



2025:DHC:7390-DB



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

***Reserved on: 06.08.2025***  
***Pronounced on: 28.08.2025***

+ W.P.(C) 3893/2019 & CM APPL. No. 17645/2019

GOVT. OF NCT OF DELHI AND ORS. ....Petitioners

Through: Mr. R. Venkat Prabhat, Sr.  
Panel Counsel with Ms. Kamna  
Behrani, Mr. Ansh Kalra &  
Mr. Siddharth Gautam,  
Advocates along with ASI  
Manbir Singh.

versus

HC (MIN.) SHISHU PAL .....Respondent

Through: Mr. Sachin Chauhan, Advocate.

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

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

**MADHU JAIN, J.**

1. This petition has been filed challenging the Order dated 05.09.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 724/2013, titled ***HC (Min.) Shishu Pal v. GNCTD & Ors.***, filed by the respondent herein, whereby the learned Tribunal allowed the O.A. and set-aside the orders of the Disciplinary



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Authority and the Appellate Authority and restored the forfeited increments to the respondent herein.

**FACTS OF THE CASE**

2. In a nut shell, the background of the case is that the respondent/ Shishu Pal was working as Head Constable (Ministerial) in Delhi Police since 1997.

3. He was dealt departmentally, *vide* Order dated 06.01.2010, on the allegation that anonymous complaints were received in DCP/Outer District office *vide* No. 14007/C-DCP/OD dated 07.10.2009, No.14008/C-DCP/OD dated 07.10.2009, No. 14889/C-DCP/OD dated 19.10.2009, and No. 2257/TC-DCP/OD dated 23.10.2009, alleging therein that he had purchased a new motorcycle bearing registration no. DL-4S BG-9260 and did not give any kind of intimation to the competent authority.

4. A Preliminary Inquiry into the matter was conducted by the official of DIU/OD during which the facts were verified from Shri N.K. Singh, Manager Shiv Ganga Automobiles, A-1-2 Paschim Vihar, Near Peeragarhi Chowk, Delhi and it was established that the respondent had purchased the abovementioned Motorcycle in cash.

5. The respondent claimed that the said motorcycle was gifted to him by his brother-in-law, Shri Pramod Kumar. He further took the plea that he was not aware of the provisions of the CCS (Conduct) Rules, 1964, which stipulated that information was to be given to the department about receipt of such gifts, while the department's stand was that he is working in ministerial staff and the provision in this regard was well known to him due to the length of his service.



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6. Thereafter, charges were framed against the respondent and a departmental enquiry was initiated against him, *vide* Order dated 06.01.2010. The respondent submitted his defence statement along with defence witness, who was examined on 13.05.2010 before the Inquiry Officer. The Inquiry Officer submitted his findings to the disciplinary authority, concluding therein that the charge against the respondent is fully proved.

7. Ultimately, the disciplinary authority after examining the entire record and the hearing the respondent imposed a major penalty on the respondent on 09.03.2011 of withholding ‘*next increment for a period of one year without cumulative effect*’.

8. The respondent appealed to the Appellate Authority, that is, the Joint Commissioner of Police, Northern Range, Delhi. The appeal was considered and rejected by the Appellate Authority by an order dated 12.10.2012.

9. Aggrieved by the same, the respondent filed O.A. No.724/2013 before the learned Tribunal, on 05.03.2013, and the same was allowed by the learned Tribunal on 05.09.2018, holding as under:

*“12. .... As regards the charge that the applicant did not intimate to the department for purchase of motorcycle, the applicant should have informed to the department well in advance or after purchase of the same. But this lapse on the part of the applicant does not warrant a major penalty.*

*13. Resultantly, in the facts and circumstances of the case and the legal position in the matter, the impugned orders are not sustainable in the eyes of law and liable to be set aside and hence set aside. The increment forfeited shall be restored to the applicant. No order as to*



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costs”.

10. Aggrieved of the Impugned Order, the petitioner has filed the present petition.

**SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS**

11. The learned counsel for the petitioner argued that the Order of the learned Tribunal is contrary to the Rule 18 of the CCS (Conduct) Rules, 1964. He further argued that the respondent failed to inform the competent authority about the transaction made for purchasing moveable property, that is the motorcycle on 18.01.2009, within one month of the same which was the statutory requirement.

12. He further argued that the learned Tribunal failed to consider that in the Inquiry Report, all charges stood proved against the respondent and that the Impugned Order of the learned Tribunal is liable to be set aside.

13. The learned counsel for the petitioner also placed reliance on the Judgment of *State of Haryana and Anr. v. Rattan Singh*, (1977) 2 SCC 491, wherein the Supreme Court held that in a Departmental Inquiry, the Inquiry Officer is not bound by strict rules of the Indian Evidence Act, 1872, but by fair play and natural justice.

14. The learned counsel for the petitioner has also placed reliance on the Judgement of the Supreme Court in *Punjab State Electricity Board v. Raj Kumar Goel*, (2014) 14 SCC 748, to submit that withholding of increment without cumulative effect is in the realm of minor penalty. He further highlighted that the Supreme Court in



*Executive Director, Syndicate Bank v. K.C. Arya*, (1996) 2 LLJ 727 (SC), has even gone on to opine that the withholding of increment with cumulative effect would amount to a minor penalty.

**SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS**

15. On the other hand, the learned counsel for the respondent argued that so far as the inquiry is concerned, the learned Tribunal has clearly held that due procedure of law was not followed while conducting the inquiry against the delinquent officer. Moreover, the defence witness was never cross examined by the department, and since his testimony remained unchallenged and unrebutted, therefore, there was no ground before the Inquiry Officer to hold the delinquent guilty and for the Disciplinary Authority to impose punishment. Reliance to this effect is placed on the Judgement of this Court in W.P.(C) 7680/2010 titled *GNCT of Delhi and Ors. vs. ASI Rambir Singh and Anr.* and on Rule 16(v) of the Delhi Police (Punishment & Appeal) Rules, 1980 (hereinafter referred to as the 'Delhi Police Rules').

16. He submitted that the penalty imposed on the respondent is also not a minor penalty and that the Judgements of the Supreme Court in *Raj Kumar Goel* (supra) and in the *Syndicate Bank* (supra) were passed in the context of the Punjab State Electricity Board Employees (Punishments and Appeal) Regulations, 1971 and the Syndicate Bank Officer-Employees (Discipline and Appeal) Regulations, 1976, respectively. He submitted that the same, therefore, are not applicable to the facts of the present case, which is governed by the Delhi Police



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Rules.

### **ANALYSIS AND FINDING**

17. We have considered the submissions made by the learned counsels for the parties and have perused the record of the disciplinary proceedings.

18. Upon perusal of the record, it is evident that the defence witness, DW Pramod Kumar, produced by the respondent in the inquiry, was never cross-examined by the petitioners/Enquiry Officer. The witness had stated that he had given the money to the respondent to purchase the motorcycle. He also explained that the money was withdrawn earlier but at that time the respondent had advised that the motorcycle be purchased later, because of which the motorcycle came to be purchased later. He has produced the photocopy of his pass book showing the withdrawals.

19. The Inquiry Office, however, disbelieved the statement of the defence witness, though he was never cross-examined and his testimony remained unchallenged, and proceeded to hold the respondent guilty and punish him.

20. Rule 16(v) of the Delhi Police Rules provides that in case of the Enquiry Officer finds any ambiguity in the testimony of the defence witness or otherwise to test the veracity of the statement made by such witness, the Enquiry Officer may put questions to such witness. The same reads as under:

*“16. Procedure in departmental enquiries.*

*xxx*

*(v) The accused officer shall be required to state the defence witnesses whom he wishes to*



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*call and may be given time, not exceeding two working days, to prepare a list of such witnesses together with a summary of the facts they will testify and to produce them at his expense in 10 days. The enquiry officer is empowered to refuse to hear any witnesses whose evidence he considers to be irrelevant or unnecessary in regard to the specific charge. He shall record the statements of those witnesses whom he decides to admit in the presence of the accused officer who shall be allowed to address question to them, the answers to which shall be recorded; provided that the enquiry officer may cause to be recorded by any other Police Officer superior in rank to the accused officer the statements of a witness whose presence cannot be secured without delay, expenses or inconvenience and may bring such statements on record. When such a procedure is adopted, the accused officer may be allowed to draw up a list of questions he wishes to be answered by such witnesses. The enquiry officer shall also frame questions which he may wish to put to the witnesses to clear ambiguities or to test their veracity. Such statements shall also be read over to the accused officer and he will be allowed to take notes.”*

21. In the present case, the Enquiry Officer did not put any question to the witness on the delay in purchasing the motorcycle. In fact, the witness himself had offered an explanation for the same. In such circumstances, the Enquiry Officer could not have disbelieved the witness. This fact has also gone unnoticed by the Disciplinary Authority and Appellate Authority, who were supposed to apply their independent mind while discharging their statutory duties. In fact, the Disciplinary Authority proceeds on the basis that no defence witness was examined, which is clearly incorrect. In similar circumstances,



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this Court in **ASI Rambir Singh** (supra) had rejected the challenge of the department where the department had failed to challenge the testimony of the defence witness.

22. While there can be no cavil to the submission of the learned counsel for the petitioner that in a departmental enquiry strict rules of evidence are not applicable and that the Tribunal cannot interfere with the punishment awarded to the employee by re-appreciating the evidence, the present case is one of no evidence. Therefore, the Judgment of the Supreme Court in **Rattan Singh** (supra) will not come to the aid of the petitioner.

23. With regards to the penalty imposed, we are unable to agree with the submissions same by the learned counsel for the petitioners that the penalty of withholding of increment without cumulative effect is a minor penalty. The Delhi Police Rules clearly stipulate as under:

**“5. Authorized Punishment.-** The Delhi Police Act, 1978 prescribed the following penalties:

(i) Dismissal, (ii) Removal from service, (iii) Reduction in rank for a specified period, (iv) Forfeiture of approved service, (v) Reduction in pay, (vi) Withholding of increments, (vii) Fine not exceeding one month's pay, (viii) Censure, (ix) Punishment drill not exceeding 15 days or fatigue duty or any other punishment duty to constables only.

**6. Classification of punishments and authorities competent to award them.** – (i) Punishment mentioned at Sl. No. (i) to (vii) above shall be deemed “major punishment” and may be awarded by an officer not below the rank of the appointing authority or above after a regular departmental enquiry.

(ii) Punishment mentioned at Serial No. (viii) shall be called 'minor punishment' and may be



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*awarded by the authorities specified in sub-section (j) of Section 21 of the Delhi Police Act, 1978 after serving a show cause notice giving reasonable time to the defaulter and considering his written reply as well as oral deposition, if any for which opportunity shall be afforded on request.*

*(iii) The punishment mentioned at Serial No. (ix) above may be called Orderly room punishment and shall be awarded after the defaulter has been marched and hear in Orderly. Room by the Officer of and above the rank of Inspector as laid down in Section 21 (3) (c) of the Delhi Police Act, 1978.”*

24. A reading of the above demonstrates that the withholding of increments, irrespective of whether it has a cumulative effect or not, is in fact a major penalty. The Judgements passed by the Supreme Court in ***Punjab State*** (supra) and in ***Syndicate Bank*** (supra) can, therefore, not come to the aid of the petitioners as they have been rendered in the context of the relevant rules applicable therein and not on the basis of the Delhi Police Rules.

25. No doubt the delinquent officer failed to inform about the purchase of the motorcycle to the Department within a period of one month of its purchase, but for his failure the punishment awarded to the respondent would be totally disproportionate and unsustainable. The impugned punishment was awarded to the respondent primarily because he was found guilty of not explaining the source of cash with which the motorcycle was purchased. Once this charge fails, the penalty imposed on the respondent cannot be sustained.

26. Therefore, this is no infirmity and illegality in the Order of the learned Tribunal.



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27. In view of the above facts and circumstances, the Order of the learned Tribunal is upheld and the petition is accordingly, dismissed.
28. The pending application stand disposed of.
29. There shall be no order as to costs.
30. The original record of the department has been returned.

**MADHU JAIN, J**

**NAVIN CHAWLA, J.**

**AUGUST 28, 2025**

ssc/VG/ik