



2025:DHC:6844-DB



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

*Date of decision: 13.08.2025*

+ W.P.(C) 11172/2019  
S R HUSSAIN

.....Petitioner

Through: Mr.Raghvendra Bajaj &  
Mr.Rajesh R. Dubey, Advs

versus

UNION OF INDIA THROUGH SECRETARY & ORS.

.....Respondents

Through: Mr.Sandeep Tyagi, Adv. for  
R-1  
Mr.Naresh Kaushik, Sr. Adv.  
with Mr.Manoj Joshi,  
Ms.Shikha John, Mr.Shantanu  
Shukla & Mr.Archit Gautam,  
Advs. for R-2 & R-3

**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 23.07.2019 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 1636/2014 titled *S.R. Hussain v. Union of India & Ors.*, dismissing the said O.A. filed by the petitioner herein.

2. By the above O.A., the petitioner had challenged the Order dated 08.08.2011 passed by the Disciplinary Authority/respondent



no.3, visiting the petitioner with a penalty of dismissal from service. The petitioner further challenged the Order dated 11.03.2013 passed by the Appellate Authority/respondent no.2, dismissing the appeal filed by the petitioner against the penalty order.

3. The brief facts in which the present petition arises are that the petitioner was issued a Memorandum dated 26.12.2000, proposing to hold an inquiry against him on the following charges:-

*“Article-I*

*Shri S.R. Husain, while functioning as Assistant Engineer (Civil) has made allegations/statements/information in the cover of General Secretary, NPCC Staff Association against CMD and other NPCC officials which are unsubstantiated, misplaced and without any evidence which tarnished the image of the NPCC and its officials which results in loss of prospective business of NPCC and such activities are not relating to NSA.*

*By this act, Shri S.R. Hussain has exhibited an act unbecoming of a public servant, an act prejudicial to the interest of the Corporation, an act subversive of discipline or of good behavior thereby violating Rules 3 (1) (iii), 4(5), (20) of NPCC Employees Service (Conduct) Rules, 1979.*

*Article-II*

*Shri S.R. Hussain, while functioning as Assistant Engineer (Civil) had made complaints/allegations in the cover of General Secretary, NSA against CMD and other officials of NPCC and has criticized the Corporation officials. Also Shri S.R. Hussain had made unauthorized communication of information directly with Minister of Water Resources and Members of Parliament and*



*forwarded certain confidential official statements/information that were not connected with the activities of NSA.*

*By his above act, Shri S.R. Hussain has exhibited an act unbecoming of a public servant and act of involvement in the activities which have the effect of an adverse criticism of the policy of the Corporation and unauthorized communication of the misplaced and unsubstantiated information to the persons to whom he is not authorized to communicate such confidential statement/information thereby violating Rule 3 (1) (iii) Rules 9 and 11 of NPCC Employees Service (Conduct) Rules, 1979.*

#### *Article-III*

*Shri S.R. Hussain, while functioning as Assistant Engineer (Civil) had filed Writ Petition and Civil Contempt Petition in the Hon'ble High Court of Delhi in the cover of General Secretary, NSA whereby he had leveled baseless, unfounded and unsubstantiated charges/allegations and also criticized the functioning/policy of the Corporation and the Ministry of Water Resources without previous sanction of CMD thereby the exhibited vindication of the official act which has been the subject matter of adverse criticism and attach of defamatory character.*

*By his above act, he violated the Rule 3 (1) (iii), Rule 19 of NPCC Employees Service (Conduct) Rules, 1979."*

4. The order sheet of the Inquiry Officer (IO) indicates that the inquiry against the petitioner was kept pending pursuant to the Order dated 24.12.2002 passed by the respondent no.3 and the Order dated 01.01.2003 passed by the IO. The proceedings thereafter resumed *vide*



Order dated 25/30.01.2008. On 13.05.2009, as the petitioner was absent, he was proceeded *ex parte*, and 22 prosecution documents and 30 defence documents were taken on record. The Presenting Officer ('PO'), however, submitted before the Inquiry Officer that 10 prosecution witnesses mentioned in the chargesheet had either retired or they may have turned hostile, being a very old case of charge.

5. The PO, accordingly, addressed a communication dated 16.06.2009 to the Disciplinary Authority that these witnesses be dropped.

6. The Chief Vigilance Officer, by a communication dated 26.06.2009, informed the PO that it would be her decision on the same and she may act as she deemed fit.

7. By the Order of 20.06.2009, therefore, the prosecution's case was closed, as the PO had dropped all the prosecution witnesses. As noted, the petitioner had already been proceeded *ex parte* as he was not appearing in the inquiry proceedings.

8. The Inquiry Officer, by the report dated 29.09.2009, found all the three charges against the petitioner proved. The Disciplinary Authority, thereafter, visited the petitioner with the punishment of dismissal from service *vide* the Order dated 08.08.2011. The appeal filed by the petitioner against the same was also dismissed by the Appellate Authority on 11.03.2013.

9. Aggrieved thereby, the petitioner filed a Review, however, as the same was not decided, he filed the above O.A. before the learned Tribunal.

10. The learned Tribunal dismissed the O.A., finding no merit in



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the challenge.

11. The learned counsel for the petitioner, in challenge to the impugned order passed by the learned Tribunal as also to the inquiry proceedings, submits that the learned Tribunal has failed to appreciate that the respondents produced no oral evidence in support of the Articles of Charge. He submits that in the absence thereof, and merely relying on the documents, the petitioner could not have been found guilty of the charges. In support, he places reliance on the Judgment of this Court in *Appellate Tribunal for Forfeited Property v. Shailender Kumar And Anr.*, 2024:DHC:3573-DB.

12. He further submits that the punishment awarded to the petitioner was disproportionate and that the respondent no. 3 was not empowered to impose the punishment of dismissal from service on the petitioner as such power is vested only with the Board of Directors/respondent no.2.

13. The learned counsel for the petitioner has also submitted that, in fact, based on the complaints made by the petitioner, an FIR was later registered against the CMD and other officials of the NPCC by the CBI.

14. The above submissions are refuted by the learned senior counsel for the respondent nos.2 and 3.

15. As we are impressed by the submission of the learned counsel for the petitioner that the Inquiry Report is vitiated for the reason that, in the absence of any oral evidence or witnesses proving the documents and the allegations against the petitioner, the charges could not have been sustained, we are not considering the other submissions



of the learned counsels for the parties.

16. In the present case, from a reading of the charges that were framed against the petitioner, it would be evident that it was the case of the respondents that the allegations/statements/information, made/given by the petitioner in his capacity as General Secretary of the NPCC Staff Association against the CMD and other NPCC officials, were unsubstantiated, misplaced, and without any evidence, and which would “*tarnish the image of the NPCC and its officials, which results in loss of prospective business of NPCC and such activities are not relating to NSA*”. To prove the fact that the allegations made by the petitioner against the NPCC were unsubstantiated, misplaced and without any evidence and that it has tarnished the image of the NPCC and its officials and resulted in loss of prospective business of the NPCC, the Department was required to lead evidence of its witness. Even in the absence of the petitioner taking part in the departmental inquiry, the same could not have been proved only by documents alone,; the obligation of the Department to prove its case against the delinquent employee does not stand waived. The department was still obligated to prove its own case against the delinquent employee, after which only the stage of defence evidence would arise.

17. In the present case, in view of the respondents having decided not to produce any oral evidence or witnesses, the same results in the entire proceedings before the learned Tribunal and the Inquiry Report being vitiated. No reliance could have been placed thereafter on the same to visit the petitioner with the punishment.





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period shall, however, be counted for all other notional benefits to the petitioner, including for determination of his retiral benefits. For the retiral benefits, however, the full pay of the above period shall be considered. The payments shall be made by the respondents to the petitioner within a period of three months from today, failing which the respondents shall pay interest at the rate of 9% per annum.

22. With the above directions, the petition is disposed of.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**AUGUST 13, 2025/rv**