

IN THE HIGH COURT OF JUDICATURE AT PATNA
Dhananjay Kumar Ray
v
The Union of India & Ors.

Civil Writ Jurisdiction Case No. 17443 of 2014
02 August, 2023

(Honourable Mr. Justice Mohit Kumar Shah)

Issue for Consideration

Whether the disciplinary proceedings conducted against the petitioner were in accordance with law and principles of natural justice?

Headnotes

Charge levelled against the petitioner is grave, which have stood proved, hence such indiscipline cannot be viewed lightly, thus this Court finds that the punishment inflicted upon the petitioner is not disproportionate to the charges. (Para 11)

Court does not find any infirmity in the procedure followed by the disciplinary authority as also it does not find that there has been any violation of the principles of natural justice, hence there is no reason to interfere with the disciplinary proceedings in question, especially in view of the well settled law to the effect that under Articles 226 & 227 of the Constitution of India, neither evidence can be re-appreciated nor interference can be made with the conclusion of the enquiry proceedings, if the same has been conducted in accordance with law nor this Court can go into the reliability/ adequacy of evidence or interfere, if there is some legal evidence, on which findings are based. (Para 12)

Petition is dismissed. (Para 14)

Case Law Cited

Union of India & Ors. v. P. Gunasekaran, (2015) 2 SCC 610; Union of India & Ors. v. Diler Singh, (2016) 13 SCC 71

List of Acts

Constitution of India, Articles 226 and 227

List of Keywords

Departmental enquiry; Principles of natural justice; Disciplinary proceedings ;Proportionality of punishment; Judicial review under Articles 226 & 227; Disciplined force misconduct;Suspension and subsistence allowance

Case Arising From

Order dated 22.09.2003, passed by the Group Commandant, C.I.S.F. whereby the petitioner has been inflicted with the punishment of lowering of pay scale for one year with cumulative effect as also it has been directed that the petitioner would not be paid anything except the subsistence allowance for the suspension period.

Appearances for Parties

For the Petitioner: Mr. Arun Kumar, Advocate
For the Respondent/U.O.I.: Mr. Praveen Kumar Sinha, Advocate; Smt. Shail Kumar, C.G.C.

Headnotes Prepared by Reporter: Amit Kumar Mallick, Adv.

Judgment/Order of the Hon’ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 17443 of 2014

=====

Dhananjay Kumar Ray, s/o Jagdeep Rai, r/o village-Bahadurpur, PO-Bagwa,
PS-Gulhani, Dist-Bhojpur, at present posted as Constable, Rourkela Steel
Plant, Orissa.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs,
Government of India, New Delhi.
2. The Inspector General, Central Industrial Security Force.
3. The Deputy Inspector General, Eastern Zone Head Quarters, C.I.S.F. Office
Complex, Boring Road, Patliputra, Patna-800013.
4. The Group Commandant, C.I.S.F. Office Complex, Boring Road,
Patliputra, Patna-13, Bihar.
5. The officer-in-charge, C.I.S.F. Unit, FCI Gaya, District-Gaya (Bihar).
6. The Assistant Commandant, C.I.S.F. Unit, FCI, Digha Ghat, Patna.

... .. Respondent/s

=====

Appearance:

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the Respondent/U.O.I.	:	Mr. Praveen Kumar Sinha, Advocate
	:	Smt. Shail Kumar, C.G.C.

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 02-08-2023

1. The present writ petition has been filed for setting aside
the order dated 22.09.2003, passed by the Group
Commandant, C.I.S.F., Boring Road, Patna i.e. the respondent
no. 4, whereby and whereunder the petitioner has been
inflicted with the punishment of lowering of pay scale for one



year with cumulative effect as also it has been directed that the petitioner would not be paid anything except the subsistence allowance for the suspension period. The petitioner has also prayed for quashing of the order dated 02.08.2004, passed by the Deputy Inspector General, Eastern Zone Headquarters, C.I.S.F., Boring Road, Patna i.e. the respondent no. 3, whereby and whereunder the appeal filed by the petitioner has been rejected. Lastly, the petitioner has prayed for quashing of the order dated 19.09.2007, passed by the Inspector General, C.I.S.F. Eastern Sector Headquarters, Patna, whereby and whereunder the revision petition filed by the petitioner has been dismissed.

2. The brief facts of the case, according to the petitioner, are that he was initially recruited as a Constable in the Central Industrial Security Force (hereinafter referred to as “the C.I.S.F.”) and was subsequently posted at Gaya, however, by an order dated 16.01.2003, passed by the Group Commandant, C.I.S.F., Patna, the petitioner was placed under suspension and then a show cause notice along with memo of charges contained in Memorandum dated 27.01.2003 was served upon the petitioner, asking the petitioner to submit his



reply within 10 days, whereupon the petitioner had submitted his reply on 24.02.2003. Thereafter, the Enquiry Officer was appointed vide order dated 07.03.2003, who had conducted the enquiry and submitted his enquiry report to the disciplinary authority on 28.07.2003, finding the charges levelled against the petitioner to have been proved. The disciplinary authority had then, while enclosing a copy of the enquiry report, issued a second show cause notice dated 28.07.2003 to the petitioner, whereafter the petitioner had filed his reply to the same, however, without considering the issues and points raised by the petitioner, the order of punishment was passed vide Office Order dated 22.09.2003. The petitioner had then filed an appeal, however, the same has also been rejected by the impugned order dated 02.08.2004. Thereafter, the petitioner had challenged the order of punishment as well as the appellate order before this Court, by filing a writ petition bearing C.W.J.C. no. 2102 of 2006, which was disposed of by an order dated 21.02.2007, granting liberty to the petitioner to file appropriate revision petition, whereupon the petitioner had filed a revision petition, however, the same has also stood dismissed by the impugned order dated 19.09.2007.



3. The learned counsel for the petitioner has submitted that the petitioner bears a good moral character and has an unblemished service career, as such the impugned order of punishment is not warranted, especially in a proceeding initiated against him, wherein he was neither directly nor indirectly involved. It is also submitted that the petitioner has neither been involved in any misconduct nor he has been given an opportunity of hearing on the quantum of punishment and the punishment imposed upon the petitioner is disproportionate to the gravity of the charges found to have been proved *qua* the petitioner herein, hence it is submitted that the impugned orders are fit to be set aside.

4. *Per contra*, the learned counsel for the respondents has submitted by referring to the counter affidavit filed in the present case that C.I.S.F. is a Central Armed Police Force deployed at sensitive sectors such as Airports, Units of Department of Atomic Energy etc. It is also stated that the petitioner was appointed as Constable in C.I.S.F. on 28.07.1994 and after completion of his basic training, he had been posted at various C.I.S.F. Units, including the erstwhile C.I.S.F. Unit at F.C.I., Gaya, where he was



proceeded departmentally and awarded the punishment by the impugned order dated 22.09.2003. It is further submitted that a departmental inquiry was initiated against the petitioner and an Enquiry Officer was appointed vide order dated 07.03.2003, whereafter the said Enquiry Officer had conducted the departmental enquiry.

5. The learned counsel for the respondents has further submitted that Memo of charges was served upon the petitioner vide Memo dated 27.01.2003, wherein it was alleged that while the petitioner was posted at F.C.I., Gaya, he is alleged to have entered into a scuffle and had engaged in assaulting the villagers of Katari hills namely Ram Avtar Paswan, his son Binda Paswan and his son-in-law Virendra Paswan on 01.01.2003 at about 7.30 pm, while he was returning back to his house along with other members of the Force. It is also contended that the Enquiry Officer had conducted the enquiry and submitted enquiry report to the disciplinary authority on 28.07.2003, finding the charges levelled against the petitioner to have been proved. During the course of enquiry, as many as 06 witnesses were examined and their statements were recorded by the Enquiry Officer and



as many as 06 documents were also exhibited in presence of the petitioner. As per the statement of the Inspector-Hari Singh, it has been revealed that a scuffle had taken place on 01.01.2003 at about 19:30 hrs. with some civilians namely Sri Ram Avtar Paswan, Binda Paswan and Birendra Paswan in which the petitioner along with other CISF personnel namely Constable A.K. Singh, Constable H.R. Choudhary and Head Constable R.B. Singh were involved. This fact has been further corroborated by other witnesses namely SI Bihar Police Sri N. Ram, SI/Exe G.P. Yadav (CISF), FCI Gaya and Constable A.K. Tiwari (CISF) FCI, Gaya. The fact of scuffle has also been corroborated by the agreement arrived at in between Constable A.K. Singh and Ram Avtar Paswan, executed at Police Station Chandauti, Gaya in which both the parties had stated that a simple scuffle had taken place while taking meal on 01.01.2003 and no such incident would take place in future and in case it happened, they would be responsible for it. The statement of the petitioner, made during the course of enquiry, itself depicts that he was present at the spot where scuffle had taken place, though he has denied his involvement in the scuffle. It is next contended that the assertion of the petitioner that mere presence at the spot has



been made a basis for proving the delinquency, is not correct and on the contrary, the statement of Constable A.K. Singh definitely indicts the petitioner. The factum of the petitioner being involved in the scuffle has been proved during the course of the departmental enquiry.

6. The learned counsel for the respondents has further submitted that the disciplinary authority had then served a second show cause notice dated 28.07.2003, upon the petitioner enclosing a copy of the inquiry report, whereafter the petitioner had submitted his representation and then the disciplinary authority, by the impugned order dated 22.09.2003, had passed a well-reasoned and a detailed order inflicting punishment of lowering of pay scale by one stage for a period of one year with cumulative effect apart from directing that the petitioner would not be paid anything except the subsistence allowance during the period of his suspension. The petitioner had then filed an appeal, however the same had stood rejected by an order dated 02.08.2004. In fact, the petitioner had also filed a revision petition, however the same has been dismissed as well, by an order dated 19.09.2007.

7. The learned counsel for the respondents has next



contended that there are ample evidence which have come to the fore during the course of departmental enquiry to show that the charges levelled against the petitioner have stood proved and the findings of the Enquiry Officer is also based on written statements of the prosecution witnesses apart from the fact that the petitioner has been afforded ample opportunity to defend himself, which he has also availed. It is next submitted that punishment has been imposed upon the petitioner on the basis of the findings of the Enquiry Officer, wherein charges levelled against him have been proved and moreover, the punishment imposed upon the petitioner is absolutely commensurate with the gravity of the offences committed by him. Lastly, it is submitted that the present writ petition is marred by the principles of delay and laches, inasmuch as though the order of punishment was passed on 22.09.2003, the appellate order was passed on 02.08.2004 and the revisional order was passed as long back as on 19.09.2007, however, the petitioner has moved this Court belatedly after 07 years, only in the year, 2014, thus it is submitted that the present writ petition is fit to be dismissed on this ground as well.



8. I have heard the learned counsel for the parties and perused the materials on record. It is a well settled law that under Articles 226 and 227 of the Constitution of India, neither evidence can be re-appreciated nor interference can be made with the conclusion of the enquiry proceedings, if the same has been conducted, in accordance with law nor this Court can go into the reliability/ adequacy of evidence or interfere, if there is some legal evidence on which findings are based and on the contrary, this Court can only consider whether enquiry has been held by the competent authority and whether the same has been held in accordance with the procedure established by law. Since in the present case, this Court does not find any infirmity in the procedure followed by the disciplinary authority as also it does not find that there has been any violation of the principles of natural justice, this Court is of the view that there is no occasion to interfere with the disciplinary proceedings in question. Thus, there being no illegality in the conduct of the departmental proceedings, there is no reason to interfere with the conclusion of the disciplinary authority.

9. The aforesaid aspect of the matter has been considered



by the Hon'ble Apex Court in a judgment rendered in the case of ***Union of India & Ors. vs. P. Gunasekaran***, reported in ***(2015) 2 SCC 610***, paragraph nos. 12 to 16, 20 & 21 whereof are reproduced herein below:-

“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 & capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible & 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.



14. In one of the earliest decisions in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723], many of the above principles have been discussed and it has been concluded thus:

“7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case



or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.”

15. *In State of A.P. v. Chitra Venkata Rao [(1975) 2 SCC 557], the principles have been further discussed at paras 21-24, which read as follows: (SCC pp. 561-63)*

“21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723]. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of



inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person



could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

22. Again, this Court in Railway Board v. Niranjan Singh [(1969) 1 SCC 502] said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In Niranjan Singh case [(1969) 1 SCC 502] this Court held that the High Court exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shutdown of an air compressor at about 8.15 a.m. on 31-5-1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General



Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground



that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point & the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal. (See Syed Yakoob v. K.S. Radhakrishnan [AIR 1964 SC 477]).

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence & then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do.”



16. These principles have been succinctly summed up by the living legend and centenarian V.R. Krishna Iyer, J. in State of Haryana v. Rattan Singh [(1977) 2 SCC 491]. To quote the unparalleled and inimitable expressions:

“4. ... in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor textbooks, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good.”

20. Equally, it was not open to the High Court, in exercise of its jurisdiction under Articles 226/227 of



the Constitution of India, to go into the proportionality of punishment so long as the punishment does not shock the conscience of the court. In the instant case, the disciplinary authority has come to the conclusion that the respondent lacked integrity. No doubt, there are no measurable standards as to what is integrity in service jurisprudence but certainly there are indicators for such assessment. Integrity according to Oxford Dictionary is “moral uprightness; honesty”. It takes in its sweep, probity, innocence, trustfulness, openness, sincerity, blamelessness, immaculacy, rectitude, uprightness, virtuousness, righteousness, goodness, cleanness, decency, honour, reputation, nobility, irreproachability, purity, respectability, genuineness, moral excellence, etc. In short, it depicts sterling character with firm adherence to a code of moral values.

21. The impugned conduct of the respondent working as Deputy Office Superintendent in a sensitive department of Central Excise, according to the disciplinary authority, reflected lack of integrity warranting discontinuance in service. That view has been endorsed by the Central Administrative Tribunal also. Thereafter, it is not open to the High Court to go into the proportionality of punishment or substitute the same with a lesser or different punishment. These aspects have been discussed at



quite length by this Court in several decisions including B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749], Union of India v. G. Ganayutham [(1997) 7 SCC 463], Om Kumar v. Union of India [(2001) 2 SCC 386], Coimbatore District Central Coop. Bank v. Employees Assn. [(2007) 4 SCC 669], Coal India Ltd. v. Mukul Kumar Choudhuri [(2009) 15 SCC 620] and the recent one in Chennai Metropolitan Water Supply [Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108].”

10. As far as the contention of the learned counsel for the petitioner, to the effect that the punishment of dismissal from service is harsh, this Court finds that the petitioner is a member of a disciplined Force, hence, he was not only expected to follow the rules but also should have had control over his actions and any abrasion and deviation in discharge of his duties would definitely entail a punishment of dismissal & the same cannot be stated to be shocking to the conscience of the Court, hence, there is no scope of interference as far as the quantum of punishment is concerned. In this regard, this Court would refer to a judgment, rendered by the Hon'ble Apex Court in the case of ***Union of India & Others vs. Diler Singh***, reported in ***(2016) 13 SCC 71***, paragraphs no. 22 to



27, whereof are reproduced herein below:-

“22. The aforesaid analysis reveals that the Division Bench has clearly held that the delinquent employee, being a member of the Force, could not have left the camp without prior permission. It has also opined that when a personnel is posted in a camp, he is not free to move as per his choice even during the period when he is not on duty. However, as is manifest, the Division Bench has opined that the imposition of dismissal as a punishment, which is a major one, could not have been imposed by the disciplinary authority. The said opinion has been expressed without referring to the position of law that has been clearly laid down in Ghulam Mohd. Bhat [(2005) 13 SCC 228]. Thus, the basic premise is erroneous.

23. In the impugned order, the writ court has, after reproducing the passage from Akhilesh Kumar, opined that the controversy is covered by the judgment rendered by the High Court of Calcutta. It is extremely significant to note that the learned Single Judge has not even made an effort to appreciate the decision in Ghulam Mohd. Bhat though the same was relied upon by the learned first appellate Judge. Thrust of reasoning of the first appellate court was that a major punishment of dismissal could be imposed in law. It is quite unfortunate that the High Court has dislodged the



finding without any analysis but reproducing a passage from the Calcutta High Court which had not referred to the ratio laid down by a two-Judge Bench of this Court in Ghulam Mohd. Bhat case [(2005) 13 SCC 228]. Thus, the conclusion arrived at by the High Court is wholly unsustainable.

24. The learned counsel for the respondent has submitted that even if the charges have been proven, the punishment of dismissal in the obtaining factual matrix is absolutely harsh and shocking to the conscience. It is his submission that the punishment is disproportionate. The respondent was a part of the disciplined force. He has left the campus without prior permission, proceeded to the market, consumed liquor & quarrelled with the civilians. It has been established that he had consumed liquor at the market place, and it has been also proven that he had picked up quarrel with the civilians. It is not expected of a member of the disciplined force to behave in this manner. The submission, as has been noted earlier, is that the punishment is absolutely disproportionate. The test of proportionality has been explained by this Court in Om Kumar v. Union of India [(2001) 2 SCC 386], Union of India v. G. Ganayutham [(1997) 7 SCC 463] and Union of India v. Dwarka Prasad Tiwari [(2006) 10 SCC 388].

25. In Dwarka Prasad Tiwari, it has been held that unless the punishment imposed by the



disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. When a member of the disciplined force deviates to such an extent from the discipline and behaves in an untoward manner which is not conceived of, it is difficult to hold that the punishment of dismissal as has been imposed is disproportionate & shocking to the judicial conscience.

26. We are inclined to think so as a member of the disciplined force, the respondent was expected to follow the rules, have control over his mind and passion, guard his instincts and feelings and not allow his feelings to fly in fancy. It is not a mild deviation which human nature would grant some kind of lenience. It is a conduct in public which has compelled the authority to think and, rightly so, that the behaviour is totally undisciplined. The respondent, if we allow ourselves to say so, has given indecent burial to self-control, diligence and strength of will power. A disciplined man is expected, to quote a few lines from Mathew Arnold:

*“We cannot kindle when we will
The fire which in the heart resides,
The spirit bloweth and is still,
In mystery our soul abides:
But tasks in hours of insight will'd
Can be through hours of gloom fulfill'd.”*

Though the context is slightly different, yet we have



felt, it is worth reproducing.

27. Consequently, the appeal is allowed, the judgment and decree [Diler Singh v. Union of India, 2012 SCC OnLine P&H 19043] passed by the High Court is set aside and that of the first appellate court is restored and the suit instituted by the respondent-plaintiff stands dismissed. In the facts and circumstances of the case, there shall be no order as to costs.”

11. Consequently, this Court finds that in the present case, the charge levelled against the petitioner is grave, as can be culled out from the preceding paragraphs, which have stood proved, hence such indiscipline cannot be viewed lightly, thus this Court finds that the punishment inflicted upon the petitioner is not disproportionate to the charges levelled against him, hence this aspect of the matter is answered against the petitioner.

12. Having regard to the facts and circumstances of the case and having gone through the materials on records, this Court does not find any infirmity in the procedure followed by the disciplinary authority as also it does not find that there has been any violation of the principles of natural justice, hence there is no reason to interfere with the disciplinary



proceedings in question, especially in view of the well settled law to the effect that under Articles 226 & 227 of the Constitution of India, neither evidence can be re-appreciated nor interference can be made with the conclusion of the enquiry proceedings, if the same has been conducted, in accordance with law nor this Court can go into the reliability/ adequacy of evidence or interfere, if there is some legal evidence, on which findings are based and on the contrary, this Court can only consider whether the enquiry has been held by the competent authority and whether the same has been held in accordance with the procedure established by law. Thus, there being no illegality in the conduct of the departmental proceedings, there is no occasion to interfere with the conclusion of the disciplinary authority, consequently this Court does not find any illegality in the impugned order of punishment dated 22.09.2023. As far as the appellate order dated 02.08.2004 is concerned, the same is also a just and a well-reasoned order, which has appropriately dealt with the issues raised by the petitioner, hence the same also does not require any interference.

13. Now, coming to the revisional order dated 19.09.2007, the same also does not suffer from any infirmity/ illegality, in



view of the fact that the same is also a well-reasoned and a speaking order, passed after proper application of mind.

14. Considering the facts and circumstance of the case, discussed in the preceding paragraphs and for the reasons mentioned herein above, this Court does not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.09.2023
Transmission Date	NA

