



2026:DHC:8712-DB



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

CNR No. DLHC010290102021

+ **W.P.(C) 10416/2021**

KULDIP KUMAR

.....Petitioner

Through: Mr. Setu Niket and Ms. Esha
Mazumdar, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Bhagvan Swarup Shukla
CGSC with Ms. Saumya Srivastav, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MS. JUSTICE NIVEDITA ANIL SHARMA

JUDGMENT (ORAL)

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22.09.2026

C. HARI SHANKAR, J.

1. The 27th of July 1997 proved to be a fateful day for passengers on the 2627 Down Karnataka Express, which collided with the Himgiri Express near the Faridabad Railway Station, resulting in derailment, death of 12 passengers, and injuries to over 50 passengers.

2. The accident occurred because of the failure to apply the emergency brakes of the Karnataka Express when it approached a red signal. The only two persons in the engine of the Karnataka Express were, at that time, N.H. Ellis, the driver of the engine, and Assistant Driver, who is the petitioner before us.



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3. On 27 July 1997, a Memorandum¹ was issued to the petitioner, proposing to initiate disciplinary proceedings against him under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1908. Disciplinary proceedings followed. By order dated 11 June 2004, the petitioner was dismissed from service. An appeal, preferred by him, was also dismissed on 27 July 2004.

4. The petitioner challenged these decisions before the Central Administrative Tribunal² by way of OA 2313/2006. The petitioner submitted, in his OA, that, in criminal proceedings which had been instituted against him for the same alleged act of negligence, he had been acquitted.

5. By order dated 19 August 2010, the Tribunal disposed of OA 2313/2006 by reinstating the petitioner in service and permitting him to address a representation to the Railways. The Railways challenged the decision of the Tribunal before this Court by way of WP (C) 191/2012. This Court disposed of the writ petition, modifying the order passed by the Tribunal to the extent of granting liberty to the Railways to proceed with the enquiry and, while upholding the decision to reinstate the petitioner, directing that he would remain under deemed suspension.

6. The petitioner was, therefore, reinstated and placed under suspension. The enquiry commenced afresh. The Inquiry Officer³, in

² "the Tribunal" hereinafter

³ "IO" hereinafter



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his Inquiry Report dated 11 January 2013, held the charge against the petitioner to have been proved. Accepting the findings of the IO, the Disciplinary Authority⁴ once again removed the petitioner from service, *vide* order dated 5 March 2013. The appeal, preferred against the said decision by the petitioner, was rejected by the appellate authority on 28 May 2014. The petitioner re-approached the Tribunal by way of OA 2007/2014.

7. By judgment dated 20 November 2019, the Tribunal has dismissed the OA filed by the petitioner.

8. The petitioner is before us under Article 226 of the Constitution of India, assailing the judgment of the Tribunal.

9. We have heard Mr. Setu Niket for the petitioner and Mr. Bhagwan Swarup Shukla, learned CGSC for the Railways.

10. We find this to be a classic case for invoking the principle that courts do not, in exercise of their power of judicial review, second guess, much less sit in appeal over, decisions of disciplinary authorities, with respect to the guilt or innocence of charged officers.

11. There is a wide swathe of authorities on the point. One need cite only a few certain recent decisions.

12. In *Airports Authority of India v. Pradip Kumar Banerjee*⁵, the

⁴ "DA" hereinafter

⁵ (2025) 4 SCC 111



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Supreme Court was dealing with a challenge to a punishment of dismissal from service, following disciplinary proceedings against the respondent. The punishment was upheld in appeal, as well as by a learned Single Judge of the High Court of Calcutta. However, the Division Bench of the High Court, in an intra-court appeal, set aside the decision of the learned Single Judge. Notably, the case was one in which, like the present, the respondent was acquitted in criminal proceedings on the same charge. The Supreme Court reversed the decision of the Division Bench, observing thus:

“35. It is trite law that in disciplinary proceedings, it is not necessary for the disciplinary authority to deal with each and every ground raised by the delinquent officer in the representation against the proposed penalty and detailed reasons are not required to be recorded in the order imposing punishment if he accepts the findings recorded by the Enquiry Officer. Our view stands fortified by the decision of this Court in *Boloram Bordoloi v. Lakhimi Gaolia Bank*⁶, wherein it was held:

“11. ... Further, it is well settled that if the disciplinary authority accepts the findings recorded by the enquiry officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further elaborate reasons are required to be given by the disciplinary authority.”

36. All that is required on the part of the disciplinary authority is that it should examine the evidence in the disciplinary proceedings and arrive at a reasoned conclusion that the material placed on record during the course of enquiry establishes the guilt of the delinquent employee on the principle of preponderance of probabilities. This is precisely what was done by the disciplinary authority and the appellate authority while dealing with the case of the respondent.

37. In our considered view, the Division Bench fell into grave error in substituting the standard of proof required in a criminal trial vis-à-vis the disciplinary enquiry conducted by the employer.

⁶ 2021) 1 SCC (L&S) 624



It is a settled principle of law that the burden laid upon the prosecution in a criminal trial is to prove the case beyond reasonable doubt. However, in a disciplinary enquiry, the burden upon the department is limited and it is required to prove its case on the principle of preponderance of probabilities.

38. In this regard, we are benefitted by the judgment of this Court in *Union of India v. Sardar Bahadur*⁷, wherein this Court held as follows:

“15. ... A disciplinary proceeding is not a criminal trial. The standard proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that Nand Kumar was a person likely to have official dealings with the respondent was one which a reasonable person would draw from the proved facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Article 226 to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court....”

39. We find that the learned Single Judge, while dealing with the writ petition [Writ Petition No. 9701 (W) of 2010.] filed by the respondent against the orders passed by the disciplinary authority and the appellate authority, considered the entire factual matrix in detail and dismissed the writ petition preferred by the respondent vide a detailed and well-reasoned judgment dated 29-6-2011.

42. On going through the material on record, we are of the view that the disciplinary authority was fully justified in imposing the penalty of dismissal from service upon the respondent. The appellate authority too has duly applied its mind to the facts available on record while affirming the order of the disciplinary authority and rejecting the appeal filed by the respondent. These two orders have rightly been affirmed by the learned Single Judge of the High Court while dismissing the writ petition filed by the respondent. The judgment dated 29-6-2011 rendered by the learned Single Judge is well-reasoned and unassailable.

⁷ (1972) 4 SCC 618



43. In the wake of the above discussion, we hold that the Division Bench, while exercising the intra-court writ appellate jurisdiction clearly erred in interfering with the concurrent findings recorded by the disciplinary authority, the appellate authority as affirmed by the learned Single Judge.”

13. *Deputy General Manager v. Ajai Kumar Srivastava*⁸, rendered by a three-Judge Bench of the Supreme Court, also dealt with a challenge to an order of dismissal from service, following disciplinary proceedings in which allegations of misappropriation of funds by a bank official were levelled. The challenge travelled to the Supreme Court, before whom the employee sought to contend that relevant material had not been considered by the IO or the DA and that the findings returned against him were perverse. The Supreme Court, dealing with the power of judicial review against findings following disciplinary inquiries, held as under:

“22. *The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court in **State of T.N. v. T.V. Venugopalan**⁹ and later in **State of T.N. v. A. Rajapandian**¹⁰ and further examined by the three-Judge Bench of this Court in **B.C. Chaturvedi v. Union of India**¹¹ wherein it has been held as under:*

“13. *The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappraise the evidence or the nature of punishment. In a disciplinary enquiry, the strict*

⁸ (2021) 2 SCC 612

⁹ (1994) 6 SCC 302

¹⁰ (1995) 1 SCC 216

¹¹ (1995) 6 SCC 749



*proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the court/tribunal. In **Union of India v. H.C. Goel**¹² this Court held at SCR p. 728 (AIR p. 369, para 20) that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”*

23. It has been consistently followed in the later decision of this Court in **H.P. SEB v. Mahesh Dahiya**¹³ and recently by the three-Judge Bench of this Court in **Pravin Kumar v. Union of India**¹⁴.

24. *It is thus settled that the power of judicial review, of the constitutional courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry 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 or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.*

25. *When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the court is to examine and determine:*

- (i) *whether the enquiry was held by the competent authority;*
- (ii) *whether rules of natural justice are complied with;*
- (iii) *whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.*

¹² AIR 1964 SC 364

¹³ 2017) 1 SCC 768

¹⁴ (2020) 9 SCC 471



27. It is true that strict rules of evidence are not applicable to departmental enquiry proceedings. However, *the only requirement of law is that the allegation against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. It is true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.*

28. The constitutional court while exercising its jurisdiction of judicial review under Article 226 or Article 136 of the Constitution *would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of mala fides or perversity i.e. where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at those findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.*"

14. In *Union of India v. Subrata Nath*¹⁵, the position in law was explained thus:

"17. It is well settled that courts ought to refrain from interfering with findings of facts recorded in a departmental inquiry except in circumstances where such findings are patently perverse or grossly incompatible with the evidence on record, based on no evidence. However, if principles of natural justice have been violated or the statutory regulations have not been adhered to or there are mala fides attributable to the disciplinary authority, then the courts can certainly interfere.

18. In the above context, following are the observations made by a three-Judge Bench of this Court in *B.C. Chaturvedi*:

"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

¹⁵ (2024) 20 SCC 402



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 the 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.

13. *The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In **Union of India v. H.C. Goel** this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.*

18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. *The High Court/Tribunal, while exercising the power of judicial*



review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.”

19. In **State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya**¹⁶, a two-Judge Bench of this Court held as below:

“7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.” (Vide **B.C. Chaturvedi v. Union of India**, **Union of India v. G. Ganayutham**¹⁷, **Bank of India v. Degala Suryanarayana**¹⁸ and **High Court of Bombay v. Shashikant S. Patil**¹⁹)

20. In **V.S.P. v. Goparaju Sri Prabhakara Hari Babu**²⁰, a two-Judge Bench of this Court referred to several precedents on the Doctrine of Proportionality of the order of punishment passed by the disciplinary authority and held that:

¹⁶ (2011) 4 SCC 584

¹⁷ 1997) 7 SCC 463

¹⁸ 1999) 5 SCC 762

¹⁹ (2000) 1 SCC 416

²⁰ 2008) 5 SCC 569



“21. Once it is found that all the procedural requirements have been complied with, the courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. The superior courts only in some cases may invoke the doctrine of proportionality. If the decision of an employer is found to be within the legal parameters, the jurisdiction would ordinarily not be invoked when the misconduct stands proved.”

21. Laying down the broad parameters within which the High Court ought to exercise its powers under Articles 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two-Judge Bench of this Court in ***Union of India v. P. Gunasekaran*** held thus:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*



(i) *the finding of fact is based on no evidence.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) *reappreciate the evidence;*
- (ii) *interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) *go into the adequacy of the evidence;*
- (iv) *go into the reliability of the evidence;*
- (v) *interfere, if there be some legal evidence on which findings can be based.*
- (vi) *correct the error of fact however grave it may appear to be;*
- (vii) *go into the proportionality of punishment unless it shocks its conscience."*

22. In ***Union of India v. Ram Karan***²¹, a two-Judge Bench of this Court made the following pertinent observations:

"23. The well-ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to the delinquent employee. Keeping in view the seriousness of the misconduct committed by such an employee, it is not open for the courts to assume and usurp the function of the disciplinary authority.

24. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The scope of judicial review on the quantum of punishment is available but with a limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a call and it is not for the court to substitute its decision by prescribing the quantum of punishment. However, it is only in rare and exceptional cases where the court might to shorten the litigation may think of substituting its own view as to the quantum of punishment in place of punishment awarded by the competent authority that too after assigning cogent reasons."

²¹ (2022) 1 SCC 373



23. A Constitution Bench of this Court in **State of Orissa**²² held that *if the order of dismissal is based on findings that establish the prima facie guilt of great delinquency of the respondent, then the High Court cannot direct reconsideration of the punishment imposed. Once the gravity of the misdemeanour is established and the inquiry conducted is found to be consistent with the prescribed rules and reasonable opportunity contemplated under the rules, has been afforded to the delinquent employee, then the punishment imposed is not open to judicial review by the Court. As long as there was some evidence to arrive at a conclusion that the disciplinary authority did, such an order becomes unassailable and the High Court ought to forebear from interfering.* The above view has been expressed in **Union of India v. Sardar Bahadur**²³.

24. To sum up the legal position, *being fact-finding authorities, both the disciplinary authority and the appellate authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the disciplinary authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran. If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the disciplinary/appellate authority may be called upon to reconsider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor.*”

15. Finally, we may refer to the oft-cited decision in **UOI v. P. Gunasekaran**²⁴, which expounded the legal position thus (omitting the paragraphs already reproduced in the decisions cited *supra*):

²² **State of Orissa v. Bidyabhushan Mohapatra**, AIR 1963 SC 779

²³ **1972) 4 SCC 618**

²⁴ **(2015) 2 SCC 610**



“14. In one of the earliest decisions in *State of A.P. v. S. Sree Rama Rao*²⁵, many of the above principles have been discussed and it has been concluded thus:

“7. ... *The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.*”

15. In *State of A.P. v. Chitra Venkata Rao*²⁶, the principles have been further discussed at paras 21-24, which read as follows:

“21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in *State of A.P. v. S. Sree Rama Rao*. First, there is no warrant for the view

²⁵ AIR 1963 SC 1723

²⁶ AIR 1975 SC 2151



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that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. *The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.*

22. Again, this Court in ***Railway Board v. Niranjan Singh***²⁷ said that *the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In Niranjan Singh case this Court held that the High Court*

²⁷(1969) 1 SCC 502



exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shutdown of an air compressor at about 8.15 a.m. on 31-5-1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. *The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal.*

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make



the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do.”

16. These principles have been succinctly summed up by the living legend and centenarian V.R. Krishna Iyer, J. in ***State of Haryana v. Rattan Singh***²⁸. To quote the unparalleled and inimitable expressions:

“4. ... in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. *All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act.* For this proposition it is not necessary to cite decisions nor textbooks, although we have been taken through case law and other authorities by counsel on both sides. *The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good.*”

(Emphasis supplied)

16. It is not necessary for us to cull out any principles from the aforesaid decisions, which are elaborate and self-speaking in nature. One may reasonably treat the ***Gunasekaran*** principles as the gold standard, and supplement them with the dicta emerging from the italicized words in the other decisions cited hereinbefore.

²⁸ (1977) 2 SCC 491



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17. Plainly speaking, save and except in a case where the findings of the DA or the IO are perverse, or completely eschewed, from consideration, material relevant to the dispute, courts have to defer to their decisions and cannot re-appreciate evidence or arrive at a different conclusion on facts, even if such a conclusion appears, to the Court, to be more appropriate. The Court does not, to employ a cliché, sit in appeal over the decision of the IO or the DA.

18. We proceed to apply the aforesaid principles to the facts of the present case.

19. The charge against the petitioner was that, though he was working as Assistant Driver in the engine of Karnataka Express on the fateful day, along with N.H. Eliss, the driver, the emergency brake was not applied in time, despite the train having approached a red signal, as a result of which a collision with the Himgiri Express, which was stationary, took place, resulting in the death of 12 passengers and injuries to over 50 passengers.. The Inquiry Report records, *inter alia*, as under:

“The enquiry was again scheduled on 05.11.2012 vide letter dated 25.10.2012 calling witness Sh. R. P. Sharma. However, he did not present and Sh. Kuldeep Kumar was again questioned, during questions he said that the signals for Faridabad Station (Distant signal single yellow, home -Red) was in danger aspect and he called out the same two times to the driver but on seeing that the driver not taking any heed of his message applied the emergency brake but the brake was not applied according to him the reasons being the trapping of some object in the connection between the emergency brake pipe and train pipe.

Summary: The enquiry was started on after resolving the matter of documents to be provided to the DE. During enquiry the DE as



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well as Sh. Arjun Singh, former ATFR was questioned but the other witness Sh. R. P Sharma, Ex. CTFR, Sh. D.P. Bhatnagar, Guard and Shri Kailash, Callboy did not present in person and as such their examination was not possible.

Conclusion:

After verifying the available record and questioning the DE and the only witness who was present for enquiry I came to the conclusion that the crew and the train were working properly up to Faridabad and the crew were aware that the distant signal was one yellow and the home danger. However, they failed to take necessary action to stop the train well before the stop signal. Though the driver himself was among the casualty and is not available for examination. The only witness and DE the former ALP though he says that he applied emergency brake. But according to his answer to Question no. 7 (NP-72), he says that he only said twice to driver that the signals are danger and not shouted or attracted the drivers attention before being said to be operated the emergency brake, his logic of the driver not listening and time was less cannot be accepted since there is normally enough time and distance to act before even reaching the signal. As such, it is clear that the Assistant on his part not acted promptly and failed in this aspect to make an all out effort to stop the tram. He failed to use his presence of mind and act judiciously and alertly.

Moreover, his claim of trapping or any foreign object in the joint between the emergency brake pipe and train pipe, Answer to Question-4 (CP-72) also cannot be accepted since the portion is very small and any object blocking the part is absolutely ruled out.

As such all the charges framed against Sh. Kuldeep Kumar are proved and he is responsible for this accident.”

20. Clearly, therefore, the IO, after considering the evidence, arrived at a conclusion that there was indeed negligence, on the part of N. H. Eliss as well as the petitioner, in failing to note the signal on the track, and apply the emergency brake in time. The IO also noted that, in a somewhat contradictory vein, the petitioner also sought to submit that there was a foreign object in the joint between the emergency brake pipe and the train pipe, which resulted in the brake not working properly. This explanation has also been rejected by the IO on facts.



21. The findings in the paragraphs, from the inquiry report of the IO extracted *supra*, are pure findings on facts. The Tribunal, as well as this Court, would be acting far in excess of the jurisdiction vested in them, if they are to reassess the facts to examine whether a different conclusion could be arrived at.

22. Besides, the Court does not have the wherewithal to arrive at an informed finding regarding the ground position as it existed at the time when the Karnataka Express approached the signal in question, or enter into any analysis as to whether the omission, on the part of the N. H. Eliss and the petitioner, to apply the emergency brake was, or was not, negligent. Suffice it to state that the findings of the IO do not suffer from any such infirmity as would discredit them from acceptance in judicial review.

23. The inquiry report was forwarded to the petitioner, who submitted his representation thereagainst on 8 January 1998. The DA has, in his order dated 10-11 June 2004, dealt with the representation of the petitioner thus:

“4. The inquiry officer held all the charges leveled proved against the delinquent employee. I agree with his findings. One copy of the said findings were given to the delinquent employee on 24.12.1997 and thereafter he submitted his final representation on 8.1.1998. However, I do not agree with the objections raised by delinquent employee in his final representation and I hereby dispose of his representation with following remarks –

[i]. Administration is free to continue a departmental inquiry, unless and until any order of stay of proceedings has been passed by any Court. But since no order of stay



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was passed in the instant case, therefore, administration was free to take its decision and I therefore reject the contention of delinquent employee in this regard;

[ii]. Principles of natural justice have been fully adhered to and inquiry into the matter has been got done through a Senior Pay Scale officer in view of gravity of charges leveled against delinquent employee and due opportunity of leading defect was given to delinquent employee;

[iii]. It becomes clear from perusal of all the documents, statements of witnesses, representations of the delinquent employee as well as inquiry report/finding of the inquiry officer and the final representation of the delinquent employee that the serious rail accident in question has been the result of human error and for which Shri Kuldip Kumar is squarely responsible;

[iv]. I fully agree with the findings of the inquiry officer in which he has found that all the charges leveled against the delinquent employee in Form 5 have been proved;

[v]. Even in the Confidential Inquiry held into this rail accident by the Commissioner, Central Circle, Mumbai, under provisions of Railway Act, it has been held that human attributable to the *loco-crew* of Karnataka Express is the sole cause of this serious accident and said *loco-crew* squarely responsible for this unfortunate accident;

[vi]. It will be absolutely against the interests of railway administration to keep the delinquent employee in railway service so as to avoid repetition of such grave kind of accidents in future and to save the lives and properties of innocent railway passengers;

[vii]. It is an established facts that no fault has been reported in the loco, track, signals and/or any other system from Bangaluru upto the place of unfortunate accident and according to signals of Faridabad, if the delinquent employee Kuldip Kumar would have immediately applied emergency brakes as per training given to him as well as instructions in this regard after the death driver (who had died in this accident), then certainly such a serious accident would not have occurred and the train would have stopped much before the fateful place where accident took place.

The inquiry officer has technical proved this fact in paragraph 4.3(ii) of its report.

Signature Not Verified

Digitally Signed By: AWTP.(C) 10416/2021
KUMAR
Signing Date: 06.10.2026
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The primary duty of a diesel assistant is to fully cooperate with the drivers of the train and to apply emergency brakes in emergent circumstances or when the driver of the train is not driving the train properly and safely.

Therefore, in view of above analysis as well as seriousness of the rail accident, I hereby hold the delinquent employee squarely responsible for the unfortunate accident in which as many as 12 railway passengers met an unfortunate end and as many as more than 50 railway passengers sustained grievous injuries on their persons and apart from loss of crores and crores of government properties, the reputation and dignity of railways has suffered a serious jolt.

Therefore, in view of the analysis of the documents, statements of witnesses and findings of inquiry report wherein all the charges leveled against Shri Kuldip Kumar have been found to be proved, I hereby dismiss him from railway services with immediate effect.”

24. Contrary to what we see in many cases, therefore, in the present case, the DA independently examined the entire material against the petitioner, as well as the various points raised by him in his representation against the inquiry report, and arrived at a reasoned finding that the petitioner could not escape the guilt for the accident which had taken place.

25. Mr. Setu Niket sought to draw this Court into a reappreciation of the material on facts, *inter alia*, drawing attention to the injuries suffered by the petitioner, the contention of the petitioner that he had requested N. H. Eliss, the driver, to apply the emergency brake in time, and that there was a jerk, which indicated that the brake had in fact been applied.

26. It goes without saying that, in exercise of its powers of judicial



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review over the decision of the DA, the Tribunal could not have entered into this arena. Equally, we are proscribed from doing so. In exercise of our jurisdiction under Article 226, we are least equipped to hold, judicially, that a train jerks only when a brake is applied.

27. It is also well settled that acquittal in criminal proceedings does not *ipso facto* entitle a charged officer to exoneration in disciplinary proceedings on the same allegation.²⁹ The standard of proof in the two cases is different and distinct. Where the IO and the DA have examined the material on record and arrived at a finding on facts that when guilt of the charged officer is established, his acquittal in criminal proceedings cannot be used by a Court as a ground to arrive at a contrary finding.

28. Though no argument regarding proportionality of punishment has been advanced before us, it is also clear that, given the nature of the misconduct found against the petitioner, as well as the disastrous consequences which followed, including the loss of life and injuries to over 50 passengers, a finding of culpability, on the part of the petitioner, could not have been visited with any punishment less than dismissal from service.

29. No case of disproportionality of punishment is made out, therefore, either.

²⁹ Refer *State (NCT of Delhi) v. Ajay Kumar Tyagi*, (2012) 9 SCC 685; *G.M. Tank v. State of Gujarat*, (2006) 5 SCC 446; *The Karnataka Lokayukta Bagalkote District v. Chandrashekar & Ors.*, 2026 SCC OnLine SC 13.



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30. For the aforesaid reasons, we dismiss the writ petition, with no orders as to costs.

C. HARI SHANKAR, J.

NIVEDITA ANIL SHARMA, J.

SEPTEMBER 22, 2026

AR/dsn