



2025:DHC:1486-DB



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

+ W.P.(C) 2754/2025, CM APPLs. 13142/2025, 13143/2025,
13144/2025 & 13145/2025

UNION OF INDIA & ORS.Petitioners
Through: Ms. Pratima N. Lakra, CGSC
with Mr. Chandan Prajapati, Advocate

versus

SURESH KUMAR AZADRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

05.03.2025

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C. HARI SHANKAR, J.

1. The Central Administrative Tribunal¹ has, in the impugned order set aside the disciplinary proceedings against the respondent, culminating in a penalty order dated 14 December 2016 on the ground that the charge-sheet issued to the respondent was accompanied with a list of 26 documents on which the petitioner proposed to rely to establish the charges against the respondent, but without any witness named in the list of witnesses annexed to the charge-sheet. Ergo, holds the Tribunal, none of the documents, on which the petitioner relied, was proved in accordance with law.

¹ "the Tribunal", hereinafter



2. Before the Tribunal, the submission of the petitioner, that the charges against the respondent had been rightly found proved, by the Inquiry Officer² on the basis of the 26 documents enumerated in the list of documents annexed to the charge-sheet, stands recorded.

3. The Tribunal has held that, in the absence of any witness cited by the petitioner to prove the documents, the documents could not have been treated as proved and could not, therefore, be relied upon as establishing the charges against the respondent.

4. The legal position in this regard is settled. The Supreme Court has, thus held, in *State of UP v. Saroj Kumar Sinha*³ and *Roop Singh Negi v. Punjab National Bank*⁴:

From *Saroj Kumar Sinha*:

“28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. *Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.*”

(Emphasis supplied)

From *Roop Singh Negi*

“14. Indisputably, a departmental proceeding is a quasi-judicial

² ‘IO’ hereinafter

³ (2010) 2 SCC 772

⁴ (2009) 2 SCC 570



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.”

(Emphasis supplied)

5. As the documents, on which the IO relied to hold the charges against the respondent to have been proved, were themselves not proved in accordance with law, the Tribunal was justified in setting aside the disciplinary proceedings. As the infirmity was in the charge-sheet itself, and 11 years had elapsed since its issuance, the Tribunal was also justified in its decision not to remit the proceedings to the petitioner.

6. Accordingly, there is no reason to interfere with the impugned judgment of the Tribunal.

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

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

MARCH 5, 2025/yg

Click here to check corrigendum, if any