



2026:CGHC:4003

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2114 of 2015

Vishnu Das Koshley S/o Shri Alan Das Aged About 53 Years R/o Village And Post Kunra, P.S. Nandghat, Tehsil Nawagarh, Civil And Revenue District Bemetara Chhattisgarh

... Petitioner

versus

1 - State Of Chhattisgarh, Through The Secretary Home Department D.K.S. Bhawan, Raipur District Raipur Chhattisgarh

2 - Director Inspector General Of Police, Raipur Division Raipur, District Raipur Chhattisgarh

3 - Deputy Inspector General Of Police, Chhattisgarh Arms Force, Head Quarter Bhilai District Durg Chhattisgarh

4 – Commandant, 7th Battalion Chhattisgarh Arms Force, Bhilai, District Durg Chhattisgarh

5 - Officer Special Duty, Enquiry Officer Additional Chief Secretary Home, Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Petitioner : Mr. Ishan Verma, Advocate

For Respondents/State : Ms. Supriya Upasane, Govt. Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal

Order on Board

22/01/2026

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India calling in question the legality and validity of the order dated 29.01.2005 passed by respondent No.4 whereby the petitioner has been dismissed from service, which has been affirmed in departmental appeal by respondent No.3 vide order dated 10.04.2006 and further confirmed in mercy appeal by respondent No.2 vide order dated 03.09.2008. The petitioner contends that the impugned orders have been passed arbitrarily, without proper appreciation of the evidence available on record and without assigning cogent reasons, and that the punishment of dismissal from service is grossly disproportionate to the alleged charges.
2. The facts of the case as emerges from the pleadings of the petition are that, the petitioner was appointed as a Trade Constable (R Trade) in the 7th Battalion, Chhattisgarh Armed Force, Bhilai, on 09.06.1995 and was posted at A Company, Narayanpur. During the course of his service, he performed his duties under the control of the respondent authorities.

A complaint dated 20.06.2002 was submitted by one Smt. Laxmi Bai, claiming herself to be the first wife of the petitioner, alleging that the petitioner had contracted a second marriage during the subsistence of the first marriage. On the basis of the said complaint, a preliminary enquiry was conducted by the departmental authorities.

During the course of the preliminary enquiry, the complainant Smt. Laxmi Bai informed the authorities that she was not interested in pursuing the complaint further and stated that the complaint earlier made by her was incorrect. A report in this regard was submitted on 23.09.2002. However, despite the said statement of the complainant, the authorities directed that an explanation be obtained from the petitioner.

Pursuant thereto, the Company Commander issued a communication dated 30.09.2002 directing the petitioner to submit his explanation. The petitioner submitted his explanation stating that he had married Smt. Laxmi Bai in the year 1989, from whom he had a son. According to the petitioner, his first wife left the matrimonial home in December, 1993 and despite several requests she did not return. Thereafter, believing that his marital relationship had practically come to an end, the petitioner contracted marriage with Smt. Maina Bai in March–April, 1994, which was prior to his appointment in government service.

The petitioner further stated that after his appointment in the police department on 09.06.1995, his first wife Smt. Laxmi Bai returned along with the children and, considering the welfare of the children, the petitioner allowed her to reside in the same house. The petitioner also stated that both marriages had taken place prior to his joining government service and therefore he had no intention to violate any departmental rule. Not being satisfied with the explanation submitted by the petitioner, the respondents issued a charge-sheet

dated 13.01.2003, alleging that the petitioner had contracted a second marriage during the lifetime of his first wife, thereby violating Rule 6(1) of the Madhya Pradesh Civil Services (Conduct) Rules, 1961.

A departmental enquiry was thereafter ordered and Assistant Commandant, 7th Battalion, was appointed as the Enquiry Officer. The enquiry proceedings were conducted and the Enquiry Officer submitted the enquiry report holding the charge against the petitioner to be proved. After receipt of the enquiry report, the petitioner was directed to submit his representation against the findings. The petitioner submitted his representation on 26.10.2005 denying the allegations and reiterating his earlier stand.

The Commandant, 7th Battalion, Chhattisgarh Armed Force, Bhilai, however, passed an order dated 29.10.2005 (Annexure P/3) imposing the major penalty of dismissal from service upon the petitioner, holding that the charge of contracting a second marriage during the subsistence of the first marriage stood proved.

Being aggrieved by the said order of dismissal, the petitioner preferred a departmental appeal before the Deputy Inspector General of Police, Chhattisgarh Armed Force, Headquarters Bhilai. The appellate authority, after considering the appeal and the service record of the petitioner, rejected the appeal vide order dated 10.04.2006 / 13.04.2006, affirming the punishment imposed by the disciplinary authority. Thereafter, the petitioner submitted a mercy appeal before the Director General / Inspector General of Police, which also came to be rejected on 03.09.2008 without granting any relief to the petitioner.

Being aggrieved by the orders of dismissal dated 29.10.2005, appellate order dated 10.04.2006 / 13.04.2006, and rejection of mercy appeal dated 03.09.2008, the petitioner has filed the present writ petition under Article 226 of the Constitution of India, challenging the legality and validity of the said orders.

3. Learned counsel appearing for the petitioner would submit that the impugned orders passed by the disciplinary authority as well as the appellate authority are illegal, arbitrary and contrary to the settled principles governing departmental proceedings and therefore deserve to be set aside. It is submitted that the entire departmental action against the petitioner has been initiated on the basis of a complaint allegedly made by Smt. Laxmi Bai, who was stated to be the first wife of the petitioner. However, during the course of the preliminary enquiry itself, the said complainant categorically informed the authorities that she was not interested in pursuing the complaint further and also stated that the complaint made by her earlier was incorrect. Despite such categorical statement by the complainant, the authorities proceeded with the departmental enquiry against the petitioner, which clearly demonstrates non-application of mind and arbitrariness on the part of the respondents.

Learned counsel would further submit that the petitioner had clearly explained before the authorities that his first marriage with Smt. Laxmi Bai was solemnized in the year 1989 and thereafter she had left the matrimonial home in the year 1993. Subsequently, the petitioner contracted marriage with Smt. Maina Bai in the year 1994, which was

prior to his appointment in the police department on 09.06.1995. Therefore, both the marriages were contracted prior to the petitioner entering into government service and as such there was no deliberate violation of Rule 6(1) of the M.P. Civil Services (Conduct) Rules, 1961 during the period of his service. It is also contended that the findings recorded by the enquiry officer are perverse and not supported by reliable evidence on record. According to learned counsel, the defence evidence produced by the petitioner during the enquiry proceedings has not been properly considered and the authorities have proceeded to record the finding of guilt in a mechanical manner.

Learned counsel would further submit that the order of dismissal from service passed by the disciplinary authority is a non-reasoned and disproportionate punishment, particularly when the alleged misconduct relates to a personal matrimonial issue and the petitioner had already explained the circumstances in which the marriages were performed. It is argued that the punishment of dismissal from service is grossly disproportionate to the nature of the allegation. It is also argued that the appellate authority, while dismissing the appeal preferred by the petitioner, has not considered the grounds raised in the appeal in their proper perspective and has passed a cryptic order without assigning adequate reasons. Similarly, the mercy appeal preferred by the petitioner has also been rejected summarily without due consideration of the facts and circumstances of the case.

Learned counsel would therefore submit that the impugned

orders passed by the disciplinary authority, the appellate authority and the authority deciding the mercy appeal suffer from arbitrariness, non-application of mind and violation of principles of natural justice, and therefore the same are liable to be quashed by this Court in exercise of powers under Article 226 of the Constitution of India. Accordingly, it is prayed that the impugned orders of dismissal from service dated 29.10.2005, the appellate order dated 10.04.2006 / 13.04.2006, and the order dated 03.09.2008 rejecting the mercy appeal be set aside and appropriate relief be granted to the petitioner.

4. Learned State counsel for the respondents submitted that the present writ petition is misconceived and devoid of merit. It was contended that the petitioner was working as a Trade Constable in the 7th Battalion, Chhattisgarh Armed Force, Bhilai. During his posting at A Company, Narayanpur, a complaint was lodged by his wife Smt. Laxmi Bai alleging that the petitioner had contracted a second marriage during the subsistence of the first marriage and had also failed to provide her financial support. On the basis of the complaint, a preliminary enquiry was conducted, in which it was revealed that the petitioner had solemnized a second marriage with Smt. Maina Bai in March, 1994 and had two children from the said marriage, and both wives were residing together in the government accommodation allotted to him. It was submitted that such conduct was in clear violation of Rule 6(1) of the Madhya Pradesh Civil Services (General Conditions of Service) Rules, 1961, which disqualifies a person having more than one wife living from holding a government post, and therefore the initiation of disciplinary proceedings against the petitioner was fully justified.

It was further submitted that after the preliminary enquiry, a charge-sheet dated 13.12.2003 was issued and a regular departmental enquiry was conducted by the Enquiry Officer after affording full opportunity of hearing to the petitioner, including the opportunity to cross-examine witnesses and adduce defence evidence. Upon completion of the enquiry, the charge was found proved and a second show cause notice along with the enquiry report was issued to the petitioner. After considering his reply, the Disciplinary Authority imposed the penalty of dismissal from service by order dated 29.10.2005. The departmental appeal preferred by the petitioner was rejected by the Deputy Inspector General of Police on 10.04.2006/13.04.2006, and the mercy appeal was also rejected by the Director General of Police on 03.09.2008. Learned State counsel submitted that all the authorities acted in accordance with law and after due consideration of the material on record, and since the scope of judicial review in departmental proceedings is limited, no interference is warranted by this Court as no violation of natural justice or procedural irregularity has been shown by the petitioner.

5. Having heard learned counsel for the parties and having perused the pleadings and documents placed on record, this Court finds that the primary challenge in the present writ petition is to the order dated 29.10.2005 passed by the Disciplinary Authority whereby the petitioner was dismissed from service, the appellate order dated 10.04.2006/13.04.2006 passed by the Deputy Inspector General of Police, and the order dated 03.09.2008 passed by the Director General of Police rejecting the mercy appeal.

6. From the record of the departmental enquiry, it clearly emerges that the petitioner was subjected to a regular departmental enquiry after issuance of a charge-sheet alleging that he had contracted a second marriage during the subsistence of his first marriage, thereby violating Rule 6(1) of the M.P. Civil Services (General Conditions of Service) Rules, 1961. The enquiry proceedings reveal that the petitioner was afforded full opportunity to participate in the enquiry, cross-examine the prosecution witnesses and to lead defence evidence. The Enquiry Officer, after examining the evidence of the prosecution witnesses, the documentary records including the petitioner's own written explanations and the entries in the service book, recorded a categorical finding that the petitioner had solemnized marriage with Smt. Maina Bai on 22.04.1994 while his earlier marriage with Smt. Laxmi Bai was subsisting.
7. The enquiry report further demonstrates that the petitioner himself, in his earlier written explanations submitted to the department, had admitted that he had married Laxmi Bai in the year 1985 and thereafter married Maina Bai in the year 1994, and that both the women had lived with him along with their children. The service records also reveal that the petitioner had himself submitted an application in the year 1999 for recording the name of Laxmi Bai as his wife and nominee in the service book. These materials clearly supported the conclusion that the petitioner had two wives living at the same time.
8. It is also evident from the enquiry proceedings that the petitioner

attempted to take contradictory stands during the course of the enquiry by claiming that Laxmi Bai was merely his “keep” and not his legally wedded wife. However, the Enquiry Officer has recorded detailed reasons for disbelieving the said explanation, particularly in view of the petitioner’s own earlier written statements, documentary records in the service book and the evidence of witnesses.

9. This Court finds that the findings recorded by the Enquiry Officer are based on appreciation of evidence and cannot be said to be either perverse or unsupported by material on record. Once the charge of contracting a second marriage during the subsistence of the first marriage stands proved, the petitioner clearly incurred disqualification under Rule 6(1) of the Rules, 1961, which prohibits a government servant from having more than one spouse living. Rule 6(1) of the Rules, 1961 is reproduced hereinbelow:-

“6. अनर्हताएं - (1) कोई भी पुरुष उम्मीदवार, जिसकी एक से अधिक पत्नियां जीवित हों और कोई भी महिला उम्मीदवार जिसने ऐसे व्यक्ति से विवाह किया हो जिसकी पहले ही एक पत्नी जीवित हो, किसी सेवा या पद पर नियुक्ति का पात्र नहीं होगा/नहीं होगी”

10. This Court, vide order dated 29.07.2025, called the records of the departmental inquiry conducted against the petitioner, which has been produced by the learned State counsel during the hearing of the case. From perusal of the original record of the departmental inquiry, it transpires that the petitioner made an application to the department for entering the name of his wife, Smt. Laxmi Bai Koshley in his service

book as his nominee. It is necessary to quote the contents of the application made by the petitioner before the department:-

“सेवा में,

श्री मान सेनानी महोदय

33वीं वाहिनी वि. श. बल भिलाई जिला - दुर्ग

विषय :- उत्तराधिकारी सेवा पुस्तिका में दर्शाने बाबत।

महोदय,

सप्रेम निवेदन है कि प्रार्थी आर. ट्रेड 840 विष्णु दास की गुजारिश है कि मेरी सेवा पुस्तिका में मेरी पत्नी श्रीमति लक्ष्मी बाई कोसले के नाम से यही मेरी उत्तराधिकारी है।

अतः श्रीमान से निवेदन है कि मेरी पत्नी का नाम सेवा पुस्तिका में दर्ज करने कि कृपा करें।

1. कल्याण सिंह कोसले - (पुत्र)

2. मायावती कोसले - (पुत्री)

प्रार्थी
आर. ट्रेड 840 विष्णु दास
33वीं वटा. भिलाई
जिला दुर्ग म.प्र.

11. It further transpires from the record of the departmental inquiry that, the petitioner submitted his reply of the charge sheet issued against him and the contents of the reply is also relevant to be reproduced here, which reads as under:-

सेवा में,

श्रीमान सेनानी महोदय

7वीं बटा. छ.ग.स.पु. भिलाई

द्वारा:- कम्पनी कमाण्डर मुख्यालय भिलाई

विषय:- आरोप पत्र का जवाब प्रस्तुत है।

महोदय:-

निवेदन है कि प्रार्थी आर. ट्रेड 840 विष्णु दास का आरोप पत्र

का जवाब इस प्रकार है कि प्रार्थी आवेदिका लक्ष्मी बाई से 20-7-85 में लव मैरिज शादी किया था। मेरी पत्नी कुछ वर्ष रहने के बाद मुझे छोड़कर चली गई। प्रार्थी अपनी पत्नी को लाने के लिए उसके मायके गया तब लक्ष्मी बाई ने गाँव के पंचायत में मना कर दिया फिर उसके बाद मुझे समझ में आया कि मेरी पत्नी अब मेरे पास नहीं आयेगी। फिर 1994 में अपने गाँव में समाज के रीति रिवाज से मैना बाई से दूसरी शादी किया। शादी के एक वर्ष बाद मेरी नौकरी लग गई। मेरे लड़के लड़की मेरे पास ही रहते थे उनको देखने के लिए लक्ष्मी बाई आती थी। पता चला कि उसकी नौकरी लग गई है। तब से वह प्रत्येक माह अपनी बच्चों को देखने के लिए आती थी। फिर वह मेरे पास रहने के लिए प्रार्थी को बोली प्रार्थी लक्ष्मी बाई को बोला कि तुमको अपने पास रखने के लिए गया था लाने तो तुम पंचायत में मना कर दिया हो और मैं शादी कर लिया हूँ। तुमको नहीं रख सकता। फिर वह मेरी शिकायत करने लगी। 1999 में श्रीमान सेनानी महोदय आर. पी. सिंह साहब से शिकायत किया श्रीमान सेनानी महोदय के कहने पर सेवा पुस्तिका में लक्ष्मी बाई का नाम जुड़वा दिया। लेकिन जब से मुझे छोड़कर गयी है तब से अभी तक मेरा उसके साथ पति पत्नी जैसा कोई संबंध नहीं है। हमारे जाति समाज में पहली पत्नी यदि छोड़कर चली गयी है तो समाज में बैठकर निर्णय लिया जाता है फिर दूसरी शादी की जाती है। उसी प्रकार प्रार्थी भी किया है।

श्रीमान सुबेदार मेजर 7वीं बटा त्रिपाठी साहब के समक्ष अपनी बयान में श्रीमती लक्ष्मी बाई ने स्वयं कहा है कि मेरे द्वारा की गई शिकायत गलत है असत्य है झूठा है अतः मैं प्रार्थी के ऊपर कोई भी ऐसी कार्यवाही नहीं करना चाहती हूँ।

अतः श्रीमान से निवेदन है कि प्रार्थी नौकरी के पहले पत्नी के चले जाने पर दूसरी शादी किया था। लेकिन प्रार्थी के पास अभी भी एक ही पत्नी है। प्रार्थी के ऊपर लगाये गये आरोप असत्य हैं क्योंकि मेरे पास दो पत्नी नहीं हैं। यही मेरा जवाब है।

प्रार्थी
आर. ट्रेड 840 विष्णु दास
7वीं बटा. छ.ग.स.पु.
भिलाई, दुर्ग (छ.ग.)

12. Further, during the departmental inquiry proceeding, the statement of the petitioner was recorded on 07-08-2002, which also necessary here to be reproduced, which reads as under:-

कथन

मैं आर० ई० 840 विष्णुदास 7वीं वाहिनी छ० ग० स० पु० भिलाई के 'ए' समवाय में पदस्थ हूँ। वर्तमान में वाहिनी मुख्यालय के मुख्य समवाय में संबद्ध रहकर श्रीमान IGP महोदय बंगला एवं कार्यालय तथा पुलिस ऑफिसर्स मेस की साफ-सफाई कार्य करता हूँ। तथा मेरे परिवार के साथ शास० आवास गृह क० E/5 में निवासरत हूँ। मैं इस विभाग में वर्ष 1995 का भर्ती हूँ। मेरी पहली पत्नि श्रीमती लक्ष्मी बाई मेरे साथ 1985 से प्रेम विवाह बतौर साथ रह रही है। उनके ओर से एक लड़का उम्र 14 वर्ष एवं लड़की 12 वर्ष की है। तथा दूसरी पत्नि नैना बाई जिसे माह मार्च/94 में गांव से शादी किया हूँ। जिस समय मेरी शादी दूसरी पत्नि नैना बाई से हुई उसके पूर्व से मेरी पहली पत्नि लक्ष्मी बाई मेरे पास से चली गई थी। जब मेरे नौकरी लगने की खबर पायी तब माह 12/1996 में पुनः आयी तब से मेरे साथ रह रही है। मेरी दूसरी पत्नि के दो बच्चे लड़का उम्र 3 ½ वर्ष एवं लड़की की उम्र 7 माह की है। दोनों पत्नि मेरे साथ शास० आवास गृह में निवासरत हैं उन दोनों में किसी प्रकार की झगड़ा नहीं है। मैं पहली पत्नि लक्ष्मी बाई की संलग्न छाया चित्र मेरे सेवा पुस्तिका में चस्पा कराया हूँ। दूसरी पत्नि नैना बाई की सेवा पुस्तिका में कोई नाम अंकित नहीं कराया हूँ। प्रत्येक माह वेतन का समक्ष कंपनी कमांडर साहब के आधा रुपया लक्ष्मी बाई को देता हूँ। मेरे विरुद्ध बिना किसी मतलब के शिकायत की गयी है वह झूठ है। यही मेरा कथन है कथन पढ़ा जैसा बोला गया वैसा ही लिखा पाया हस्ता० किया।

हस्ताक्षर:

विष्णुदास

दिनांक: 7.5.2002

13. This stand of the petitioner has been considered by the inquiry officer, who gave his finding that the petitioner is changing his stand on various occasions during the proceedings and concluded that the petitioner was entered into police service on 09-06-1995. Prior to that on 20-07-1985 he married with Smt. Laxmi Bai and procured two children. Thereafter, on 22-04-1994, he entered into second marriage with Smt. Maina Bai and procured two children from her also. After marriage with Maina Bai, his first wife Laxmi Bai again procured a child

from the petitioner in the year 1998. In the year 1999, the petitioner moved his application for entering the name of Smt. Laxmi Bai as the nominee in his service record and thus the charge against the petitioner was found proved.

14. It is a settled principle of law that in exercise of jurisdiction under Article 226 of the Constitution of India, the High Court does not act as an appellate authority over the findings recorded in departmental proceedings and cannot re-appreciate the evidence on record. Interference is permissible only when the enquiry is conducted in violation of principles of natural justice, statutory rules, or when the findings are perverse.
15. The Hon'ble Supreme Court in **State of Andhra Pradesh v. S. Sree Rama Rao**, AIR 1963 SC 1723 has held that the High Court cannot interfere with the findings recorded in a departmental enquiry where the enquiry has been conducted in accordance with the prescribed procedure and the findings are supported by some evidence. Paragraph 11 of the said judgment is reproduced hereinunder:-

“11. It was next urged that the findings recorded were not in respect of the charge which the respondent was called upon to answer. The charge against the respondent was that he had wrongfully confined Durgalu on March 5, 1954, to March 7, 1954, in the police station. In the statement of facts which accompanied the charge-sheet it was stated in express terms that the

respondent had not recorded in any of the diaries of the police station that Durgalu was handed over to him on March 5, 1954. The charge and the "statement of facts" form part of a single document on the basis of which proceedings were started against the respondent and it would be hypercritical to proceed on the view that though the respondent was expressly told in the statement of facts which formed part of the charge-sheet, that he had failed to record that Durgalu was handed over to him, that ground of 'reprehensible conduct' was not included in the charge, and on that account the enquiry was vitiated. No objection appears to have been raised before the Deputy Inspector General or even the Inspector General of Police, that there was infirmity in the charge on that account, and that infirmity had prejudiced the respondent in the enquiry. The respondent had full notice of the charge against him, and he examined witnesses in support of his defence and made several argumentative representations before the Deputy Inspector General, the Inspector General of Police and the Government of Andhra Pradesh."

16. Similarly, in **B.C. Chaturvedi v. Union of India**, (1995) 6 SCC 749 the Hon'ble Supreme Court has held that the power of judicial review in

disciplinary matters is confined to examining the decision-making process and not the decision itself, and the Court cannot substitute its own conclusions for that of the disciplinary authority. Paragraphs 12 and 13 of the judgment is reproduced hereinunder:-

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review. is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some devidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is

entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v.*

H.C. Goel, AIR 1964 SC 364 this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”

17. The same principle has been reiterated in **Union of India v. P. Gunasekaran**, (2015) 2 SCC 610 wherein it has been held that the High Court, in exercise of its jurisdiction under Articles 226/227 of the Constitution, cannot re-appreciate evidence in departmental enquiries and can interfere only if the findings are wholly unsupported by evidence or if the enquiry suffers from procedural illegality. Paragraphs 12 to 19 of this judgment is reproduced hereinunder:-

“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, re-appreciating even the evidence before the enquiry officer. The finding on Charge no. 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 Article 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 Article 226/227 of the Constitution of India, the High Court shall not:

(i). re-appreciate 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 Andhra Pradesh and others 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 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 Andhra Pradesh and others v. Chitra Venkata Rao*, (1975) 2 SCC 557 the principles have been further discussed at paragraph-21 to 24, which read as follows:

"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*. 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, representing the Union of India, New Delhi 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 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 shut-down of an air compressor at about 8.15 a.m. on May 31, 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 and 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 and 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 Justice V. R. Krishna Iyer in *State of Haryana and another 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 text books, 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, fairplay 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. ..."

17. In all the subsequent decisions of this Court upto the latest in Chennai Water Supply and Sewarage Board v. T. T. Murali Babu, (2014) 4 SCC 108, these principles have been consistently followed adding practically nothing more or altering anything.

18. On Article-I, the disciplinary authority, while imposing the punishment of compulsory retirement in the impugned order dated 28.02.2000, had arrived at the following findings:

"Article-I was held as proved by the Inquiry

authority after evaluating the evidence adduced in the case. Under the circumstances of the case, the evidence relied on viz., letter dated 11.12.92 written by Shri P. Gunasekaran, provides a reasonable nexus to the charge framed against him and he did not controvert the contents of the said letter dated 11.12.92 during the time of inquiry. Nor did he produce any defence witness during the inquiry to support his claims including that on 23.11.92 he left the office on permission. There is nothing to indicate that he was handicapped in producing his defence witness. ..."

19. The disciplinary authority, on scanning the inquiry report and having accepted it, after discussing the available and admissible evidence on the charge, and the Central Administrative Tribunal having endorsed the view of the disciplinary authority, it was not at all open to the High Court to re-appreciate the evidence in exercise of its jurisdiction under Article 226/227 of the Constitution of India."

18. In the present case, the petitioner has failed to demonstrate that the

departmental enquiry was conducted in violation of any statutory provision or that he was denied reasonable opportunity of hearing. On the contrary, the record reveals that the enquiry was conducted strictly in accordance with the procedure prescribed under the applicable rules and after affording adequate opportunity to the petitioner.

19. It is also relevant to note that the petitioner was a member of the police force, which is a disciplined force, and adherence to service conduct rules is of paramount importance for maintaining integrity and discipline within the force. The misconduct proved against the petitioner strikes at the very root of service discipline and therefore the punishment imposed by the disciplinary authority cannot be said to be disproportionate.
20. In view of the foregoing discussion, this Court is of the considered opinion that the impugned orders passed by the Disciplinary Authority, the Appellate Authority and the Authority deciding the mercy appeal do not suffer from any legal infirmity warranting interference by this Court in exercise of its writ jurisdiction.
21. Accordingly, the writ petition being devoid of merit is liable to be and is hereby **dismissed**. No order as to costs.

Sd/-
(**Ravindra Kumar Agrawal**)
Judge