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

Date of decision: 04.08.2025

+ W.P.(C) 4153/2018
SHRI PANKAJ AGGARWALPetitioner
Through: Mr.Shanker Raju, Mr.Nilansh
Gaur, Advs.

versus

UNION OF INDIA AND ORS.Respondents
Through: Mrs.Anubha Bhardwaj, CGSC,
Mr.Dev P. Bhardwaj,
Ms.Anchal Kashyap, Advs.

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

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 18.01.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No.470/2013, whereby the said O.A. filed by the petitioner herein, was dismissed.
2. Aggrieved by the said dismissal, the petitioner had filed a Review Application, being R.A. No.44/2018, which was also dismissed by the learned Tribunal *vide* Order dated 13.03.2018.
3. The petitioner has challenged both the above orders before this Court by way of the present petition.
4. To give a brief background in which the present petition arises,



the petitioner was appointed as a Lower Division Clerk (LDC) on 26.07.1993 and had served in that capacity with an unblemished record for 15 years. At the relevant time, he was also holding the additional charge of Store In-charge of Group VI Godown at the CSD Depot, Hissar, with effect from 01.07.2007.

5. On 08.08.2007, at about 9:45 P.M., the petitioner was arrested by the Rohtak Police while allegedly in possession of a canter truck loaded with canteen stores. He was placed under suspension with a 50% subsistence allowance, as he remained in police custody for more than 48 hours. An FIR bearing No. 760757 dated 08.08.2007 was also registered against him.

6. Subsequently, on 03.10.2007, the petitioner informed the Area Manager that he had been picked up by some police personnel from Sat Road on the pretext of verifying certain CSD materials allegedly recovered from some individuals. He was taken to the Rohtak Police Station, where he was detained, and an FIR was registered against him under Sections 420, 467, 468, and 409 of the Indian Penal Code, 1860 (IPC).

7. Thereafter, on 25.06.2008, the petitioner was charge-sheeted in connection with the said incident and faced the disciplinary inquiry on the following charges:

“ **ARTICLE-I**
That the said PN-8274 Shri Pankaj Agarwal, LDC(O), CSD Depot, Hisar had stolen Government stores worth Rs. 5,53,443/- while he was the group incharge of GP-VI godown on 08.08.2007.
That the said PN-8274 Shri Pankaj Agarwal, LDC(O), CSD Depot, Hisar by his above act



had engaged himself in theft, dishonesty and unfaithfulness with the employer and has thus exhibited conduct unbecoming of a Government servant, thereby violating rule 3 of CCS(Conduct) Rules, 1964.

ARTICLE-II

That the said PN-8274 Shri Pankaj Agarwal, LDC(O), CSD Depot, Hisar had misappropriated Government stores worth Rs.7,44,639.14/- (including the value of stolen goods worth Rs.5,53,443/-) while he was the group incharge of GP-VI godown deliberately for his personal gain.

ARTICLE-III

That the said PN-8274 Shri Pankaj Agarwal, LDC(O), CSD Depot, Hisar had been illegally selling Government stores to unauthorized persons/shops in bulk by misappropriating the Government stores for his personal gain as per the statement given by the individual in FIR.

Thus the said PN-8274 Shri Pankaj Agarwal, LDC(O), CSD Depot, Hisar by his above misconduct has acted in a manner prejudicial to the interest of the master and thereby exhibiting conduct unbecoming of a Government servant, and violating of rule 3 of CCS (Conduct) Rules, 1964.

ARTICLE - IV

That the said PN-8274 Shri Pankaj Agarwal, LDC(O), CSD Depot, Hisar during his tenure as stores incharge of GP-VI godown had incurred discrepancy of stores worth Rs. 7,44,639/- due to his deliberate intention to misappropriate Government stores.

Thus the said PN-8274 Shri Pankaj Agarwal, LDC(O), CSD Depot, Hisar by his above misconduct has failed to maintain integrity and devotion to duty and exhibiting conduct unbecoming of a Government servant, thereby violating rule 3 of CCS(Concluct) Rules, 1964.”



8. Upon the Inquiry Officer finding the petitioner guilty of all the charges *vide* report dated 05.04.2011, a Show Cause Notice was issued to the petitioner. In response, the petitioner submitted a representation dated 17.05.2011. However, by Order dated 05.03.2012, the Disciplinary Authority rejected the representation of the petitioner and awarded the penalty of "Removal from Service" with immediate effect.

9. As far as relevant, the Order dated 05.03.2012 passed by the Disciplinary Authority reads as under:

"9. AND WHEREAS, the undersigned in his capacity as Disciplinary Authority after careful consideration of the case in its entirety has come to the conclusion that the said PN-8274 Shri Pankaj Agarwal, LDC (0) (now under suspension), CSD Depot Hissar is not a fit person to be retained in service.

*10. NOW THEREFORE, the undersigned in exercise of the power conferred under Rule 15 (4) of CCS (CC&A) Rules 1965 as amended and any other enabling Rules/ provisions imposes on the said PN-8274 Shri Pankaj Agarwal, LDC (0) (now under suspension), CSD Depot Hissar the following penalty;-
"Removal from service with immediate effect"*

10. Aggrieved thereby, the petitioner filed an appeal, which was also dismissed by the Appellate Authority *vide* Order dated 08.11.2012. The relevant portion of the same is reproduced below:

"8. AND WHEREAS, the Disciplinary Authority after careful consideration of Inquiry report, oral/documentary evidence on record and the representation of the individual, having satisfied that the misconduct was committed by the individual



and had imposed the penalty of:-

“Removal from service with immediate effect”

Vide Order No.3/A-3/Legal/Disc.F-8274/2624
dated: 05:03:2012.

xxx

11. AND WHEREAS, the Disciplinary Authority has already examined the case in detail before issuing Penalty order, the undersigned feels it appropriate to uphold the order of Disciplinary Authority.”

11. The petitioner challenged the above orders before the learned Tribunal by way of the aforementioned O.A..

12. One of the grounds urged by the petitioner before the learned Tribunal was that the order passed by the Disciplinary Authority as well as the Appellant Authority, are sans any reasons and, therefore, are liable to be set aside. The learned Tribunal, however, by its Impugned Order dated 18.01.2018, held that the orders passed by both the Disciplinary Authority and the Appellant Authority contain cogent reasons. We quote from the Impugned Order as under:

“15. Finally, the Disciplinary Authority has recorded cogent reasons dealing with the relevant evidence of the parties and provided adequate opportunities at appropriate stages to the applicant. The Appellate Authority again considered the matter and confirmed the punishment order.

16. Therefore, we hold that both the Disciplinary Authority as well as Appellate Authority have recorded cogent reasons and examined the matter in the right perspective. We do not find any illegality, irregularity or any perversity in the impugned orders. As such, no interference is warranted by this Tribunal in the obtaining circumstances of the case.”



13. We are unable to accept the above finding of the learned Tribunal. We have already quoted hereinabove the relevant portions of the orders passed by the Disciplinary Authority as well as the Appellate Authority. The same clearly do not contain any reasons for finding the petitioner guilty of the charges or the penalty levied on him. The necessity for the orders which visit the petitioner with civil consequences as harsh as dismissal from service, to contain reasons cannot be undermined. In support, we may refer to the Judgment of the Supreme Court in ***Roop Singh Negi v. Punjab National Bank & Ors.***, (2009) 2 SCC 570.

14. The learned counsel for the petitioner further submits that, apart from the petitioner, one Mr.Sarvesh Kumar was also proceeded against departmentally on similar charges and was a co-delinquent. However, while Mr.Sarvesh Kumar was awarded the penalty of stoppage of only three increments, the petitioner was visited with the penalty of removal from service. No reasons have been provided for this discriminatory imposition of penalties.

15. In ***Lucknow Kshatriya Gramin Bank (Now Allahabad, Uttar Pradesh Gramin Bank) & Anr. v. Rajendera Singh***, AIR 2013 SC 3540, the Supreme Court has held that, insofar as the penalty imposed upon an employee is concerned, it must not be discriminatory as compared to a co-delinquent and should be proportionate to the alleged offence. We quote from the Judgment as under:

“ 19. The principles discussed above can be summed up and summarised as follows:
19.1. When charge(s) of misconduct is proved



in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the



charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

(Emphasis Supplied)

16. The above plea has not been considered by the learned Tribunal, nor, as noted hereinabove, have the Disciplinary Authority or the Appellant Authority given any reason as to why two co-delinquents have been visited with different penalties.

17. The learned counsel for the petitioner further submits that, on similar charges, the petitioner also faced a criminal prosecution, which initially resulted in his conviction by an Order dated 28.07.2015 passed by the Judicial Magistrate, First Class, Rohtak. However, in appeal, the conviction of the petitioner was set aside by an Order dated 26.07.2016, passed by the learned Additional Sessions Judge, Rohtak.

18. Placing reliance on the Judgment of the Supreme Court in ***Ram Lal v. State of Rajasthan & Ors.***, (2024) 1 SCC 175, the learned counsel for the petitioner submits that such acquittal would also have a vital bearing on the finding of the guilt as well as the punishment visited on the petitioner in the disciplinary proceedings.

19. Keeping in view the above three circumstances, we set aside the Order dated 18.01.2018 passed by the learned Tribunal as also the orders passed by the Disciplinary and the Appellate Authorities, and remand the matter back to the Disciplinary Authority to reconsider the same, including the effect of the petitioner's acquittal in the criminal case as well as the punishment awarded to the co-delinquent, namely Mr.Savesh Kumar. We permit the petitioner to file a further detailed



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representation on the same before the Disciplinary Authority. The Disciplinary Authority shall pass a fresh order in accordance with the Rules and the Law, within a period of eight weeks from the receipt of such representation.

20. The petition is disposed of in the above terms.

21. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

AUGUST 4, 2025/Arya/DG