K. Matta, Deputy Superintendent, Jail No. 2, on 09.05.2005, who confirmed having prepared a report dated 17.12.2003 regarding the complaints.

6. Upon completion of the inquiry, the Enquiry Officer submitted his report dated 07.08.2005, concluding that the charge framed against the respondent stood proved on the basis of the testimony of UTP Sarfaraz, the deposition of Shri S.K. Matta, Deputy Superintendent, Jail No. 2, as well as the documents on record.

7. The Disciplinary Authority considered the Enquiry Report and, after granting the respondent an opportunity of personal hearing on 23.09.2005, passed an order, concurring with the findings of the Enquiry Officer and imposed a penalty of stoppage of two increments in the time scale of pay, permanently, with cumulative effect and adversely affecting his pension, *vide* order dated 07.11.2005.

8. The respondent, being aggrieved by the penalty order, submitted an appeal before the Appellate Authority. The Appellate Authority, *vide* order dated 14.09.2006, dismissed the appeal, filed by the respondent, upholding the decision of the Disciplinary Authority.

9. Thereafter, on 12.09.2007, the respondent approached the learned Tribunal by filing the abovementioned O.A., assailing the orders of the Disciplinary Authority as well as the Appellate Authority.

10. The learned Tribunal, in its Impugned Order, allowed the O.A., set aside the orders passed by the Disciplinary and Appellate



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Authorities, and directed that the respondent would be entitled to all consequential benefits.

11. Aggrieved thereby, the petitioner has filed the present petition.

SUBMISSIONS ON BEHALF OF THE LEARNED COUNSEL FOR PETITIONER

12. The learned counsel for the petitioner argued that the learned Tribunal erred in setting aside the concurrent findings of the Enquiry Officer, Disciplinary Authority, and Appellate Authority. The learned counsel submitted that UTP Sarfaraz deposed before the Enquiry Officer that the respondent was responsible for his beatings and also had demanded Rs. 5,000/-. The learned counsel further contended that UTP Sarfaraz in his statement has also stated that due to the fear of the respondent, he refrained from making a complaint to any senior officer. The learned counsel further contended that the Enquiry Officer, based on this testimony, coupled with the report of Shri S.K. Matta, concluded that the charges stand proved against the respondent.

13. The learned counsel for the petitioner submitted that when questioned during cross-examination, UTP Sarfaraz reiterated that he had only named the respondent in his complaint and nobody else. The learned counsel further submitted that this establishes that, neither the Enquiry Officer findings are vitiated, nor the penalty imposed by the Disciplinary Authority is disproportionate.

14. The learned counsel for the petitioner, relied upon the Judgement of the Supreme Court in *Union of India v. P.*



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Gunasekaran, (2015) 2 SCC 610, and submitted that in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India, the Court or Tribunal cannot act as a Court of appeal and reappreciate the evidence or interfere with the conclusions arrived at in departmental enquiry proceedings, if such proceedings have been conducted in accordance with law. The interference of the Court or Tribunal is permissible only to the limited extent of examining whether the enquiry conducted by the competent authority was in accordance with the procedure established by law and principles of natural justice.

SUBMISSIONS ON BEHALF OF THE LEARNED COUNSEL FOR THE RESPONDENT

15. On the other hand, the learned counsel for the respondent argues that though three complaints were made against the respondent, but only one of the complainants, that is, UTP Sarfaraz appeared before the Enquiry Officer, while the other two UTPs- Shyamu Samrat and Shankar Singh, chose not to pursue their complaints, which clearly shows that complaints were motivated. She submits that the complaint dated 11.12.2003, made by UTP Sarfaraz, does not even mention the respondent and was not signed by anyone.

16. She further submitted that based on the complaints made by the UTPs, the Court(s) sought reports from the Jail Superintendent, Central Jail No.1, Tihar, New Delhi. The report dated 13.12.2003 with respect to Sarfaraz states that medical examination of the UTP was



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conducted and the allegations made were found to be baseless and false. She states that similar was the case with UTP Shankar Singh, and highlights that even the dated 17.12.2003 with respect to UTP Shyamu Samrat, states that his injuries were self-inflicted and the allegations were baseless. She submitted that therefore, nothing stands proved against the respondent.

17. The learned counsel for the respondent submitted, that it was only on the instigation of Shri S.K. Matta, that the respondent was transferred despite the fact that there was no material evidence found against the respondent in the reports. She further submitted that this was done by Shri. S.K. Matta in order to settle his personal animosity with the respondent and it is due to this that Shri S.K. Matta not only gave evidence against the respondent but also instigated proceedings against him.

ANALYSIS AND FINDINGS

18. We have considered the submissions made by the respective counsels and perused the record.

19. Before delving into the merits, it would be apposite to recall that the scope of judicial review which can be exercised by this Court/the learned Tribunal in matters concerning departmental proceedings is limited. The Court does not ordinarily undertake a re-evaluation of the evidence adduced and appreciated by the Enquiry Officer and the Competent Authorities. The scope of judicial review is confined to examining whether there has been any procedural



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irregularity, gross illegality, or manifest perversity in the decision-making process. Importantly, the Court cannot reassess the factual matrix or substitute its own conclusions for those of the Disciplinary Authority. The ambit of judicial review is, therefore, confined to examining the correctness of the decision making process and the fairness of the procedure adopted, as has been held by the Supreme Court in *B.C. Chaturvedi v. Union of India & Ors.*, (1995) 6 SCC 749, the relevant portion of which reads as under:

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence.”



The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.”

(Emphasis supplied)

20. Perusal of the Enquiry Report dated 07.08.2005 shows that during the enquiry proceedings, the Department examined two witnesses, that is, Shri S.K. Matta, Deputy Superintendent, Central Jail and UTP Sarfaraz, that is, one of the complainants.

21. The contention of the respondent is that Shri S.K. Matta was an interested witness, harboring personal animosity against the respondent, and therefore, his testimony cannot be relied upon. However, no factual basis of the same has been submitted.

22. Further, even if the statement of Shri S.K. Matta is kept aside, this Court cannot overlook the testimony of UTP Sarfaraz. UTP Sarfaraz in his testimony has clearly stated that he has given only the name of the respondent herein as the person who had beaten him and demanded money. He specifically named the respondent and no one else. This direct and unambiguous attribution cannot be ignored.

23. The respondent has further relied upon reports submitted by the Jail Superintendent, which stated that upon medical examination of



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the UTPs, the allegations were found to be baseless. While such reports do have evidentiary value, the fact remains that UTP Sarfraz appeared before the Enquiry Officer and maintained his complaint. Nothing could be taken from him in his cross-examination to discredit his testimony.

24. The learned Tribunal further observed that since UTP Sarfaraz had not named the respondent in his original complaint dated 11.12.2003, no reliance could be placed on his later testimony. This reasoning, however, fails to appreciate that during his examination before the Enquiry Officer, UTP Sarfaraz specifically identified the respondent and clarified that he had not named any other officer except the respondent herein. The testimony recorded in a formal enquiry carries greater probative weight than an initial complaint, particularly when subjected to cross-examination.

25. Therefore, even if, for argument's sake, the deposition of Shri S.K. Matta is disregarded on account of alleged hostility, the testimony of UTP Sarfaraz, standing on its own, was sufficient to establish the charge on the standard of preponderance of probabilities applicable in departmental proceedings. Once there was such reliable evidence on record, it was not open to the learned Tribunal to substitute its own appreciation of evidence for that of the Disciplinary Authorities.

26. We are therefore, of the opinion that the Impugned Order of the learned Tribunal suffers from a jurisdictional error in re-appreciating evidence and overlooking relevant material.



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27. For the reasons aforesaid, the writ petition is allowed. The Impugned Order dated 21.07.2008 passed by the learned Tribunal in O.A. No. 1640/2007 is quashed, the penalty imposed by the Disciplinary Authority *vide* order dated 07.11.2005, as upheld by the Appellate Authority, stands restored.

28. All pending application also stands disposed of.

29. There shall be no order as to costs.

MADHU JAIN, J

NAVIN CHAWLA, J.

SEPTEMBER 26, 2025/ys/P