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

Date of decision: 19th December, 2022

IN THE MATTER OF:

\+ **LPA 673/2022**

RANAJIT ROY ..... Appellant

Through: Mr. M K Sinha, Mr. Ankit, Ms.Deepshikha, Advocates along with Appellant-in-person

versus

GOVT OF NCT OF DELHI & ANR ..... Respondents

Through: Mr. Puneet Mittal, Senior Advocate with Mr. Siddharth Saxena, Advocate for R-2

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SATISH CHANDRA SHARMA, C.J.

1. The Appellant seeks to challenge the Order dated 23.05.2022, passed by the learned Single Judge in W.P. (C) 2622/2012, dismissing the Writ Petition filed by the Appellant herein challenging the Order dated 13.12.2011, passed by the Delhi School Tribunal (*hereinafter referred to as 'the Tribunal'*).

2. The Appellant is accused of sexual harassment and molestation of a minor girl. In order to avoid disclosing the name of the victim as well as in view of the directions of the Apex Court, the victim is being referred to as the 'Complainant'.

3. The facts, in brief, leading to the instant appeal are as under:

a) It is stated that the Appellant herein is a T.G.T. Physics teacher at Delhi Public School, R. K. Puram (*hereinafter referred to as 'the School'*). It is stated that he was assigned to teach physics to Class IXth, Section D. It is stated that the Complainant is a student of Class IX-D of the said School. It is stated that on 13.04.2006, the Complainant was called by the Appellant herein to the laboratory where she went along with her friend. It is stated that when the Complainant went to the laboratory, on seeing her, the Appellant herein said "*Oh, you have come with her, do come and see me alone on Monday or Tuesday*". It is stated that on hearing this, the Complainant got anxious, but she did not convey anything to anyone. It is stated that on 24.04.2006, when the Physics class was being conducted by the Appellant herein in the Physics lab, the Complainant could not perform the experiment herself and when she went to collect her copies from her table, the Appellant herein called her and told her that if she has any problem in Physics, Chemistry, Biology or even Maths, she could come to him during break or call him any time during the day or even at night.

b) It is alleged that during the said conversation, the Appellant herein kept rubbing the Complainant on her back which made the Complainant uncomfortable. It is stated that the Complainant ignored the incident. It is stated that at the end of the class, when the Complainant picked up her books and started to leave the class along with her classmates, the Appellant herein called her and when the Complainant went there, the Appellant herein handed over one empty measuring cylinder to the Complainant

in one hand, a stop watch in her other hand and when the Complainant was about to leave, the Appellant herein put his hand, in which he was carrying a steel ball, in the Complainant's upper T-shirt pocket. It is alleged that the Appellant herein did not withdraw his hand and touched the Complainant "*in a bad manner*" and, thus sexually molested her. It is stated that the Complainant was in a state of shock and while describing the incident to her class teacher and mother, she started crying.

c) It is stated that on a complaint being filed, the Appellant herein was placed under suspension on the ground that he has exhibited lack of integrity and is involved in a conduct involving sexual harassment, moral turpitude and misbehavior towards a minor girl child which was in violation of Rule 123(b)(vii) and (viii) of the Delhi School Education Rules, 1973 (*hereinafter referred to as 'the Rules'*).

d) It is stated that on 07.06.2006, the Appellant herein was served the charge-sheet, issued by the Disciplinary Authority of the School directing the Appellant herein to submit a written statement within seven days. Along with the Charge-sheet, the Appellant herein was given the relevant documents with a list of witnesses who were to be examined.

e) The Articles of Charge framed against the Appellant, though have been quoted by the learned Single Judge, are being once again reproduced for completing the narration of the facts and the same are as under:

"ARTICLE-I

That Shri Ranajit Roy, T.G.T. Physics (under suspension), Delhi Public School, R.K. Puram while giving instructions on Physics subject on 13.04.2006 and 21.04.2006 failed to maintain absolute integrity and devotion to the duty and the conduct of Shri Ranajit Roy, of offence involving moral turpitude and sexual harassment. By his aforementioned conduct Shri Ranajit Roy T.G.T. Physics has violated the Code of Conduct for teachers under Rule 123 (b) (VII) and (VIII) of the Delhi School Education Rules, 1973."

"STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI RANAJIT ROY, TGT PHYSICS (UNDER SUSPENSION), DELHI PUBLIC SCHOOL, R.K. PURAM, NEW DELHI

ARTICLE-I

That Shri Ranajit Roy, TGT Physics (under suspension, Delhi Public School, R.K.Puram had been assigned class IX Section D to teach Physics That he was required to maintain absolute integrity, devotion to the job and not indulge into any conduct which may lead to misbehaviour or cruelty or may hold him liable for an offence involving moral turpitude towards any of his students as stipulated under Rule 123 of the Delhi School Education Rules, 1973.

*That while teaching Class IX D a student namely, Ms. ***** was also to be imparted Instructions by Shri Ranajit Roy in Physics who is an extremely bright student. That on 13.04.2006 Ms. **** was called by Shri Roy to the laboratory where she went along with a friend. Shri Ranajit Roy said, "Oh, you have come with her, do come and see me alone on Monday or Tuesday, which traumatized the child.*

*That on 21.04.2006 in the third period, when the class was being conducted in the Physics Lab Ms. **** was made to write on the board and she could not perform the experiment herself after which when she proceeded to*

*collect her copies from her table, Mr. Roy called her and told her that if she had any problems in Physics, Chemistry, Biology or even Maths she could come to him during break or call him any time day or night. Throughout this conversation Mr. Roy kept touching her (kept rubbing her on her back) which was uncomfortable feeling for the student and was ignored and she went to her seat since it was the end of the period. By the time she picked up her books her class mates had already started leaving the lab and then Mr. Roy; called her "Ms. ****" and on her going there he handed over one empty measuring cylinder in one hand which was free, a stop watch in the other hand in which she was already holding the notebooks, and, as she was about to leave he pushed his hand carrying a steel bail in her upper T-shirt pocket and he did not withdraw his hand. In fact, he touched her as stated by the child "in a bad manner" thus sexually assaulted the child. The child was dumbfounded as she did not know what to do and was in a state of shock. When he withdrew his hand he gave her a disgusting look. The child remained in shock and cried while describing the incident to her class teacher Ms. Vandana Chandhok and mother.*

That Shri Ranajit Roy, TGT Physics (under suspension), Delhi Public School, R.K.Puram has exhibited lack of integrity, being involved in conduct involving sexual harassment, moral turpitude and misbehaviour towards a minor girl child and a student, therefore, he has violated Rule 123 (b) (vii) and (viii) of the Delhi School Education Rules, 1973." (**Note: the name of the student has been denoted by *** in order to ensure anonymity**)

f) Justice R. C. Chopra, a retired Judge of this Court, was nominated as the Inquiry Officer.

g) It is stated that the Appellant herein submitted his response on 21.06.2006 to the Inquiry Officer. It is stated that during the course of the Inquiry, six witnesses were examined by the School

and eight witnesses were examined by the Appellant herein, including himself. It is stated that after completion of Inquiry, the Inquiry Officer submitted its Report on 09.10.2006 holding the Appellant herein guilty of misconduct as defined under Rule 123 (xvii) and (xviii) of the Rules.

h) The Disciplinary Authority, *vide* Memorandum dated 08.12.2006, imposed a major penalty of dismissal from service on the Appellant herein and the Appellant was given 15 days' time to file a representation against the proposed penalty. The Appellant herein gave a representation dated 22.12.2006 and after considering the representation of the Appellant herein, the Disciplinary Authority, *vide* Order dated 15.03.2007, imposed the penalty of compulsory retirement on the Appellant herein. It is stated that the said Order was challenged by the Appellant herein by filing an appeal before the Tribunal. It is stated that the Tribunal dismissed the appeal filed by the Appellant herein *vide* Order dated 13.12.2011. It is stated that the Order of the Tribunal was challenged by the Appellant by filing a Writ Petition before the learned Single Judge. The learned Single Judge *vide* Order dated 23.05.2022, upheld the Order of the Tribunal and the Order of the Disciplinary Authority imposing the penalty of compulsory retirement on the Appellant herein.

i) It is this Order which has been challenged by the Appellant in the instant appeal.

4. Learned Counsel for the Appellant submits that the Memorandum dated 07.06.2006 bears the signatures of one Mrs. Anita Mishra. He submits that Mrs. Anita Mishra was neither a part of the teaching staff of the School

nor was she an employee of the School during the relevant time. He further states that the Inquiry is vitiated because the coram of the Disciplinary Committee was incomplete and was not in accordance with Rule 118 of the Rules. It is contended by the learned Counsel for the Appellant that the Committee must consist of the Chairman/Chairperson of the Managing Committee, the Manager of the School, a nominee of the Department of Education, Principal of the School, and a teacher/staff representative. He states that the Disciplinary Committee which should consist of five members had only four members as Ms. Shyama Chona, who was the Manager as well as the Principal of the School, has sat in both the capacities. He further contends that Ms. Amita Mishra, could not be a staff representative because she was not a teacher or an employee of the school. He states that since the Committee ostensibly consisted of only three persons namely, Mr. Ashok Chandra, who is the Chairman/Chairperson of the Managing Committee, Ms. Shyama Chona, who is the Manager and the Principal of the School and Mr. Sundremani Kullu, who is the Nominee of the Directorate of Education, therefore, the entire proceedings is vitiated. He further submits that the learned Single Judge has not appreciated the evidence and that the Inquiry has been conducted in violation of the principles of natural justice.

5. Learned Counsel for the Respondents supports the judgment of the learned Single Judge and contends that no interference is warranted.

6. Heard the Counsel for the parties and perused the material on record.

7. The Appellant has been charged with a case of sexual harassment and misconduct with a child studying in IXth standard. Six witnesses were examined by the School and the Appellant herein also examined eight witnesses, including himself. The Inquiry Officer has very meticulously analyzed the depositions of the witnesses and other material presented

before him and has passed a detailed order holding that the Appellant herein is guilty of misconduct under Rule 123 (xvii) and (xviii) of the Rules. On the basis of the Inquiry Report, a Memorandum dated 08.12.2006, imposing major penalty of dismissal from service, was served on the Appellant herein and he was given 15 days' time to file a representation. The Appellant herein filed a detailed representation and the Disciplinary Authority, after looking into the representation and the Inquiry Report, and taking into account the fact that the Appellant is the only earning member having two children and a wife to support, decided to impose a penalty of compulsory retirement on the Appellant. Aggrieved by the Order of the Disciplinary Committee, the Appellant herein filed an appeal before the Tribunal. The Tribunal has once again looked into the entire material and has found that the Inquiry has been conducted properly and that principles of natural justice have been followed.

8. The Tribunal also considered the contentions raised by the Appellant herein and has upheld the Order of the Disciplinary Committee. Thereafter, the Appellant herein approached this Court by filing a Writ Petition and the learned Single Judge *vide* Order impugned herein has dismissed the said Writ Petition. The Appellant has, thereafter, filed the instant appeal. A perusal of the documents produced before this Court would show that an appropriate Committee has been constituted. The Appellant herein has been given appropriate opportunity to represent himself before the Inquiry Officer and before the Disciplinary Committee. The fact that the Appellant was initially terminated from his service and his punishment has been later on converted to compulsory retirement shows that principle of natural justice has been followed at every stage.

9. This Court has looked into the material on record. The only legal contention raised by the Appellant is that Mrs. Anita Mishra, who has signed the Memorandum and who was one of the members of the Disciplinary Committee, was not a part of the teaching staff of the School. This fact has been considered by the Tribunal as well as by the learned Single Judge. The learned Single Judge has rejected this contention stating that Mrs. Anita Mishra is an employee of the Delhi Public School and she had been sent on deputation to D.P.S. R. K. Puram and, therefore, she was an employee of the School. In view of the above, there is no infirmity in the Order of the learned Single Judge. The fact that the Manager of the School and the Principal of the School is the same person cannot vitiate the composition of the Inquiry Committee. If the contention of the learned Counsel for the Appellant is accepted then any school where the Manager of the School and the Principal are one and same person can never constitute a Disciplinary Committee under Rule 118 of the Rule. In any event, it cannot be said that any prejudice has been caused to the Appellant because of the fact that Mrs. Anita Mishra was a part of the Disciplinary Committee or that the Committee was vitiated because the post of the Manager of the School and the Principal of the School is held by one and the same person.

10. The facts of the case reveal that the Complainant, who is a student of IXth standard, has been subjected to sexual harassment. While dealing with matters relating to harassment of school going children, paramount consideration is to be given to the well-being of the child whose mental psyche is vulnerable, impressionable and in a developing stage. The long-term effects of childhood sexual harassment are, at many times, insurmountable. An act of sexual harassment, therefore, has the potential to cause mental trauma to the child and may dictate their thought process for

the years to come. It can have the effect of hindering the normal social growth of the child and lead to various psychosocial problems which could require psychological intervention.

11. Nothing cogent has been brought on record by the Appellant to substantiate that the finding of the Inquiry Officer, as upheld by the Disciplinary Authority, the Tribunal and the learned Single Judge of this Court, is perverse which would warrant interference from this Court.

12. In Union of India v. P. Gunasekaran, **(2015) 2 SCC 610**, the Apex Court, while dealing with the scope of interference in departmental enquiries, has held 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:*
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> *(a) the enquiry is held by a competent authority;*
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> *(b) the enquiry is held according to the procedure prescribed in that behalf;*
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> *(c) there is violation of the principles of natural justice in conducting the proceedings;*
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> *(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.

***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: (AIR pp. 1726-27, para 7)*

> *"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 : 1975 SCC (L&S) 349 : AIR 1975 SC 2151] , 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 : (1969) 3 SCR 548] 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 : (1969) 3 SCR 548] 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 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 V.R. Krishna Iyer, J. in State of Haryana v. Rattan Singh [(1977) 2 SCC 491 : 1977 SCC (L&S) 298] . To quote the unparalleled and inimitable expressions: (SCC p. 493, para 4)*

"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."

***17**. In all the subsequent decisions of this Court up to the latest in Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu [Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108 : (2014) 1 SCC (L&S) 38] , 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 28-2-2000, had arrived at the following findings:*

"Article I was held as proved by the inquiring authority after evaluating the evidence adduced in the case. Under the circumstances of the case, the evidence relied on viz. letter dated 11-12-1992 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 11-12-1992 during the time of inquiry. Nor did he produce any defence witness during the inquiry to support his claims including that on 23-11-1992 he left the office on permission. There is nothing to indicate that he

> *was handicapped in producing his defence witness. ...”*
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> ***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 reappreciate the evidence in exercise of its jurisdiction under Articles 226/227 of the Constitution of India.”*

13. Keeping in view the law laid down by the Apex Court, the instant case is not a case wherein this Court can interfere with the departmental enquiry proceedings. The principles of natural justice and fair play have not been violated and the statutory provisions have strictly been adhered to in the disciplinary proceedings and, therefore, the findings of the learned Single Judge cannot be found fault with. In light of the aforesaid judgment and in the peculiar facts and circumstances of the case, question of interference with the judgment of the learned Single Judge in the instant case does not arise.

14. Recently, the Apex Court in Union of India and Others v. Subrata Nath, **2022 SCC OnLine SC 1617,** after taking into account the judgment in P. Gunasekaran (supra), has held that the Courts ought to refrain from interfering with findings of facts recorded in a departmental inquiry except in circumstances where such findings are patently perverse or grossly incompatible with the evidence on record, based on no evidence. In the present case, the findings of the facts are based upon evidence on record. They are not at all perverse and, therefore, the question of interference does not arise. In Subrata Nath (supra), the Apex Court has held as under:

*"**14**. It is well settled that courts ought to refrain from interfering with findings of facts recorded in a departmental inquiry except in circumstances where such findings are patently perverse or grossly incompatible with the evidence on record, based on no evidence. However, if principles of natural justice have been violated or the statutory regulations have not been adhered to or there are malafides attributable to the Disciplinary Authority, then the courts can certainly interfere.*

***15**. In the above context, following are the observations made by a three-Judge Bench of this Court in B.C. Chaturvedi (supra):*

> *"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 evidence, 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. Goel6 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.

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18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They

are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

[Emphasis laid]

***16**. In State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya7, a two Judge Bench of this Court held as below:*

"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural

> *justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India8, Union of India v. G. Ganayutham9, Bank of India v. Degala Suryanarayana10 and High Court of Judicature at Bombay v. Shashikant S. Patil11).*
>
> *[Emphasis laid]*

17. *In Chairman & Managing Director, V.S.P. v. Goparaju Sri Prabhakara Hari Babu12, a two Judge Bench of this Court referred to several precedents on the Doctrine of Proportionality of the order of punishment passed by the Disciplinary Authority and held that:*

> *"21. Once it is found that all the procedural requirements have been complied with, the courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. The superior courts only in some cases may invoke the doctrine of proportionality. If the decision of an employer is found to be within the legal parameters, the jurisdiction would ordinarily not be invoked when the misconduct stands proved."*

18. *Laying down the broad parameters within which the High Court ought to exercise its powers under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two Judge Bench of this Court in Union of India v. P. Gunasekaran13 held thus:*

> *"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."

***19**. In Union of India v. Ex. Constable Ram Karan14, a two Judge Bench of this Court made the following pertinent observations:*

"23. The well-ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to the delinquent employee. Keeping in view the seriousness of the misconduct committed by such an employee, it is not open for the courts to assume and usurp the function of the disciplinary authority.

24. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The scope of judicial review on the quantum of punishment is available but with a limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a call and it is not for the court to substitute its decision by prescribing the quantum of punishment. However, it is only in rare and exceptional cases where the court might to shorten the litigation may think of substituting its own view as to the quantum of punishment in place of punishment awarded by the competent authority that too after assigning cogent reasons."

***20**. A Constitution Bench of this Court in State of Orissa (supra) held that if the order of dismissal is based on findings that establish the prima facie guilt of great delinquency of the respondent, then the High Court cannot direct reconsideration of the punishment imposed. Once the gravity of the misdemeanour is established and the inquiry conducted is found to be consistent with the prescribed rules and reasonable opportunity contemplated under the rules, has been afforded to the delinquent employee, then the punishment imposed is not open to judicial review by the Court. As long as there was some evidence to arrive at a conclusion that the Disciplinary Authority did, such an order becomes unassailable and the High Court ought to forebear from interfering. The above view has been expressed in Union of India v. Sardar Bahadur15.*

> ***21***. *To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor."*

15. In light of the aforesaid judgment and also keeping in view the judgment delivered in the case of P. Gunasekaran (supra), none of the broad parameters, within which the High Court ought to exercise its powers under Article 226 & 227 of the Constitution of India, are attracted and, therefore, keeping in view the aforesaid judgments, this Court does not find any reason to interfere with the Orders passed by the Disciplinary Authority, the Tribunal and the learned Single Judge.

16. Accordingly, the appeal is dismissed, along with pending application(s), if any.

17. The name of the Complainant which figures in the charge-sheet and in the judgment of the learned Single Judge be erased from the Court records to ensure the anonymity of the Complainant.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

DECEMBER 19, 2022
Rahul