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

Date of Decision: 13th July, 2026.

\+ W.P.(C) 15500/2024 & CM APPL. 53368/2025

SHIV SHANKER VYAS .....Petitioner

Through: Dr. Vikash Kumar, Advocate.

versus

NTPC LIMITED & ORS. .....Respondents

Through: Mr. Puneet Taneja, Senior Advocate with Mr. Rajesh Mahendru, Mr. Anil Kumar, Mr. Manmohan Singh Narula and Mr. Amit Yadav, Advocates for NTPC.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner assails the order dated 23rd September, 2022, by which NTPC Limited imposed upon him the major penalty of removal from service, without disqualification for future employment under the Government or a government-controlled corporation. He also assails the appellate order dated 18th November 2022 and the order dated 27th October 2023 rejecting his review petition. The Petitioner seeks reinstatement with consequential benefits.

The controversy

2. The proceedings arose from substantial financial transactions between the Petitioner and Shri Kunal Rai, proprietor of M/s Rife Solutions, an

agency which had business dealings with NTPC. The Petitioner does not dispute the transactions. His case is that he had advanced money to Kunal Rai as a friendly loan and that the amounts subsequently credited by Rife Solutions to the accounts of the Petitioner and his wife represented repayment. NTPC treated the same receipts as illegal gratification and, additionally, as prohibited financial dealings under its Conduct, Discipline and Appeal Rules, 1977.[1]

3. The real controversy, therefore, is not whether money passed between the parties, but the legal character that can be attributed to those transactions. The distinction lies at the heart of the charge. An undisclosed loan advanced to a person having official dealings with a public-sector employer may, depending on the circumstances, amount to serious misconduct. Yet, misconduct and bribery are not synonymous. The mere existence of a financial transaction, without more, does not justify the inference that the transaction was a bribe.

Factual background

4. The Petitioner was employed as an executive with NTPC and had rendered approximately thirteen years of service. At the material time, he was posted as Manager (Electrical Erection) at NTPC's Khargone project. He was subsequently posted at Singrauli and was holding the post of Senior Manager when the impugned penalty was imposed.

5. On 19th August, 2020, a complaint was lodged against the Petitioner on the Prime Minister's Grievance Portal. It alleged, *inter alia*, that he had misused his official position to compel vendors to work in partnership with him and had received substantial amounts as illegal gratification. The

[1] "CDA Rules"

complaint was referred to NTPC Vigilance department.

6. On 25th March, 2021, NTPC referred the matter to the Central Bureau of Investigation.[2] The reference alleged receipt of approximately ₹25 lakh as illegal gratification in the bank accounts of the Petitioner and his wife, an abnormal increase in the Petitioner's bank balance, and collusion with Rife Solutions and other agencies reflected in financial transactions and WhatsApp communications.

7. The CBI registered RC No. 0082021A0009 on 23rd June, 2021 under Section 120-B of the Indian Penal Code and Sections 7 and 8 of the Prevention of Corruption Act, 1988. Searches were conducted and the bank accounts, communications and the role of the persons concerned were investigated.

8. Upon completion of the investigation, the CBI issued a Self-Contained Note dated 20th January, 2022. It found that the material initially furnished to NTPC did not disclose the complete course of transactions. The Petitioner had first transferred money to Kunal Rai, and the banking narration included the expression "Loan to Kunal". Vinay Rai, a common acquaintance, supported the Petitioner's explanation that he had been requested to assist Kunal Rai financially. Kunal Rai also admitted during examination that the Petitioner had advanced money to him. The CBI concluded that the subsequent inward transactions were towards repayment of the loan.

9. As regards the WhatsApp communications, the CBI found the selected messages relied upon against the Petitioner to be ambiguous and inconclusive. The messages produced by the Petitioner conveyed the

opposite impression, namely, that he was seeking return of his money. It found no material establishing that the Petitioner had compelled Kunal Rai or any other vendor to enter into a partnership. The CBI nevertheless recorded that the Petitioner had entered into financial dealings with a person whom he knew to be working indirectly for NTPC, without obtaining permission or intimating the department. It, therefore, recommended departmental action for violations of Rules 14 and 16(2) of the CDA Rules.

The charge memorandum

10. On 11th May, 2022, NTPC issued a memorandum proposing a departmental inquiry against the Petitioner under Rule 25 of the CDA Rules. The memorandum was accompanied by a statement of the article of charge in Annexure I and a statement of the imputations in support thereof in Annexure II. The memorandum was also accompanied by a list of the relied-upon documents and contemplated a list of witnesses.

11. Annexure I contained one composite article divided into four constituent limbs. The overarching allegation was that, while serving as Manager (Electrical Erection) at Khargone, the Petitioner had maintained a dishonest association with agencies having business dealings with NTPC, entered into monetary transactions with them, concealed material information and received illegal gratification during the period 2018-2020. The four limbs of the charge were:

i. that the Petitioner had dishonestly associated himself with M/s Rife Solutions, M/s L&T, M/s Shivakriti, M/s PM Engineering and other agencies engaged in electrical works at Khargone, and had received illegal gratification from them;

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[2] "CBI"

ii. that, through several transactions, approximately ₹16 lakh had been credited from the bank account of Rife Solutions to the accounts of the Petitioner and his wife;

iii. that the Petitioner had borrowed ₹10 lakh during 2018-2019 from Kunal Rai, proprietor of Rife Solutions, an agency having business dealings with NTPC Khargone; and

iv. that he had failed to report to the competent authority that his wife was the proprietor of 3A Enterprises, which had obtained GST registration on 7th July, 2020.

12. Annexure II repeated these allegations and then elaborated the case sought to be made against the Petitioner. It stated that L&T, Shivakriti and PM Engineering had been awarded electrical works at Khargone and had sub-contracted parts of those works to Rife Solutions and that verification by NTPC Vigilance had disclosed credits aggregating approximately ₹16.80 lakh from Rife Solutions to the accounts of the Petitioner and his wife and treated the receipts as illegal gratification. The bank transactions were relied upon to invoke Rule 16(2). The entry in the Petitioner's annual property returns describing a loan of ₹10 lakh as having been taken from Kunal Rai was relied upon to invoke Rule 14. His failure to report his wife's proprietorship of 3A Enterprises was alleged to violate Rule 13(2). On this foundation, NTPC also alleged breaches of Rules 4(1)(i), 4(1)(iii), 5(2), 5(5) and 5(17) of the CDA Rules.

13. The Petitioner denied the charges. He maintained that Kunal Rai was a personal acquaintance to whom he had advanced an interest-free loan. According to him, the entries showing credits from Rife Solutions represented repayment in instalments. He relied upon the bank statements,

the transaction narration, the entries made in his annual property returns, though under an incorrect column, and the blank cheque allegedly furnished by Kunal Rai as security.

The departmental inquiry

14. An Inquiry Authority was appointed on 2nd June, 2022. The preliminary hearing was held on 14th June, 2022 and the regular hearings concluded on 12th July, 2022.

15. No management witness was examined. The Presenting Officer relied upon the bank statements, annual property returns, registration records, purchase order documents, WhatsApp communications and other documents which were stated to have been admitted or supplied to the Petitioner. The Petitioner was represented by a defence assistant, produced documentary material, examined himself and presented defence witnesses.

16. In its report dated 18th August, 2022, the Inquiry Authority found that the Petitioner's direct association with M/s L&T, M/s PM Engineering and M/s Shivakriti, and the allegation that he had received illegal gratification from those agencies, had not been established. It, however, found his association with Kunal Rai, proprietor of M/s Rife Solutions, and Rajendra Malviya, who was looking after the site work of Rife Solutions, to be established. The first limb of the charge was, accordingly, held proved with modification, by confining it to the Petitioner's alleged dishonest association with Rife Solutions and receipt of illegal gratification from that agency.

17. In arriving at that conclusion, the Inquiry Authority relied, *inter alia*, upon the following circumstances:

a. substantial financial transactions from the Petitioner to Kunal Rai and, thereafter, from Kunal Rai/Rife Solutions to the accounts of the Petitioner and his wife;

b. transfers made by the Petitioner, as well as from the account of 3A Enterprises, to Rajendra Malviya, who was arranging manpower and material for the outdoor signalling and telecommunication work undertaken by Rife Solutions;

c. a WhatsApp communication which, according to the Inquiry Authority, had most probably been sent from the Petitioner's mobile phone to Ganesh, an accountant of Shivakriti, seeking release of money so that the wages of Rife Solutions' labour could be paid;

d. the Petitioner's admitted payment to M/s HR Projects towards electrical material required for the work awarded to Kunal Rai, and a payment of ₹71,429 towards the GST liability of Rife Solutions; and

e. Purchase Order No. 4200047483 dated 16th December, 2017, placed upon Rife Solutions for the supply of occupancy sensors, which had been executed and in relation to which the Petitioner had processed the bill for payment.

18. The Inquiry Authority observed that, on the basis of the evidence discussed by it, it "may be construed" that the amounts transferred by the Petitioner from the account of 3A Enterprises to Rajendra Malviya "may be" for managing the works of M/s Rife Solutions rather than for the purchase of clothes as claimed in the defence. Proceeding thereafter on a preponderance of probabilities, it "construed" that the Petitioner was managing the Outdoor S&T contract awarded by Shivakriti to Rife Solutions through Rajendra Malviya. It further concluded that the billing amounts received by Rife Solutions from Shivakriti under that contract had been diverted to the Petitioner through Kunal Rai. The charge of dishonest association and

receipt of illegal gratification was accordingly held proved, albeit confined to Rife Solutions.

19. The second imputation, concerning the credits of approximately ₹16 lakh from Rife Solutions, was held proved on the basis of the bank statements.

20. The third imputation, as framed, was expressly held not proved. The evidence did not establish that the Petitioner had borrowed ₹10 lakh from Kunal Rai. On the contrary, the Inquiry Authority found that the Petitioner had advanced money to Kunal Rai and had not correctly declared the advance in his annual property return.

21. The fourth imputation was held proved on the Petitioner's admission that he had not reported his wife's proprietorship of 3A Enterprises to NTPC.

22. A copy of the report was furnished to the Petitioner. He submitted his response on 12th September, 2022, reiterating that the financial entries reflected an outgoing loan and its repayment; that no official favour, pecuniary loss or unjust enrichment had been identified; that the 2017 purchase order had been processed through the prescribed procurement procedure; and that 3A Enterprises was a short-lived venture which had been closed in March 2021.

The impugned orders

23. By order dated 23rd September, 2022, the Disciplinary Authority accepted the Inquiry Report and observed that, under Rule 23, where demand and acceptance of illegal gratification for performing an official duty was established, removal or dismissal was applicable. It accordingly imposed the penalty of removal from service, without disqualification for

future employment under the Government or a government-controlled corporation.

24. The Petitioner preferred an appeal dated 10th October, 2022. The appeal was examined by a committee constituted under Rule 32. The committee observed that the Petitioner had not produced any new evidence and had accepted certain lapses. It recommended rejection of the appeal on the ground that the penalty was commensurate with the gravity of the charges. The Appellate Authority rejected the appeal on 18th November, 2022.

25. A review petition dated 15th December, 2022 was thereafter placed before a Committee of Directors and the Board of NTPC. The order dated 27th October, 2023 records that the Board discussed various aspects of the matter and decided to uphold the management's decision. It does not disclose any charge-wise consideration of the grounds urged by the Petitioner.

Submissions on behalf of the Petitioner, in brief

26. Dr. Vikash Kumar, counsel for the Petitioner, submits that the inquiry was founded entirely upon documentary material and that NTPC did not examine Kunal Rai, any representative of Rife Solutions or Shivakriti, or any officer who could speak to a demand, payment or official favour. The bank entries establish only transfer of money and not its alleged corrupt character.

27. It is argued that the Inquiry Authority ignored the complete financial trail. The Petitioner had first advanced substantial amounts to Kunal Rai and had recorded "Loan to Kunal" in the banking narration. The CBI had examined Kunal Rai and Vinay Rai and had concluded that the later

payments represented repayment. There was, therefore, no evidentiary basis to treat the same amounts as illegal gratification.

28. Dr. Kumar submits that the 2017 purchase order merely establishes that the Petitioner had, on an earlier occasion, processed a bill relating to Rife Solutions. There is no allegation that the purchase order was improperly issued, that the material was not supplied, that the bill was falsely certified, or that any subsequent payment was consideration for processing that bill.

29. It is further contended that the Inquiry Authority travelled beyond the third imputation by substituting lending for borrowing. The Petitioner also disputes the application of Rule 14, attempting to distinguish a friendly loan from lending in the commercial sense. Rule 16(2), it is urged, cannot be invoked merely because money moved between two persons, absent any transaction in identifiable movable or immovable property.

30. As regards 3A Enterprises, it is submitted that the firm was registered for a clothing business during the COVID-19 period, remained unsuccessful and was closed within a few months. The omission to report it was inadvertent and caused no prejudice to NTPC.

31. Further, it is urged that the Disciplinary Authority treated removal as mandatory solely because illegal gratification was held proved. Once that finding fails, the penalty cannot be sustained on the residual charges. The appellate and reviewing orders, being unreasoned affirmations, do not cure the defect.

Submissions on behalf of NTPC, in brief

32. Mr. Puneet Taneja, Senior Counsel for NTPC, submits that the jurisdiction of this Court is supervisory and not appellate. The Inquiry

Authority is the primary judge of facts, and the Court cannot reassess the sufficiency or reliability of evidence merely because another view is possible.

33. It is argued that no prejudice arose from the absence of management witnesses since the material documents and bank transactions were admitted. The financial dealings, the Petitioner's involvement in procurement of material, payment of GST, communications for release of contractors' payments, transfers to Rajendra Malviya and the earlier purchase order, when considered cumulatively, established an association far beyond an ordinary personal friendship.

34. NTPC submits that the CBI's decision not to prosecute cannot govern a departmental inquiry, where the standard is preponderance of probabilities. The Inquiry Authority was entitled to draw its own conclusions from the material placed before it.

35. It is further submitted that, even upon the Petitioner's own explanation, he admittedly lent substantial sums to the proprietor of an agency having official dealings with NTPC and entered into reciprocal monetary transactions without prior permission. The conduct independently attracts Rules 14 and 16(2). The failure to report the wife's business is also admitted.

36. On penalty, NTPC relies upon the principle that where some charges fail but the surviving charges constitute substantial misconduct for which removal could lawfully be imposed, the Court ought not to speculate whether the same punishment would have been imposed on the surviving charges alone.

Points for determination

37. In the light of the pleadings, the record of the disciplinary proceedings and the submissions advanced, the following questions arise for consideration:

i. Whether the material before the Inquiry Authority could reasonably sustain, on the standard of preponderance of probabilities, the finding that the amounts received by the Petitioner and his wife from M/s Rife Solutions constituted illegal gratification;

ii. Whether the findings of misconduct under Rules 13(2), 14 and 16(2) of the CDA Rules are sustainable and, if so, to what extent the consequential findings under Rules 4(1)(i), 4(1)(iii), 5(5) and 5(17) can survive;

iii. Whether, in view of Rule 25(19) of the CDA Rules, the Inquiry Authority was entitled to record a finding that the Petitioner had lent money to Kunal Rai when the third imputation alleged that he had borrowed money from him; and

iv. What consequence follows for the penalty of removal if the finding of illegal gratification is found unsustainable, while some of the other misconducts remain established.

Scope of judicial review

38. The parameters governing judicial review of disciplinary proceedings are settled. The Court does not sit in appeal over the conclusions of the Inquiry Authority. It does not reassess the evidence or substitute its own view merely because two conclusions are possible. The strict rules of the Evidence Act do not apply, and material which is logically probative and possesses a reasonable nexus with the charge may be considered.

39. These limitations do not, however, render disciplinary findings

immune from scrutiny. The Court may interfere where the finding rests on no evidence, takes into account material extraneous to the charge, ignores material which bears directly upon the conclusion, or is so arbitrary or conjectural that no reasonable decision-maker could have reached it. The distinction is between reassessing the weight of evidence and examining whether the conclusion has any rational evidentiary foundation.[3]

40. It is settled that a charge in a departmental proceeding is required to be established on the touchstone of preponderance of probabilities, and not beyond reasonable doubt. However, the fact that departmental proceedings are governed by a less exacting standard of proof does not dispense with the requirement of proof itself. Although the technical rules of evidence do not apply, the material relied upon must be relevant, logically probative and possess a reasonable nexus with the charge. It must be capable of rendering the charged version more probable than the competing explanation. Suspicion may furnish cause for initiating an inquiry; it cannot, however strong, take the place of proof in recording a finding of misconduct.

41. The standard of preponderance of probabilities does not permit a chain of speculative assumptions to be treated as proof merely because, when viewed cumulatively, they appear plausible. A finding may undoubtedly be founded upon circumstantial evidence, but the foundational facts must first be established and the inference drawn must reasonably arise from those facts. Conjecture cannot be placed upon conjecture to bridge gaps in the evidence. While the sufficiency of evidence ordinarily lies beyond the scrutiny of the writ court, a conclusion resting on no relevant

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[3] ***Union of India v. P. Gunasekaran***, (2015) 2 SCC 610; ***B.C. Chaturvedi v. Union of India*** (1995) 6 SCC 749; ***Union of India v. Subrata Nath,*** (2024) 20 SCC 402.

material, or upon conjectures and surmises, is vulnerable as perverse. Even in a domestic inquiry, objectivity, exclusion of extraneous considerations, fairness and a rational nexus between the material and the charge remain indispensable.

Documentary evidence and the absence of management witnesses

42. The Petitioner's broad contention that the inquiry must fail merely because NTPC did not examine any management witness cannot be accepted. A departmental proceeding is not governed by the technical rules of the Evidence Act, and a charge may be established on documentary material alone. Where the authenticity and contents of the documents are not disputed, they may be acted upon without formal proof through their authors, provided they are relevant and logically probative of the charge. Thus, bank statements may establish the movement of funds; purchase orders may establish an official transaction; and admitted communications may be considered according to their tenor and context.

43. The absence of oral evidence, however, assumes significance where the documents establish one fact, but the employer seeks to attribute to that fact a further and qualitatively different character. The bank entries prove that money was transferred. They do not, by themselves, disclose the purpose for which it was transferred. To characterise the receipts as illegal gratification, there had to be some material connecting them with an official act, favour, omission or misuse of position.

44. NTPC was not invariably required to prove an express demand through direct testimony. The corrupt character of a payment may also be established by circumstantial evidence. The circumstances relied upon must, however, form a coherent evidentiary chain and furnish a rational nexus

between the receipt of money and the exercise, promised exercise or misuse of official power. It is the existence of that nexus which falls for examination.

The financial transactions

45. There is no dispute that approximately ₹16.80 lakh was transferred from the account of Rife Solutions to the accounts of the Petitioner and his wife. There is equally no dispute that some money had first travelled in the opposite direction.

46. The Inquiry Authority itself found that the Petitioner had initially transferred ₹9.50 lakh to Kunal Rai. The CBI, after examining the account statements and the persons concerned, found that the Petitioner had lent money to Kunal Rai and that the later inward transactions represented repayment. It also noticed that Kunal Rai had initially supplied to NTPC only those portions of the statements which reflected payments made by him, without disclosing the preceding transfers received from the Petitioner.

47. The Court does not treat the CBI's conclusion as binding upon the Disciplinary Authority. A criminal investigation and a departmental proceeding serve different purposes and apply different standards. NTPC was entitled to proceed departmentally notwithstanding the CBI's decision not to prosecute.

48. Equally, the CBI note cannot be dismissed as irrelevant merely by invoking the lower standard of departmental proof. It examined the same banking trail, Kunal Rai, Vinay Rai and other persons and found that a loan had first been advanced. More importantly, the departmental inquiry itself accepted the initial outward transfer. The question was, therefore, not whether the Petitioner had proved an entirely unsupported defence, but

whether NTPC's characterisation of the later receipts as gratification was more probable than the explanation of repayment.

49. The Inquiry Report does not undertake that comparative exercise. It proceeds from the existence of financial transactions, the Petitioner's involvement in certain activities connected with Rife Solutions and his acquaintance with Rajendra Malviya, to the conclusion that contractual receipts were diverted to him as gratification. The steps in between remain unsupported.

The 2017 purchase order

50. NTPC relied upon a purchase order dated 16th December, 2017, placed upon M/s Rife Solutions for the supply of occupancy sensors. The purchase order was executed and the Petitioner processed the bill for payment. The Petitioner explained that the order had been placed through the prescribed Contracts and Materials procedure and that he processed the bill only because Tapas Mishra, the Engineer-in-Charge of the package, was unavailable. The Presenting Officer relied upon Tapas Mishra's attendance record to question that explanation. The material, at the least, establishes that the Petitioner had previously dealt with Rife Solutions in the discharge of his official functions.

51. That circumstance answers any broad suggestion that Rife Solutions was wholly unconnected with the Petitioner's official sphere. It does not, however, establish that he was dealing officially with the firm throughout the period in which the disputed financial transactions occurred. The purchase order preceded the period principally under scrutiny, and the Petitioner's more specific plea was that he had no direct official dealings with Rife Solutions during the relevant period.

52. The evidentiary consequence of the 2017 transaction must also be confined to what it proves. There is no allegation or finding that the Petitioner procured the purchase order for Rife Solutions, manipulated the prescribed procurement process, falsely certified its execution, processed a bill for goods not supplied, or secured payment contrary to contractual entitlement. Nor has any subsequent credit to the Petitioner or his wife been linked to the value, execution, certification or payment of that purchase order.

53. The purchase order thus establishes a prior official dealing between the Petitioner and Rife Solutions. It is relevant to the charge that the Petitioner thereafter entered into a private financial relationship with the proprietor of an agency with which he had official dealings. It does not, without further evidence, establish that the later receipts were a reward for processing the purchase order or for extending any other official favour.

The WhatsApp communication and the Petitioner's involvement in the work of Rife Solutions

54. The Inquiry Authority also relied upon a WhatsApp communication sent from the Petitioner's mobile phone to Ganesh, an accountant of M/s Shivakriti, seeking release of money so that payment could be made to the labour engaged by Rife Solutions. The Petitioner and Rajendra Malviya attributed the message to another person who had allegedly used the Petitioner's phone. The Inquiry Authority rejected that explanation and found it most probable that the message had been sent by the Petitioner.

55. For the purposes of the present examination, even if that finding is accepted, the communication establishes that the Petitioner concerned himself with the release of a contractual payment connected with Rife

Solutions. The Inquiry Authority also relied upon the Petitioner's admitted payment to M/s HR Projects for electrical material required for work awarded to Kunal Rai, a payment of ₹71,429 towards the GST liability of Rife Solutions, and transfers made by the Petitioner and from the account of 3A Enterprises to Rajendra Malviya, who was looking after the site work of Rife Solutions. These circumstances disclose a degree of private financial involvement in the affairs of the agency which was plainly inappropriate for an NTPC officer who had dealt officially with it.

56. They do not, however, answer the distinct and more serious question whether the amounts credited by Rife Solutions to the Petitioner and his wife were paid in consideration of an official favour. The Inquiry Report identifies no bill improperly certified by the Petitioner, no measurement manipulated by him, no contractual entitlement unlawfully accelerated, no payment released despite non-performance, and no work order obtained through his intervention.

57. The Presenting Officer asserted that the amounts received by Rife Solutions from Shivakriti were thereafter diverted to the Petitioner. The Inquiry Report accepts that assertion, but does not disclose any transaction-wise analysis correlating a particular receipt from Shivakriti with a corresponding credit to the Petitioner or his wife. It does not examine the dates and amounts of the respective transfers, identify the contractual payment allegedly diverted, or explain why the credits were more probably contractual proceeds than repayment of the amounts earlier advanced by the Petitioner. The conclusion that the "billing amount" was diverted as gratification is therefore asserted rather than demonstrated.

58. The reasoning adopted by the Inquiry Authority makes the gap

apparent. It first observed that it "may be construed" that the payments made from 3A Enterprises to Rajendra Malviya "may be" for managing the works of M/s Rife Solutions rather than for the purchase of clothes as claimed in the defence. It then concluded, on a preponderance of probabilities, that the Petitioner was managing the contract through Rajendra Malviya. From those premises, it reached the further conclusion that the billing proceeds received by Rife Solutions were diverted to the Petitioner as illegal gratification.

59. Preponderance of probabilities permits a finding founded upon circumstantial evidence; it does not permit one conjecture to supply the foundation for another. The established circumstances may render the Petitioner's financial association with Rife Solutions improper and may attract the specific prohibitions contained in the CDA Rules. They do not, without some evidence connecting the receipts to an identified official act or advantage, establish their corrupt character. Suspicion arising from an impermissible financial relationship cannot, merely by cumulative repetition, be transformed into proof of illegal gratification.

Whether illegal gratification was proved

60. Thus, even if each of the primary circumstances relied upon by NTPC is accepted, the material establishes that:

a. the Petitioner had previously dealt with Rife Solutions in the discharge of his official functions;

b. he thereafter entered into substantial private financial dealings with its proprietor;

c. he rendered financial and logistical assistance in matters connected with the work of the agency;

d. he intervened in relation to the release of a contractual payment due in connection with that work; and

e. he failed to maintain the institutional distance expected of an officer of a public-sector undertaking in his dealings with a person whose commercial interests were connected with NTPC.

61. These circumstances disclose an improper financial relationship, attended by a serious conflict of interest. They may sustain the specific prohibitions governing lending, pecuniary obligations and transactions with persons having official dealings. However, they do not establish that the money received by the Petitioner and his wife was illegal gratification.

62. The record contains no evidence of any demand or solicitation of gratification. Nor has any specific official favour, decision or advantage been identified as having been sought or secured in return for the payments in question. Significantly, no representative of Rife Solutions, or of any other alleged payer, stated during the departmental proceedings that any amount was paid as consideration for an official act. There is also no contemporaneous correspondence, communication or record describing the transfers as commission, reward or illegal gratification. No payment has been linked to the award, execution, certification or release of payment under any particular contract. While direct proof of a demand or *quid pro quo* may not be indispensable in every case, the circumstantial evidence must nevertheless establish a rational and persuasive nexus between the receipts and an identifiable exercise or misuse of official authority. The record discloses no such nexus.

63. There was, moreover, material on record showing that money had first moved from the Petitioner to Kunal Rai. The Inquiry Authority itself accepted that the Petitioner had advanced substantial sums to him, while the

CBI investigation recorded that Kunal Rai had acknowledged the loan and treated the subsequent transfers as repayments. Those prior outward transfers furnished a concrete and record-based explanation for the later receipts. NTPC could reject that explanation only upon material showing that the receipts were, more probably than not, consideration for an official favour. The Inquiry Report contains no such analysis.

64. The factum of receipt is established; its corrupt character is not. The conclusion that the money represented illegal gratification does not arise as a reasonable inference from the foundational facts found by the Inquiry Authority. This is not a case in which two plausible views of the evidence are available and the Court is impermissibly substituting its own. Even after accepting the circumstances relied upon by NTPC, the essential evidentiary link between the receipts and an official act remains missing.

65. The finding of misconduct under Rule 5(2) is, accordingly, unsustainable. The finding under Rule 5(17), insofar as it proceeds on the premise that the Petitioner's receipt of money constituted a criminal offence involving moral turpitude, must also fall.

Rule 14: prohibited lending and pecuniary obligation

66. Rule 14 prohibits an employee, save in the ordinary course of business with a bank, the Life Insurance Corporation or a firm of standing, from borrowing money from, lending money to, or otherwise placing himself under a pecuniary obligation to any person with whom he has, or is likely to have, official dealings. The prohibition also extends to any such borrowing, lending or pecuniary obligation undertaken in the employee's name, for his benefit, or for the benefit of a member of his family.

67. The Petitioner's attempt to place a "friendly loan" outside the ambit

of Rule 14 is misconceived. The legal character of a transaction does not depend upon the label assigned to it. An advance does not cease to be a loan merely because it is interest-free, informal or prompted by friendship. The Petitioner's own case is that Kunal Rai was required to return the amount, that it was repaid in instalments and that a blank cheque was furnished as security. These features affirm the existence of a loan and a corresponding pecuniary obligation.

68. Rule 14 is preventive in character. Its application does not depend upon proof that the employee earned interest, caused pecuniary loss to the employer or extended an actual official favour to the borrower. The Rule seeks to forestall the conflict of loyalty and reciprocal obligation liable to arise when an employee enters into a substantial private financial relationship with a person whose commercial interests fall within, or may come before, the employee's official sphere.

69. Kunal Rai was the sole proprietor of Rife Solutions. The Petitioner had dealt officially with that concern in connection with the purchase order of 16th December, 2017 and was aware that it was executing works connected with NTPC Khargone through principal contractors during the relevant period. Rife Solutions and its sole proprietor cannot, for the purposes of Rule 14, be treated as unrelated entities. Kunal Rai accordingly answered the description of a person with whom the Petitioner had, or was likely to have, official dealings for the purposes of Rule 14.

70. On the Petitioner's own showing, he advanced substantial sums to Kunal Rai and thereafter received repayments, some of them through the account of Rife Solutions and into the account of his wife. The transaction did not fall within any of the exceptions contained in Rule 14. The routing of

some repayments through the spouse's account does not alter the position, for the Rule expressly encompasses pecuniary obligations created for the benefit of a family member.

71. While the Petitioner's explanation undermines the allegation of illegal gratification, it simultaneously confirms that he had entered into a lending transaction and a corresponding pecuniary relationship with Kunal Rai. The failure of the charge of illegal gratification does not, therefore, exonerate the Petitioner from the independent breach of Rule 14

Borrowing versus lending

72. The third imputation alleged that the Petitioner had borrowed ₹10 lakh from Kunal Rai. That allegation was not proved. The Inquiry Authority expressly found that the transaction was in the opposite direction. The charge, therefore, failed. What was found was that the Petitioner had lent money to Kunal Rai and had incorrectly entered or omitted the transaction in the relevant column of the annual property return.

73. Rule 25(19) of the CDA Rules permits the Inquiry Authority to record a finding on an article different from the original article where the employee has admitted the foundational facts or has been afforded a reasonable opportunity to defend himself against it.

74. In the present case, the Petitioner himself introduced and maintained the case of lending. It formed the centre of his written defence. He relied upon the bank records, the narration "Loan to Kunal", the alleged security cheque and the subsequent repayments. The statement of imputations had also questioned the alleged lending and its disclosure in the annual returns. The Petitioner, therefore, had full notice of the relevant facts and contested their disciplinary consequences. No prejudice arose from the Inquiry

Authority treating the transaction as lending rather than borrowing.

75. The alternative finding under Rule 14 can thus be sustained under Rule 25(19). It must nevertheless be recorded with precision: the charge that the Petitioner borrowed ₹10 lakh was not proved; the proved misconduct is that he lent money to Kunal Rai, with whom he had official dealings, without permission.

Rule 16(2)

76. Rule 16(2) prohibits an employee from entering, without previous sanction, into any transaction concerning movable or immovable property with a person or firm having official dealings with the employee or his subordinate.

77. A substantial loan and its repayment constitute transactions concerning movable property. The provision is not confined to purchase or sale of tangible goods. Its language is deliberately wide and seeks to subject private property transactions with persons having official dealings to prior scrutiny.

78. The Petitioner and his wife received substantial payments from Rife Solutions. The Petitioner had previous official dealings with the firm and, during the relevant period, was also involved in matters connected with its work. No prior sanction was sought or obtained. The finding under Rule 16(2) is accordingly sustainable.

79. Rules 14 and 16(2), however, address overlapping aspects of the same financial relationship. Rule 14 is the more specific prohibition governing lending, borrowing and pecuniary obligation. Rule 16(2) additionally requires prior sanction for transactions concerning property with persons having official dealings. Their concurrent application does not permit the

same conduct to be counted twice while assessing the gravity of the misconduct.

80. The Petitioner's analogy of an employee purchasing fuel or ordinary goods from an establishment which happens to be an NTPC vendor is misplaced. The present case concerns substantial reciprocal transfers of money and a continuing private financial relationship with the proprietor of an agency whose commercial work was connected with NTPC. It bears no resemblance to an ordinary retail transaction conducted in the open market.

Rule 13(2): 3A Enterprises

81. Rule 13(2) requires an employee to report to the competent authority where a member of his family is engaged in trade, business or any other commercial activity.

82. It is admitted that the Petitioner's wife registered 3A Enterprises on 7th July 2020 and that the Petitioner did not report this fact to NTPC. The explanation that the business was unsuccessful, operated only for a short period and was closed in March 2021 may bear upon penalty. It does not extinguish the reporting obligation.

83. Nor is absence of pecuniary loss to NTPC an ingredient of Rule 13(2). The purpose of disclosure is to enable the employer to identify a possible conflict of interest. An employee cannot unilaterally decide that disclosure is unnecessary because the business was modest or unsuccessful.

84. The finding under Rule 13(2) is therefore affirmed.

The general misconduct provisions

85. The breaches of Rules 13(2), 14 and 16(2) cannot be regarded as merely technical. The Petitioner, while holding a responsible position in a public-sector undertaking, entered into substantial private financial dealings

with the proprietor of an agency with which he had official dealings, received repayments through the accounts of the agency and his wife, and failed to disclose his wife's commercial venture. Such conduct compromises the safeguards intended to preserve objectivity in official decision-making and exposes the institution to a legitimate apprehension of divided loyalty.

86. The proved conduct may, therefore, legitimately sustain the derivative findings that the Petitioner failed to maintain absolute integrity, acted in a manner unbecoming of a public servant, and acted prejudicially to the interests of NTPC, within the meaning of Rules 4(1)(i), 4(1)(iii) and 5(5), respectively.

87. Those general provisions cannot, however, be employed to reintroduce, under a different description, the finding of corruption which has failed for want of evidence. The findings under Rules 4(1)(i), 4(1)(iii) and 5(5) shall survive only insofar as they arise from the established violations of Rules 13(2), 14 and 16(2). They cannot be understood as findings that the Petitioner accepted a bribe, acted in consideration of an official favour, or committed a criminal offence involving moral turpitude.

Effect on the penalty

88. Rule 23 prescribes a range of minor and major penalties, extending from censure and withholding of increments to compulsory retirement, removal and dismissal. Its first proviso stipulates that, where the charge of possession of assets disproportionate to known sources of income, or acceptance of gratification other than legal remuneration as a motive or reward for doing or forbearing to do an official act, is established, the penalty of removal or dismissal shall be imposed. The second proviso permits departure from that consequence only in an exceptional case and for

special reasons recorded in writing.

89. The Disciplinary Authority did not treat the finding of gratification merely as one aggravating circumstance amongst several. After holding the charges proved, it expressly recorded that, since demanding and accepting illegal gratification in connection with official duty had been established, the penalty under clauses (i) or (j) of Rule 23 was attracted, and that removal or dismissal was consequently applicable. It thereafter imposed removal from service.

90. The finding of gratification was thus the legal premise upon which the Disciplinary Authority considered itself required to choose between the two severest penalties. It was not an incidental finding capable of being severed while leaving the process of selection of penalty unaffected.

91. At this stage, the principle enunciated by the Constitution Bench in ***State of Orissa v. Bidyabhushan Mohapatra***[4] must be noticed. The Supreme Court held that, where an order of punishment is founded upon several findings and some of them are found unsustainable, the punishment does not necessarily fall if a surviving finding constitutes substantial misconduct for which the punishment imposed could lawfully have been awarded. In such a case, the Court ordinarily does not speculate whether the surviving charge alone would have led the disciplinary authority to impose the same punishment. The principle was reiterated in *B.C. Chaturvedi v. Union of India*.

92. The principle is unquestionable; its application is nevertheless dependent upon the structure of the penalty order under examination. The present case is not one in which the Disciplinary Authority evaluated several

proved acts of misconduct, assessed their cumulative gravity, and selected removal in the exercise of an unrestricted discretion. The Authority invoked a proviso which made removal or dismissal mandatory upon proof of a particular species of misconduct, acceptance of gratification as a motive or reward for an official act.

93. Once the finding of gratification is set aside, the statutory premise which governed the selection of penalty disappears. What survives is prohibited lending, unauthorised monetary dealings with a person having official dealings, failure to report the wife's business, and the consequential breaches of the general conduct provisions. These are serious acts of misconduct. They are, however, qualitatively different from accepting money as consideration for the exercise or misuse of official power.

94. Removal remains one of the penalties legally available under Rule 23 for the surviving misconduct. Its availability, however, is not the same as a considered determination that it is the appropriate penalty in the absence of the finding of illegal gratification. The impugned order was rendered on the footing that the charge of illegal gratification stood established and that the first proviso to Rule 23 was attracted. It therefore does not disclose any independent assessment of what penalty would be warranted if the surviving misconduct alone were taken into account.

95. In these circumstances, the penalty of removal from service, if allowed to stand, would be shockingly disproportionate to the surviving misconduct, which is qualitatively different from the charge of acceptance of illegal gratification.

96. The rule in *Bidyabhushan Mohapatra* does not require such a result. It

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[4] AIR 1963 SC 779

prevents interference merely because one of several charges has failed, where the surviving substantial misconduct itself supports the punishment and there is no reason to conclude that the process of selection has been materially altered. It does not oblige the Court to preserve a penalty whose very mode of selection rested upon a mandatory consequence attached exclusively to a finding which has been set aside.

97. The selection of punishment ordinarily lies within the domain of the disciplinary administration. Even where judicial interference with the penalty is warranted, the normal course is to require the disciplinary or appellate authority to reconsider it; substitution by the Court is reserved for rare and exceptional cases supported by cogent reasons.[5] The proper course is, therefore, to remit the matter to the competent authority for reconsideration of the penalty on the basis of the misconduct which lawfully survives.

98. In undertaking that exercise, the authority must assess the gravity of the surviving misconduct on its own terms. It shall not, however, proceed upon the premise that the Petitioner accepted illegal gratification or committed an offence involving moral turpitude.

Appellate and reviewing orders

99. An appellate order affirming a reasoned disciplinary order need not reproduce the entire evidence. It must nevertheless disclose that the material grounds raised in appeal were considered, particularly where the applicable rules require the Appellate Authority to examine whether the findings are justified and whether the penalty is excessive or inadequate.

100. The Petitioner's appeal specifically raised the distinction between

lending and borrowing, the absence of evidence of gratification, the outward transfers preceding the receipts and the findings of the CBI. The appellate order does not engage with these issues. It states only that no new evidence had been furnished and that the penalty was appropriate.

101. An appeal in disciplinary law is not confined to new evidence. It requires examination of whether the existing material supports the findings and whether the penalty is justified. The absence of new material was, therefore, no answer to the grounds urged.

102. The reviewing order is still more terse. It refers to deliberations by the Committee and the Board but does not disclose why the charge of gratification was considered proved, how the admitted outward transfers were evaluated, or why the penalty of removal remained appropriate.

103. Since this Court has examined the substantive findings, it is unnecessary to rest the decision solely upon the absence of reasons. The appellate and reviewing orders must nevertheless fall with the penalty order which they affirmed.

Conclusions

104. The Court, accordingly, records the following conclusions:

i. The material on record does not establish that the amounts received by the Petitioner and his wife constituted illegal gratification or consideration for any identified official favour, act or advantage. The finding of misconduct under Rule 5(2) of the CDA Rules is, therefore, unsustainable and is set aside.

ii. The finding under Rule 5(17), insofar as it proceeds upon the premise that the receipt of those amounts constituted a criminal offence involving

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[5] ***B.C. Chaturvedi v Union of India***

moral turpitude, is also set aside.

iii. The third imputation, which alleged that the Petitioner had borrowed ₹10 lakh from Kunal Rai, was not proved and has not been disturbed.

iv. The lending transaction and the resulting pecuniary relationship with the proprietor of an agency with which the Petitioner had official dealings constituted a breach of Rule 14.

v. The substantial monetary transactions undertaken with Rife Solutions without previous sanction attracted Rule 16(2).

vi. The Petitioner's failure to report that his wife was the proprietor of 3A Enterprises constituted a breach of Rule 13(2).

vii. The findings under Rules 4(1)(i), 4(1)(iii) and 5(5) survive only insofar as they flow from the established violations of Rules 13(2), 14 and 16(2). They shall not be understood as findings that the Petitioner accepted a bribe, acted in consideration of an official favour, or committed a criminal offence involving moral turpitude.

viii. The penalty of removal was selected upon invocation of the mandatory consequence attached to a proved charge of illegal gratification. Since that finding cannot be sustained, the penalty must be reconsidered on the basis of the misconduct which alone survives this judgment.

Directions

105. The writ petition is partly allowed in the following terms:

a. The Inquiry Report dated 18th August, 2022 is set aside to the extent that it holds the Petitioner guilty of receiving illegal gratification from M/s Rife Solutions and of misconduct under Rules 5(2) and 5(17) of the CDA Rules.

b. The findings concerning the violations of Rules 13(2), 14 and 16(2) are affirmed, subject to the clarification that the allegation of borrowing was not proved and that the transaction established by the record was one of lending by the Petitioner to Kunal Rai.

c. The findings under Rules 4(1)(i), 4(1)(iii) and 5(5) are sustained only to the limited extent indicated in paragraph 104(vii) above.

d. The order dated 23rd September, 2022 imposing the penalty of removal, the appellate order dated 18th November, 2022 and the reviewing order dated 27th October, 2023 are set aside.

e. The matter is remitted to the competent Disciplinary Authority for a fresh decision on the penalty to be imposed for the misconduct which survives this judgment.

f. Before determining the penalty, the Disciplinary Authority shall afford the Petitioner a reasonable opportunity to submit a representation confined to the question of penalty. It shall not proceed upon any assumption that the Petitioner received illegal gratification or committed an offence involving moral turpitude.

g. A reasoned order shall be passed within twelve weeks from the date on which a copy of this judgment is received by NTPC.

h. Consequent upon the order of removal being set aside, the Petitioner shall be reinstated into service within four weeks from today. This direction shall not preclude NTPC from passing any interim order concerning his status which is otherwise permissible under the CDA Rules pending the fresh decision on penalty.

i. The Petitioner shall not, merely by reason of the setting aside of the removal order, become automatically entitled to back wages. The manner in which the period commencing from 23rd September, 2022 until the passing of the fresh order is to be treated, including for the purposes of pay and allowances, continuity of service and other consequential benefits, shall be determined by the competent authority in accordance with the fresh penalty order and the applicable rules.

106. The writ petition and all pending applications are disposed of in the above terms.

SANJEEV NARULA, J

JULY 13, 2026
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