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

\+ W.P.(C) 10894/2019

CONST. RAMBIR SINGH .....Petitioner

Through: Mr. Sachin Chauhan, Adv.

versus

GOVT. OF N.C.T. OF DELHI AND ORS .....Respondents

Through: Mr. Farman Ali, Sr. PC with Ms. Usha Jamnal, Adv.

\+ W.P.(C) 11108/2019

BABULAL MEENA .....Petitioner

Through: Mr. Sachin Chauhan, Adv.

versus

GOVT. OF NCT OF DELHI & ORS. .....Respondents

Through: Mr. Farman Ali, Sr. PC with Ms. Usha Jamnal, Adv.

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

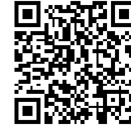
JUDGMENT (ORAL)

% **30.01.2025**

C.HARI SHANKAR, J.

W.P.(C) 10894/2019 [*Const. Rambir Singh v. GNCTD*]

1. This writ petition assails judgment dated 10 October 2018,



passed by the Central Administrative Tribunal[1] in OA 2910/2013.

2. The OA filed before the Tribunal emanated out of disciplinary proceedings instituted against the petitioner by order dated 26 December 2011, under Rule 16 of the Delhi Police (Punishment and Appeal) Rules, 1980. We do not deem it necessary to enter into the allegations in the charge sheet, as the Tribunal has, in our view, proceeded on a fundamentally erroneous understanding of the scope of judicial review in disciplinary proceedings. Paras 11, 13 and 14 of the impugned judgment read thus:

> "11. The scope of judicial review in the matter of DE proceedings is highly limited. Judicial review is normally resorted to only in following circumstances:
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> (a) Principles of natural justice have not been followed in the conduct of DE proceedings,
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> (b) Incompetent authorities have issued the charge memorandum and passed the penalty orders,
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> (c) The penalty orders have been passed in violation of relevant laws/rules; and
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> (d) The punishment inflicted is disproportionate to the offence committed.
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> *****
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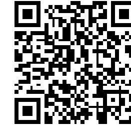
> 13. In the instant case, we find that the enquiry has been conducted as per the prescribed procedure and principles of natural justice have been observed at every stage of the enquiry. The EO has examined as many as 6 PWs and 4 DWs. He has also evaluated the evidence adduced by them. The findings of the EO are based primarily on the CCTV footage, which cannot be controverted by anyone. The punishment of "withholding of next increment for a period of four year permanently" inflicted upon the applicant also does not appear to be disproportionate to the charge leveled against

[1] "the Tribunal", hereinafter



him. Furthermore, the Tribunal is not expected to re-appreciate the evidence adduced in the enquiry proceedings.

14. In view of the discussions in the foregoing paragraphs, we do not find any flaw in the impugned orders. Accordingly, the O.A. is dismissed with no order as to costs."

3. Clearly, the Tribunal has proceeded on the premise that it has no jurisdiction to examine the merits of the matter or enter into the evidentiary thicket. It has treated its jurisdiction as restricted to the aspect of whether principles of natural justice, rules and regulations have been followed.

4. That, we are afraid, is not the correct legal position.

5. The Supreme Court has, in ***State of Rajasthan v Heem Singh***[2] and ***Pravin Kumar v UOI***[3], thus delineated the scope of judicial review and disciplinary proceedings:

Heem Singh

"37. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The Judge does not assume the mantle of the disciplinary authority. Nor does the Judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial

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[2] **(2021) 12 SCC 569**
[3] **(2020) 9 SCC 471**

proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy – deference to the position of the disciplinary authority as a fact-finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. *At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact*. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognised it for long years in *allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct*. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. *Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the Judge to be more appropriate.* To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the Judges' craft is in vain."

(Emphasis supplied)

<u>Pravin Kumar</u>

25. The learned counsel for the appellant spent considerable time taking us through the various evidence on record with the intention of highlighting lacunae and contradictions. We feel that such an exercise was in vain, as the threshold of interference in the present proceedings is quite high. The power of judicial review discharged by constitutional courts under Article 226 or 32, or when sitting in appeal under Article 136, is distinct from the appellate power exercised by a departmental appellate authority. It would be gainsaid that judicial review is an evaluation of the decision-making process, and not the merits of the decision itself. Judicial review seeks to ensure fairness in treatment and not fairness of conclusion. It ought to be used to correct manifest errors

of law or procedure, which might result in significant injustice; or in case of bias or gross unreasonableness of outcome.[4]

26. These principles are succinctly elucidated by a three-Judge Bench of this Court in ***B.C. Chaturvedi v Union of India***[5], in the following extract:

> "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 concerned is 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 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.
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> 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

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[4] **State of A.P. v Mohd. Nasrullah Khan, (2006) 2 SCC 373**
[5] **(1995) 6 SCC 749**

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***[6] this Court held at SCR pp. 728-29 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."

27. These parameters have been consistently reiterated by this Court in a catena of decisions, including:

(i) ***State of T.N. v S. Subramaniam***[7].

(ii) ***Lalit Popli v Canara Bank***,[8].

(*iii*) ***H.P. SEB v Mahesh Dahiya***[9].

28. It is thus well settled that the constitutional courts while exercising their powers of judicial review would not assume the role of an appellate authority. Their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice. Put differently, judicial review is not analogous to venturing into the merits of a case *like an appellate authority*.

29**.** The High Court was thus rightly concerned more about the competence of the enquiry officer and adherence to natural justice, rather than verifying the appellant's guilt through documents and statements. It clearly noted that evidence was led, cross-examination was conducted and opportunities of addressing arguments, raising objections, and filing appeal were granted. The conclusion obtained was based upon these very evidence and was detailed and well-reasoned. Furthermore, the High Court did not restrict the scope of judicial review, rather adopted a liberal approach, and delved further to come to its own independent conclusion of guilt. Similarly, we have no doubt in our minds that the appellate authority had carefully dealt with each plea raised by the appellant in his appeal and had given detailed responses to all the contentions to satisfy the appellant's mind. The disciplinary

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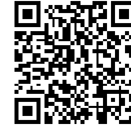
[6] **AIR 1964 SC 364**
[7] **(1996) 7 SCC 509**
[8] **(2003) 3 SCC 583**
[9] **(2017) 1 SCC 768**



authority too was impeccable and no infirmity can be found in the report of the enquiry officer either.

30**.** Even in general parlance, where an appellate or reviewing court/authority comes to a different conclusion, ordinarily the decision under appeal ought not to be disturbed *insofar as it remains plausible or is not found ailing with perversity*. The present case is neither one where there is no evidence, nor is it one where we can arrive at a different conclusion than the disciplinary authority, especially for the reasons stated hereunder.

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36**.** In our considered opinion, the appellant's contention that the punishment of dismissal was disproportionate to the allegation of corruption, is without merit. It is a settled legal proposition that the disciplinary authority has wide discretion in imposing punishment for a proved delinquency, subject of course to principles of proportionality and fair play. Such requirements emanate from Article 14 itself, which prohibits State authorities from treating varying degrees of misdeeds with the same broad stroke. Determination of such proportionality is a function of not only the action or intention of the delinquent, but must also factor the financial effect and societal implication of such misconduct[10]. But unlike in criminal cases, in matters of disciplinary proceedings courts only interfere on grounds of proportionality when they find that the punishment awarded is inordinate to a high degree, or if the conscience of the court itself is shocked. Thus, whereas imposition of major penalty (like dismissal, removal, or reduction in rank) would be discriminatory and impermissible for trivial misdeeds; but for grave offences there is a need to send a clear message of deterrence to the society. Charges such as corruption, misappropriation and gross indiscipline are prime examples of the latter category, and ought to be dealt with strictly."

(Emphasis supplied)

6. Thus, a Court or Tribunal, faced with a challenge to disciplinary proceedings and their sequelae, cannot completely close its eyes to the merits of the case.

7. The Supreme Court has, in ***Heem Singh,*** clearly stated that the

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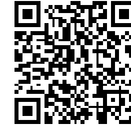
[10] Jameel v State of U.P, (2010) 12 SCC 532



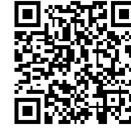
Court cannot adopt a hands off approach. The Court has to venture into the evidentiary wood, while, however, stopping short of re-appreciating the evidence. Expressed otherwise, the Court would have to examine whether the appreciation of evidence by the Inquiry Officer and Disciplinary Authority suffers from perversity or whether there is any legally tenable evidence available at all. If there is evidence available to sustain the charge against the charged officer, of course, the Court would not re-appreciate the evidence or arrive at a conclusion different from that arrived at which the Inquiry Officer has arrived, provided it is legally sustainable.

8. The Tribunal, in the present case, has not adverted to the merits of the aspect or the merits of the order passed by the Inquiry Officer or the Disciplinary Authority at all.

9. Accordingly, we deem it appropriate to remand the matter to the Tribunal for the fresh consideration keeping in mind the law laid down in ***Heem Singh*** and ***Pravin Kumar***.

10. Accordingly, the impugned judgment of the Tribunal is quashed and set aside. The OA 2910/2013 stands remanded to the Tribunal for a fresh consideration keeping in mind the aforesaid legal position. As the OA itself is of considerable vintage, we direct the parties to appear before the Tribunal on 19 February 2025.

11. We request the Tribunal not to adjourn the matter on the said date and, if possible, decide the case within a period of four weeks



therefrom.

12. The writ petition stands allowed to the aforesaid extent.

<u>W.P.(C) 11108/2019 [*Babu Lal Meena v GNCTD*]</u>

13. This writ petition assails judgment dated 25 February 2019, which emanates from the same charge sheet from which WP (C) 10894/2019, disposed of *supra*, emanated. In this case, too, the Tribunal has, after recording the contentions of the parties till para 6 of the impugned judgement, proceeded, in para 7, to reproduce certain paragraphs from the judgments of the Supreme Court in ***K L Shinde v State of Mysore***[11]**,** ***B.C. Chaturvedi*** (*supra*) and ***UOI v P. Gunasekaran***[12] and, thereafter, concluded in para 8 thus:

> "8. In view of the facts of the case narrated above and in view of the law laid down by Hon'ble Apex Court referred to above and in view of the fact that the counsel for the applicant has not brought to our notice violation of any procedural rules or principles of natural justice, the OA is devoid of merit."

14. There is no discussion, whatsoever, on any other aspect.

15. In the light of the view taken by us in respect of WP(C) 10894/2019 *supra*, it is obvious that the present impugned order cannot sustain.

16. Accordingly, we deem it appropriate to remand the matter to the

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[11] **(1976) 3 SCC 76**
[12] **(2015) 2 SCC 610**

Tribunal for fresh consideration, keeping in mind the law laid down in ***Heem Singh*** and ***Pravin Kumar***.

17. Accordingly, the impugned judgment of the Tribunal is quashed and set aside. OA 3032/2013 stands remanded to the Tribunal for a fresh consideration keeping in mind the aforesaid legal position. As the OA itself is of considerable vintage, we direct the parties to appear before the Tribunal on 19 February 2025.

18. The directions issued in respect of WP (C) 10894/2019 would apply *mutatis mutandis* to this petition as well.

19. The writ petition stands allowed to the aforesaid extent.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 30, 2025/*aky*

Click here to check corrigendum, if any