HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 9834/2006

Dr. Smt. Hemlata Tetwal W/o Shri Dr. H. Bairwa, aged about 42 years, Resident of Dr. B.R. Ambedkar Road, Village and Post Khandar, District Sawaimadhopur.

----Petitioner

Versus

1. State of Rajasthan through Secretary, Medical and Health Department, Govt. Secretariat, Jaipur.
2. Director, Medical and Health Department, Jaipur.
3. Chief Medical and Health Officer, District Sawaimadhopur.

----Respondents

For Petitioner(s) : Mr. Tarun Jain
For Respondent(s) : Mr. Archit Bohra, AGC

HON'BLE MR. JUSTICE ANAND SHARMA

Order

REPORTABLE

06/01/2026

1. The present writ petition has been filed under Article 226 of the Constitution of India assailing the order of penalty of withholding three annual grade increments with cumulative effect imposed upon the petitioner vide order dated 12.02.2002 pursuant to a departmental enquiry. The petitioner contends that the punishment awarded by the disciplinary authority is excessive, harsh, and disproportionate to the alleged misconduct and, therefore, warrants interference by this Court in exercise of its writ jurisdiction.

2. Briefly stated the facts of the case are that the petitioner was initially appointed on probation vide order dated 02.06.1992 on the post of Health Officer pursuant to which the

petitioner joined on 08.07.1992. On account of willful absence of the petitioner, during the probation period, services of the petitioner were terminated vide order dated 02.12.1994 with effect from 10.07.1992. Feeling aggrieved, the petitioner filed S.B. Civil Writ Petition No.3545/1995 before this Court challenging the termination order. The aforesaid petition was disposed of by the Co-ordinate Bench of this Court vide order dated 21.08.1995 directing the respondents to consider the representation of the petitioner and to pass necessary orders thereupon.

3. Learned counsel for the petitioner submits that in compliance of order passed by this Court in earlier writ petition, representation was submitted by the petitioner whereupon she was reinstated back in service vide order dated 22.09.1995. However, by way of issuing a charge-sheet in the year 1998, enquiry under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter to be referred as 'the Rules of 1958') was initiated by the respondents against the petitioner alleging the charges of willful absence for the same period for which earlier services of the petitioner were terminated and on filing representation pursuant to order passed by this Court in earlier writ petition, the petitioner was reinstated back in service. In the enquiry proceedings, the disciplinary authority has passed order dated 12.02.2002, whereby penalty of withholding three annual grade increments with cumulative effect has been imposed upon the petitioner and the review petition filed by the petitioner before the competent authority has also been dismissed vide order dated 31.05.2002. Learned counsel for the petitioner submits that the penalty order suffers from serious

illegality as it contains the same charges for which the petitioner has earlier suffered the rigour of termination and no charge-sheet for same period can again be issued against the petitioner. However, this aspect has not been properly considered either by the disciplinary authority or by the reviewing authority. The impugned penalty order is liable to be set aside as it is vitiated by arbitrariness, non-application of mind, and violation of the principles of proportionality, inasmuch as the disciplinary authority has imposed a harsh and excessive punishment wholly disproportionate to the nature and gravity of the alleged misconduct. The findings recorded in the enquiry are perverse and based on selective consideration of evidence, while material, exculpatory evidence and the petitioner's defence have been ignored without assigning cogent reasons. The enquiry proceedings suffer from procedural infirmities, resulting in serious prejudice to the petitioner, and the punishment imposed may shock the conscience of this Court. The reviewing authority has mechanically affirmed the penalty without independent consideration, thereby rendering the decision-making process flawed and amenable to judicial review under Articles 226 of the Constitution.

4. Per contra, the Respondents opposed the writ petition and argued that the contentions raised by the petitioner are wholly untenable, as the disciplinary proceedings were conducted strictly in accordance with the prescribed rules and in full compliance with the principles of natural justice, affording the petitioner adequate opportunity at every stage. The findings of guilt are based on cogent evidence on record and cannot be

characterized as perverse or arbitrary. The disciplinary authority has exercised its discretion judiciously, taking into account the gravity of the proved misconduct and the service record of the petitioner, and the penalty imposed is neither shockingly disproportionate, nor violative of any statutory or constitutional mandate. The reviewing authority has independently examined the matter and passed a reasoned order. In the absence of any illegality, procedural impropriety, or perversity, no interference is warranted in the limited scope of judicial review under Articles 226 of the Constitution.

5. The undisputed factual matrix reveals that the petitioner was subjected to a regular departmental enquiry on charges of misconduct. A charge-sheet was duly served, the petitioner was afforded full opportunity to submit a reply, to participate in the enquiry proceedings, to cross-examine witnesses, and to lead defence evidence. Upon conclusion of the enquiry, the Enquiry Officer gave its findings holding the charges proved. The disciplinary authority, after considering the enquiry report and the petitioner’s representation, imposed the impugned penalty. The reviewing authority thereafter affirmed the said decision.

6. The core issue that arises for consideration is whether this Court, in exercise of its limited power of judicial review, can interfere with the penalty imposed by the disciplinary authority.

7. So far as contention raised by the petitioner that once the petitioner's services were earlier terminated with the allegation of willful absence during her probation period, on reinstatement pursuant to order passed by this Court, no enquiry

whatsoever can be instituted for the same period and for the same charges, it is sufficient to observe that this Court in its earlier order dated 21.08.1995 has never given any direction for condoning the alleged absence of the petitioner and the directions were simply to make a representation. The representation of the petitioner was considered by the respondents and she was reinstated back in service. Even her reinstatement by the respondents would not mean that she has been absolved of all the misconduct, which were committed by her and mere reinstatement of the petitioner, does not preclude the respondent-Department from conducting any enquiry whatsoever. Thus, the penalty order of withholding three annual grade increments with cumulative effect cannot be challenged by the petitioner only on this ground.

8. At the outset, it is necessary to reiterate the settled position of law that disciplinary proceedings are conducted by the employer in exercise of its administrative authority to maintain discipline, integrity, and efficiency in service. The scope of judicial review under Articles 226 is confined to examining the decision-making process and not the decision itself. Courts exercising writ jurisdiction do not sit as appellate authorities over departmental enquiries and cannot re-appreciate evidence or substitute their own conclusions for those of the disciplinary authority.

9. It is significant to note that Hon’ble Supreme Court in **Union of India & Others v. P. Gunasekaran, (2015) 2 SCC 610**, after relying upon its earlier judgments in the cases of B.C. Chaturvedi v. Union of India & Others, (1995) 6 SCC 749; Union of India & Another v. G. Ganayutham, (1997) 7 SCC 463, Om

Kumar & Others v. Union of India, (2001) 2 SCC 386; Coimbatore District Central Cooperative Bank v. Coimbatore District Central Cooperative Bank Employees Assn. & Another, (2007) 4 SCC 669, and Chairman-cum-Managing Director, Coal India Limited & Another. v. Mukul Kumar Choudhuri & Others, (2009) 15 SCC 620, has authoritatively delineated the contours of judicial review in disciplinary matters. It has been categorically held that High Courts cannot re-appreciate evidence, cannot interfere with findings of fact if they are based on some evidence, and cannot interfere with the quantum of punishment unless the same is shockingly disproportionate or vitiated by perversity, illegality, or procedural impropriety. The Apex Court emphasized that adequacy or sufficiency of evidence is beyond the scope of judicial review. Para 12 and 13 of the above judgment are relevant as under:

> "12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:
>
> (*a*) the enquiry is held by a competent authority;
>
> (*b*) the enquiry is held according to the procedure prescribed in that behalf;
>
> (*c*) there is violation of the principles of natural justice in conducting the proceedings;
>
> (*d*) the authorities have disabled themselves from reaching a fair conclusion

by some considerations extraneous to the evidence and merits of the case;

(*e*) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(*f*) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(*g*) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(*h*) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(*i*) the finding of fact is based on no evidence."

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(*i*) reappreciate the evidence;

(*ii*) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(*iii*) go into the adequacy of the evidence;

(*iv*) go into the reliability of the evidence;

(*v*) interfere, if there be some legal evidence on which findings can be based.

(*vi*) correct the error of fact however grave it may appear to be;

(*vii*) go into the proportionality of punishment unless it shocks its conscience."

10. Similarly, in so many judgments, Hon’ble Supreme Court has reiterated that the question of what punishment should be imposed upon a delinquent employee is primarily within the domain of the disciplinary authority. Courts must exercise restraint and refrain from interfering with the quantum of punishment unless it is grossly disproportionate to the gravity of the misconduct proved. In **Union of India & Others v. Constable Sunil Kumar (2023) 3 SCC 622**, while following the earlier judgments in the cases of Union of India & Others v. Ex.

Constable Ram Karan, (2022) 1 SCC 373, Commandant 22nd Battalion, Central Reserve Police Force Srinagar, c/o 56/APO & Others v. Surinder Kumar, (2011) 10 SCC 244 and Union of India & Others v. R.K. Sharma, (2001) 9 SCC 592, the Hon'ble Supreme Court explicitly clarified that interference with punishment is permissible only when the penalty is "strikingly disproportionate" to the misconduct. Even in such cases, the proper course for the Court is to remit the matter to the disciplinary authority for reconsideration, rather than substituting its own opinion or imposing a lesser penalty. This principle preserves the administrative autonomy of the employer in service matters. Para 11 to 13 of the above judgment have significance on this point and are being reproduced as under:

> "11. Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In *Surinder Kumar* [*CRPF* v. *Surinder Kumar*, (2011) 10 SCC 244 : (2012) 1 SCC (L&S) 398] while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in *Union of India* v. *R.K. Sharma* [*Union of India* v. *R.K. Sharma*, (2001) 9 SCC 592 : 2002 SCC (Cri) 767] that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under Articles 226 or 227 or under Article 32 of the Constitution.
>
> 12. Applying the law laid down by this Court in the aforesaid decision(s) to the facts of the case on

hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under Article 226 of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent.

13. At this stage, it is required to be observed that even while holding that the punishment/penalty of dismissal disproportionate to the gravity of the wrong, thereafter, no further punishment/penalty is imposed by the Division Bench of the High Court except denial of back wages. As per the settled position of law, even in a case where the punishment is found to be disproportionate to the misconduct committed and proved, the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority. On this ground also, the impugned judgment and order [*Sunil Kumar* v. *Union of India*, 2017 SCC OnLine Raj 3970] passed by the Division Bench of the High Court is unsustainable."

11. Similarly, in a recent judgment delivered by the Hon'ble Supreme Court in **Union of India & Others vs Pranab Kumar Nath 2025 SCC OnLine SC 2893**, it has been observed, as under:

> *"8. None of the parties to this lis are alleging that the enquiry and subsequent proceedings till the High Court have transgressed the law or its duly laid down procedure. We need not, therefore, look into that aspect. The crux of this appeal lies in appreciating the contours of the power of the High Court vis-a-vis disciplinary proceedings. It has long been held that under Article 226 jurisdiction, the court is not akin to an appellate*

Court, its powers are limited to the extent of judicial review. They cannot set aside punishment or impose a different punishment unless they find that there is substantial non-compliance of the rules....."

12. Applying the aforesaid principles to the facts of the present case, this Court finds that the departmental enquiry was conducted in accordance with the prescribed procedure and in compliance with the principles of natural justice. The petitioner was afforded adequate opportunity at every stage. The findings recorded by the Enquiry Officer are supported by evidence on record and cannot be characterized as perverse or based on no evidence. The petitioner's attempt to invite this Court to reassess the evidence or to arrive at a different factual conclusion is wholly impermissible in writ jurisdiction.

13. As regards the contention that the punishment is disproportionate, this Court is unable to accept the same. The nature of the misconduct proved against the petitioner, viewed in the context of the duties and responsibilities attached to the post held, cannot be said to be trivial or inconsequential. The disciplinary authority has exercised its discretion after due consideration of the gravity of the charges, the service record of the petitioner, and the impact of the misconduct on the discipline of the organization. The penalty imposed does not shock the conscience of this Court, nor can it be termed outrageously disproportionate.

14. It is well settled that mere harshness of punishment is not a ground for judicial interference. Unless the penalty is such

that no reasonable employer would have imposed it in the given facts, the Court must refrain from substituting its own sense of proportionality. To do otherwise would amount to converting judicial review into an appellate exercise, which is expressly forbidden by law.

15. This Court also finds no procedural impropriety, violation of statutory rules, or breach of natural justice in the conduct of the enquiry or in the decision-making process of the disciplinary authority. The impugned orders, therefore, do not suffer from illegality, irrationality, or perversity so as to warrant interference under Articles 226 of the Constitution.

16. In view of the foregoing discussion, this Court is of the considered opinion that the writ petition is devoid of merit. The disciplinary authority has acted within the bounds of its jurisdiction, and the punishment imposed falls squarely within the permissible range of administrative discretion.

17. Accordingly, the writ petition is hereby dismissed.

(ANAND SHARMA),J

DIVYA /15