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

Date of decision: 09.12.2025

\+ W.P.(C) 5973/2024

JOGENDER PRASAD FENTMAR .....Petitioner

Through: Mr.Asish Nischal, Mr.Arun Nischal, Mr.Shivam Kumar Singh, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms.Kangan Roda, SPC

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

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 28.01.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No.3442/2015, titled ***Jogender Prasad Fentmar v. Union of India & Ors.,*** dismissing the said O.A. filed by the petitioner herein.

2. The petitioner filed the above O.A. challenging the Inquiry Report dated 23.09.2014; Order dated 01.04.2015 passed by the Disciplinary Authority; and the Order dated 23.07.2015 passed by the Appellate Authority, by which the petitioner was ultimately removed from service.

3. The petitioner had been proceeded departmentally on the

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following Charges:

> *"Article-I*
>
> *Shri Joginder Prasad Fentmar, Driver (Ordinary Grade) has submitted fake driving license No. 719899 with driving permission No. 3039/P /2001, dt. 12.4.2001 to secure employment as Driver (Ordinary Grade) in the Department of Atomic Energy, Government of India, obtained through fraudulent means.*
>
> *By the aforesaid conduct, the said Shri Joginder Prasad Fentmar has failed to maintain absolute integrity and acted in a manner unbecoming of a Government servant thereby contravening the provisions of sub-rule 1(i) and (iii) of Rule 3 of the CCS (Conduct) Rules, 1964."*

4. Interestingly, only three documents were relied upon in support of the charge, which are as under:

> *"1. Application dt. 27.9.2007 of Shri Joginder Prasad Fentmar for the post of Driver (Ordinary Grade) against Advt. NO.3/4/2005/Admn. 2. Driving Licence No.719899 with driving permission No. 3039/P/2001, dt.12.4.2001 issued by RTO, Agra, Uttara Pradesh.*
> *3. Letter No. 148/D.L.Satyapan/2012, dt. 28.12.2012 signed on 31.12.2012 issued by the Asstt. Regional Transport Officer, Agra."*

5. The Inquiry also did not cite any oral evidence to be led and no oral evidence was in fact led.

6. The limited plea of the learned counsel for the petitioner is that this was a case of no evidence against the petitioner.

7. On the other hand, the learned counsel for the respondents has submitted that the case against the petitioner was based on the letter

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No.148/D.L.Satyapan/2012 dated 28.12.2012 issued by the Assistant Regional Transport Office, Agra certifying that the driving licence produced by the petitioner at the time of seeking employment had not been issued by the RTO, Agra and further confirming that the last licence number issued in the year 2001 was 2717/P/2001 dated 31.12.2001. She submits that the case against the petitioner was based on documentary evidence, and the absence of oral evidence would not vitiate the inquiry proceedings. She further submits that in a Departmental Inquiry, the strict burden of proof is not placed on the Department and the charges are to be proved on preponderance of probabilities. She submits that this Court will not interfere or re-appreciate the evidence to come to a different conclusion.

8. We have considered the submissions made by the learned counsels for the parties.

9. While there is no doubt that in a Departmental Inquiry case against the Delinquent Employee is to be proved on the basis of the preponderance of probability and not on the standard of proof beyond reasonable doubt, at the same time, it should be based on some evidence. In the present case, the entire allegation against the petitioner is based on a report received from Assistant Regional Transport Office, Agra. The said report had to be proved to be made admissible in evidence. Although the strict rules of evidence are inapplicable in a Disciplinary Inquiry, however, the non-examination of the relevant witness, has, in fact, rendered the Inquiry Proceedings into a case of no evidence at all. The difference between the same has been highlighted by the Supreme Court in context of a departmental

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inquiry in ***Roop Singh Negi v. Punjab National Bank and Ors.*** (2009) 2 SCC 570. We quote the relevant findings as under:

> "*14. In that case also, the learned single judge proceeded on the basis that the disadvantages of an employer is that such acts are committed in secrecy and in conspiracy with the person affected by the accident, stating:*
> *"....No such finding has been arrived at even in the disciplinary proceedings nor any charge was made out as against the appellant in that behalf. He had no occasion to have his say thereupon. Indisputably, the writ court will bear in mind the distinction between some evidence or no evidence but the question which was required to be posed and necessary should have been as to whether some evidence adduced would lead to the conclusion as regard the guilt of the delinquent officer or not. The evidence adduced on behalf of the management must have nexus with the charges. The Enquiry Officer cannot base his findings on mere hypothesis. Mere ipso dixit on his part cannot be a substitute of evidence.*
> *45. The findings of the learned Single Judge to the effect that 'it is established with the conscience (sic) of the Court reasonably formulated by an Enquiry Officer then in the eventuality' may not be fully correct inasmuch as the Court while exercising its power of judicial review should also apply its mind as to whether sufficient material had been brought on record to sustain the findings. The conscience of a court may not have much role to play. It is unfortunate that the learned Single Judge did not at all deliberate on the contentions raised by the appellant. Discussion on the materials available on record for the purpose of applying the legal principles was imperative. The Division Bench of the High Court also committed the same error."*
> *15. Yet again in M.V. Bijlani vs. Union of India & ors. (2006) 5 SCC 88, this Court held:*

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"....Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."

17. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the Criminal Court on the basis of self-same evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the Enquiry Officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the Enquiry Officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof."

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10. In view of the above, the order passed by the learned Tribunal dismissing the O.A. filed by the petitioner cannot be sustained. The same is accordingly set aside.

11. This brings us to the relief to which the petitioner may be entitled.

12. As the allegation against the petitioner is one of obtaining employment on the basis of a forged driving licence, the petitioner cannot be allowed to continue performing his job with a fake licence, if that be so.

13. Accordingly, while setting aside the Inquiry Report and the subsequent orders passed by the Disciplinary Authority and the Appellate Authority, we allow the respondents to continue with the inquiry proceedings on the charges that have been framed against the petitioner. Such inquiry must be completed within a period of twelve weeks from today. During the *interregnum*, the petitioner shall be treated as being under suspension, which period shall be subject to the outcome of the inquiry proceedings.

14. The petition is disposed of in the above terms. There is no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 9, 2025/Arya/DK

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