HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 612/2021

Rajendra Kumar S/o Shri Rohitashav Gurjar, Aged About 34 Years, R/o Village Kalata, Post Babai, Tehsil Khetri, District Jhunjhunu (Rajasthan).

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary Home, Department Of Home, Secretariat, Jaipur (Rajasthan)
2. Director General Of Police, Jaipur Rajasthan, Jaipur

----Respondents

Connected With

D.B. Special Appeal Writ No. 613/2021

Arjun Lal S/o Shri Gyarsi Lal, Aged About 49 Years, Resident Of Village And Post Rajgarh, Via Sardhana, Tehsil Nasirabad, District Ajmer (Rajasthan).

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary Home, Department Of Home, Secretariat, Jaipur (Rajasthan)
2. The Director General Of Police, Jaipur Rajasthan, Jaipur

----Respondents

D.B. Special Appeal Writ No. 614/2021

Hardeep Singh Choudhary S/o Shri Kishan Lal Choudhary, Aged About 33 Years, Resident Of Village Kalayanpura, Post Sewa, Tehsil Mouzmabad, District Jaipur (Rajasthan).

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary Home, Department Of Home, Secretariat, Jaipur (Rajasthan)
2. Director General Of Police, Jaipur Rajasthan, Jaipur

----Respondents

D.B. Special Appeal Writ No. 615/2021

Sunil Kumar Dangi, S/o Shri Ranveer Siwan Dangi, Aged About 31 Years, Resident Of Village And Post Narhar, Tehsil - Chirawa,

RAJASTHAN HIGH COURT
सत्यमेव जयते

District Jhunjhunu (Rajasthan).

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary Home, Department Of Home, Secretariat, Jaipur (Rajasthan).
2. The Director General Of Police, Jaipur Rajasthan, Jaipur.

----Respondents

D.B. Special Appeal Writ No. 616/2021

Phool Chand S/o Shri Jayram Prajapat, Aged About 63 Years, Resident Of Ganesh Nagar, Tekari, Tara Grah Road, Behind Kanak House, Ajmer (Rajasthan)

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary Home, Department Of Home, Secretariat, Jaipur (Rajasthan)
2. The Director General Of Police, Jaipur, Rajasthan, Jaipur.

----Respondents

D.B. Special Appeal Writ No. 617/2021

Mukesh Kumar S/o Shri Rohitash, Aged About 30 Years, Resident Of Village Rajora Post Mandri Tehsil Khetri, District Jhunjhunu, (Rajasthan).

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary Home, Department Of Home, Secretariat, Jaipur (Rajasthan).
2. The Director General Of Police, Jaipur Rajasthan, Jaipur.

----Respondents

D.B. Special Appeal Writ No. 618/2021

Gopal Lal Sharma S/o Shri Ram Ji Lal Sharma, Aged About 33 Years, Resident Of Village And Post Rajpura Tehsil Malpura District Tonk (Rajasthan)

----Appellant

Versus

1. The State Of Rajasthan, Through Secretary Home, Department Of Home, Secretariat, Jaipur (Rajasthan)

RAJASTHAN HIGH COURT

2. The Director General Of Police, Jaipur Rajasthan, Jaipur

----Respondents

For Appellant(s)	:	Mr. Pradeep Kumar
For Respondent(s)	:	Mr. Bhuwnesh Sharma, AAG assisted by Mr. Vishnu Dutt Sharma, Mr. Siddharth Sharma, AGC and Mr. Shivam Chauhan, AGC

HON'BLE MR. JUSTICE INDERJEET SINGH

HON'BLE MR. JUSTICE RAVI CHIRANIA

Order

1.	Date of conclusion of Arguments	03.02.2026
2.	Date on which the judgment was reserved	03.02.2026
3.	Whether the full judgment or only operative part is pronounced	Full
4.	Date of pronouncement	27.02.2026

Per, Ravi Chirania, J:-

1. These writ petitions are decided by this common order, as the facts and issues involved in these writ petitions are common. For convenience, the facts are taken from Special Appeal Writ No. 612/2021.

2. The present appeals have been filed by the appellants-petitioners (hereinafter referred to as '**petitioners**' for short) whereby they have challenged the judgment dated 18.05.2021 passed by the learned Single Judge, by which their writ petitions i.e. S.B. Civil Writ Petition Nos. 5600/2021, 5573/2021, 5576/2021, 5601/2021, 5602/2021, 5603/2021, 5604/2021, 5605/2021, 5606/2021 & 5608/2021 were dismissed.

3. Learned counsel for the petitioners submitted that the Disciplinary Authority as well as the Appellate Authority have not considered the

preliminary report and the other evidence on record, which is sufficient to show that, in the entire incident, none of the petitioners herein were responsible in any manner and further there was no intentional negligence or dereliction of duties on their part. Learned counsel further submitted that the Enquiry Officer also did not consider the complete facts and found the charges proved and by considering the same, the Disciplinary Authority punished them with the stoppage of annual grade increment with cumulative effect as mentioned in the punishment order dated 04.04.2018.

4. Learned counsel submitted that against the punishment order dated 04.04.2018, the petitioners filed the Departmental appeal under Rule 30A of the CCA Rules, 1958 along-with other similarly situated persons namely Anil Kumar Pandey, Phool Chand & Dharmesh Dayma etc. The charges against all the delinquent employees including the petitioners herein were almost same, in respect of the same incident, the Enquiry Officer also found the charges to be proved against all and passed the order of punishment, however, the Appellate Authority dismissed the departmental appeals filed by the petitioners herein and the punishment order was maintained. However, in the case of the other similarly situated persons namely Anil Kumar Pandey, Dharmesh Dayma & Shambu Singh, different yardsticks were followed and their appeals were allowed and were exonerated from all the charges.

5. Learned counsel further submitted that except the Commando Shakti Singh, not before the Court, all police persons who were inside the police van were carrying the criminal Anand Pal Singh, had no idea about his (Commando Shakti Singh's) involvement with the criminal in van and his associated groups. Despite seriousness of the charges as levelled against all the persons, the specific findings of the Enquiry

RAJASTHAN HIGH COURT

Officer and the after consideration by the Disciplinary Authority while passing the punishment order, the Appellate Authority exonerated the above three persons while maintaining the punishment order in respect of all the petitioners herein.

6. Learned counsel further submitted that the punishment as imposed by the Disciplinary Authority cannot be interfered with by the Appellant Authority until and unless there are reasons to do so and the same are required to be recorded while quashing the punishment order. The complete findings as recorded by the Appellate Authority are illegal, arbitrary and a classic case of applying different yardsticks in the case of employees having the same charges in respect of the same incident.

7. Learned counsel further submitted that against the order of the Appellant Authority of dismissing the departmental appeal, the petitioners filed the writ petitions before the learned Single Judge, which were dismissed in *limine* by order dated 18.05.2021. The learned Single Judge by considering the law laid down by the Hon'ble Supreme Court in the case of ***Union of India & Anr. Vs. P. Gunasekaran***[1] ***and Industrial Security Force & Ors. Vs. Abrar Ali***[2], dismissed the writ petitions on the ground that the above settled law does not permit interference in the departmental proceedings and that the Courts cannot substitute a punishment unless it shocks the conscience of the Court.

8. Learned counsel further submitted that the learned Single Judge while dismissing the writ petitions in *limine* failed to consider the fact that the similarly situated persons namely Anil Kumar Pandey, Dharmesh Dayma & Shambu Singh were exonerated by allowing their departmental appeals, whereas the petitioners herein have been

1 (2015) 2 SCC 610 &
2 (2017) 4 SCC 507

RAJASTHAN HIGH COURT

punished by maintaining the punishment order. The order passed by the learned Single Judge suffers from the infirmity that the impugned punishment order was upheld without proper consideration of the complete facts and circumstances of the case. The impugned order is unreasonable as there is no consideration of the issue of exoneration of the similarly situated persons on the similar charges based on the same facts. Therefore, the learned Single Judge has committed a serious mistake in law while dismissing the writ petitions.

9. In support of his arguments, learned counsel relied upon the following judgments passed by the Hon'ble Supreme Court, which are as under:-

1. **Indian Oil Corporation Ltd. Vs. Ashok Kumar Arora**[3].
2. **Allahabad Bank Vs. Krihna Narayan Tewari**[4].
3. **Rakesh Kumar Pandey Vs. State of U.P.**[5].
4. **Amarendra Kumar Pandey Vs. Union of India**[6].
5. **Union of India & Anr. Vs. P. Gunasekaran**[7].
6. **State of Andra Pradesh Vs. S. Sree Rama Rao**[8].

9.1. In the case of **Indian Oil Corpn. Ltd v Ashok Kumar Arora** (supra), the Hon'ble Supreme Court laid down the principle governing the scope of judicial review in the departmental proceedings. The Court held that the High Court's jurisdiction in such matters is not that of an appellant authority but is strictly circumscribed. The relevant para 20 of the judgment is reproduced as under:-

---

3. (1997) 3 SCC 72
4. (2017) 2 SCC 308
5. 2019 SCC OnLine All 4004
6. 2022 SCC OnLine SC 881
7. (2015) 2 SCC 610
8. 1963 SCC OnLine SC 6

RAJASTHAN HIGH COURT
सत्यमेव जयते

> *20. At the outset, it needs to be mentioned that the High Court in such cases of departmental enquiries and the findings recorded therein does not exercise the powers of appellate court/authority. The jurisdiction of the High Court in such cases is very limited for instance where it is found that the domestic enquiry is vitiated because of non-observance of principles of natural justice, denial of reasonable opportunity; findings are based on no evidence, and/or the punishment is totally disproportionate to the proved misconduct of an employee. There is a catena of judgments of this Court which had settled the law on this topic and it is not necessary to refer to all these decisions. Suffice it to refer to a few decisions of this Court on this topic viz. State of A.P. v. S. Sree Rama Rao, State of A.P. v. Chitra Venkata Rao, Corpn. of the City of Nagpur v. Ramchandra and Nelson Motis v. Union of India.*

9.2. In the case of **Allahabad Bank Vs. Krishna Narayan Tewari (supra)**, the Hon'ble Supreme Court held that while a writ court is justified in interfering with disciplinary proceedings where findings are based on "no evidence" or appellant authority fails to apply its mind independently, it may, instead of remanding the matter, modify the relief by granting only partial back wages (50%) where a remand would be harsh due to the employee's superannuation and poor health. The relevant paras of the judgment is reproduced as under: -

> *7. We have given our anxious consideration to the submissions at the Bar. It is true that a writ court is very slow in interfering with the findings of facts recorded by a departmental authority on the basis of evidence available on record. But it is equally true that in a case where the disciplinary authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at, the writ court would be justified if not duty-bound to examine the matter and grant relief in appropriate cases. The writ court will certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself was vitiated on account of violation of principles of natural justice, as is alleged to be the position in the present case. Non-application of mind by the enquiry officer or the disciplinary authority, non-recording of reasons in*

support of the conclusion arrived at by them are also grounds on which the writ courts are justified in interfering with the orders of punishment. The High Court has, in the case at hand, found all these infirmities in the order passed by the disciplinary authority and the appellate authority. The respondent's case that the enquiry was conducted without giving a fair and reasonable opportunity for leading evidence in defence has not been effectively rebutted by the appellant. More importantly the disciplinary authority does not appear to have properly appreciated the evidence nor recorded reasons in support of his conclusion. To add insult to injury the appellate authority instead of recording its own reasons and independently appreciating the material on record, simply reproduced the findings of the disciplinary authority. All told, the enquiry officer, the disciplinary authority and the appellate authority have faltered in the discharge of their duties resulting in miscarriage of justice. The High Court was in that view right in interfering with the orders passed by the disciplinary authority and the appellate authority.

8. There is no quarrel with the proposition that in cases where the High Court finds the enquiry to be deficient, either procedurally or otherwise, the proper course always is to remand the matter back to the authority concerned to redo the same afresh. That course could have been followed even in the present case. The matter could be remanded back to the disciplinary authority or to the enquiry officer for a proper enquiry and a fresh report and order. But that course may not have been the only course open in a given situation. There may be situations where because of a long time-lag or such other supervening circumstances the writ court considers it unfair, harsh or otherwise unnecessary to direct a fresh enquiry or fresh order by the competent authority. That is precisely what the High Court has done in the case at hand.

9.3. The Allahabad High Court in **Rakesh Kumar Pandey v State of U.P.** reported in **(2019) SCC OnLine All 4004** decided on 20.02.2019, held that a disciplinary enquiry completed prior to the to the expiry of the 15-day period granted delinquent employee to submit his reply to charge sheet is in clear violation of Rule 794) of the Uttar Pradesh Government Servant (Discipline and Appeal) Rule, 1999 and principal of natural justice, rendering the enquiry report unsustainable and

consequently the punishment order based on such report, along with an unreasoned appellant order affirming it, are liable to be quashed. Relevant paragraphs of the said judgment Rakesh Kumar Pandey (supra) are reproduced as under: -

> *5. The scope of judicial review with respect to the departmental proceedings is limited.*
>
> *6. This Court under its power conferred by Article 226 of Constitution of India, can interfere in the matter of disciplinary proceedings if the disciplinary/enquiry proceedings were conducted in violation of manner prescribed and against Principle of Natural Justice and if the order of concerned authority is non speaking and unreasoned. This Court can interfere in the matter of disciplinary proceedings if the decision making process is in violation of Rules or against Principle of Natural Justice. The judicial review in the matter of departmental proceedings is permissible with respect to decision making process and not against the decision itself unless it is shown that the decision is without any evidence or suffers from malafide or malice or harsh or without jurisdiction.*
>
> *7. In the case of Indian Oil Corpn. Ltd. v. Ashok Kumar Arora, (1997) 3 SCC 72 the Hon'ble Supreme Court has held as under:-*
>
> *"At the outset, it needs to be mentioned that the High Court in such cases of departmental enquiries and the findings recorded therein does not exercise the powers of appellate court/authority. The jurisdiction of the High Court in such cases is very limited for instance where it is found that the domestic enquiry is vitiated because of non-observance of principles of natural justice, denial of reasonable opportunity; findings are based on no evidence, and/or the punishment is totally disproportionate to the proved misconduct of an employee. There is a catena of judgments of this Court which had settled the law on this topic and it is not necessary to refer to all these decisions. Suffice it to refer to a few decisions of this Court on this topic viz. State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723: (1964) 2 LLJ 150], State of A.P. v. Chitra Venkata Rao [(1975) 2 SCC 557: 1975 SCC (L&S) 349: (1976) 1 SCR 521], Corpn. of the City of Nagpur v. Ramchandra [(1981) 2 SCC 714: 1981 SCC (L&S) 455: (1981) 3 SCR 22] and Nelson Motis v. Union of India [(1992) 4 SCC 711: 1993 SCC (L&S) 13: (1993) 23 ATC 382: AIR 1992 SC 1981]".*

RAJASTHAN HIGH COURT

8. In the case of Lalit Popli v. Canara Bank, (2003) 3 SCC 583 the Hon'ble Supreme Court has held as under:-

"17. While exercising jurisdiction under Article 226 of the Constitution the High Court does not act as an appellate authority. Its jurisdiction is circumscribed by limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. Judicial review is not akin to adjudication of the case on merits as an appellate authority.

18. In B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749: 1996 SCC (L&S) 80: (1996) 32 ATC 44] the scope of judicial review was indicated by stating that review by the court is of decision-making process and where the findings of the disciplinary authority are based on some evidence, the court or the tribunal cannot reappreciate the evidence and substitute its own finding.

19. As observed in R.S. Saini v. State of Punjab [(1999) 8 SCC 90: 1999 SCC (L&S) 1424] in paras 16 and 17 the scope of interference is rather limited and has to be exercised within the circumscribed limits. It was noted as follows: (SCC p. 96)

"16. Before adverting to the first contention of the appellant regarding want of material to establish the charge, and of non-application of mind, we will have to bear in mind the rule that the court while exercising writ jurisdiction will not reverse a finding of the inquiring authority on the ground that the evidence adduced before it is insufficient. If there is some evidence to reasonably support the conclusion of the inquiring authority, it is not the function of the court to review the evidence and to arrive at its own independent finding. The inquiring authority is the sole judge of the fact so long as there is some legal evidence to substantiate the finding and the adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the court in writ proceedings.

17. A narration of the charges and the reasons of the inquiring authority for accepting the charges, as seen from the records, shows that the inquiring authority has based its conclusions on materials available on record after considering the defence put forth by the appellant and these decisions, in our opinion, have been taken in a reasonable manner and objectively. The conclusion arrived at by the inquiring authority cannot be termed as either being perverse or not based on any material nor is it a case where there has been any non-

application of mind on the part of the inquiring authority. Likewise, the High Court has looked into the material based on which the enquiry officer has come to the conclusion, within the limited scope available to it under Article 226 of the Constitution and we do not find any fault with the findings of the High Court in this regard."

9. In the case of Allahabad Bank v. Krishna Narayan Tewari, (2017) 2 SCC 308 the Hon'ble Supreme Court has held as under:-

"7. We have given our anxious consideration to the submissions at the Bar. It is true that a writ court is very slow in interfering with the findings of facts recorded by a departmental authority on the basis of evidence available on record. But it is equally true that in a case where the disciplinary authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at, the writ court would be justified if not duty-bound to examine the matter and grant relief in appropriate cases. The writ court will certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself was vitiated on account of violation of principles of natural justice, as is alleged to be the position in the present case. Non-application of mind by the enquiry officer or the disciplinary authority, non-recording of reasons in support of the conclusion arrived at by them are also grounds on which the writ courts are justified in interfering with the orders of punishment. The High Court has, in the case at hand, found all these infirmities in the order passed by the disciplinary authority and the appellate authority. The respondent's case that the enquiry was conducted without giving a fair and reasonable opportunity for leading evidence in defence has not been effectively rebutted by the appellant. More importantly the disciplinary authority does not appear to have properly appreciated the evidence nor recorded reasons in support of his conclusion. To add insult to injury the appellate authority instead of recording its own reasons and independently appreciating the material on record, simply reproduced the findings of the disciplinary authority. All told, the enquiry officer, the disciplinary authority and the appellate authority have faltered in the discharge of their duties resulting in miscarriage of justice. The High Court was in that view right in interfering with the orders passed by the disciplinary authority and the appellate authority."

9.4. In the case of **Amarendra Kumar Pandey Vs. Union of India** (supra), the Hon'ble Supreme Court elaborated on the scope of judicial review where disciplinary action is based on the subjective satisfaction of the authority, particularly in the context of discharge from service on the ground of securing four red ink entries. The Court held that while the opinion of the authority is ordinarily conclusive if the prescribed procedure is followed and the authority acts bona fide, such action is nonetheless subject to judicial review on limited grounds, including examination of the existence of facts forming the basis of the opinion, the nexus between those facts and the purpose of the power, and whether the finding is based on no evidence or is perverse. The relevant para of the judgment is reproduced as under: -

> *32. Where an Act or the statutory rules framed thereunder left an action dependent upon the opinion of the authority concerned, by some such expression as 'is satisfied' or 'is of the opinion' or 'if it has reason to believe' or 'if it considered necessary', the opinion of the authority is conclusive,*
> *(a) if the procedure prescribed by the Act or rules for formation of the opinion was duly followed,*
> *(b) if the authority acted bona fide,*
> *(c) if the authority itself formed the opinion and did not borrow the opinion of somebody else and*
> *(d) if the authority did not proceed on a fundamental misconception of the law and the matter in regard to which the opinion had to be formed.*
> *33. The action based on the subjective opinion or satisfaction, in our opinion, can judicially be reviewed first to find out the existence of the facts or circumstances on the basis of which the authority is alleged to have formed the opinion. It is true that ordinarily the court should not inquire into the correctness or otherwise of the facts found except in a case where it is alleged that the facts which have been found existing were not supported by any evidence at all or that the finding in regard to circumstances or material is so perverse that no reasonable man would say that the facts and circumstances exist. The courts will not readily defer to the conclusiveness of the authority's opinion as to the existence of matter of law or fact upon which the validity of the exercise of the power is predicated.*
> *34. The doctrine of reasonableness thus may be invoked. Where there are no reasonable grounds for the formation of the authority's opinion, judicial review in such a case is*

permissible. [See Director of Public Prosecutions v. Head, [1959] A.C. 83 (Lord Denning).

35. When we say that where the circumstances or material or state of affairs does not at all exist to form an opinion and the action based on such opinion can be quashed by the courts, we mean that in effect there is no evidence whatsoever to form or support the opinion. The distinction between insufficiency or inadequacy of evidence and no evidence must of course be borne in mind. A finding based on no evidence as opposed to a finding which is merely against the weight of the evidence is an abuse of the power which courts naturally are loath to tolerate. Whether or not there is evidence to support a particular decision has always been considered as a question of law. [See Reg. v. Governor of Brixton Prison, Armah, Ex Parte, [1966] 3 WLR 828 at p. 841].

36. It is in such a case that it is said that the authority would be deemed to have not applied its mind or it did not honestly form its opinion. The same conclusion is drawn when opinion is based on irrelevant matter. [See Rasbihari v. State of Orissa, (1969) 1 SCC 414: AIR 1969 SC 1081].

37. In Rohtas Industries Ltd. v. S.D. Agarwal, (1969) 1 SCC 325 AIR 1969 SC 707, it was held that the existence of circumstances is a condition precedent to form an opinion by the Government. The same view was earlier expressed in Barium Chemicals Ltd. v. Company Law Board, AIR 1967 SC 295.

38. Secondly, the court can inquire whether the facts and circumstances so found to exist have a reasonable nexus with the purpose for which the power is to be exercised. In other words, if an inference from facts does not logically accord with and flow from them, the Courts can interfere treating them as an error of law. [See Bean v. Doncaster Amalgamated Collieries, (1944) 2 All ER 279 at p. 284]. Thus, this Court can see whether on the basis of the facts and circumstances found, any reasonable man can say that an opinion as is formed can be formed by a reasonable man. That would be a question of law to be determined by the Court. [See Farmer v. Cotton's Trustees, [1915] A.C. 922]. Their Lordships observed:

".....in my humble judgment where all the material facts are fully found, and the only question is whether the facts are such as to bring the case within the provisions properly construed of some statutory enactment, the question is one of law only."

[See also Muthu Gounder v. Government of Madras, (1969) 82 Mad LW 1].

39. Thirdly, this Court can interfere if the constitutional or statutory term essential for the exercise of the power has either been misapplied or misinterpreted. The Courts have always equated the jurisdictional review with the review for error of law and have shown their readiness to quash an order if the meaning of the constitutional or statutory term has been misconstrued or misapplied. [See Iveagh (Earl of) v. Minister of Housing and Local Govt., [1962] 2 Q.B. 147; Iveagh (Earl of) v. Minister of Housing and Local Govt. (1964) 1 AB 395].

40. Fourthly, it is permissible to interfere in a case where the power is exercised for improper purpose. If a power granted for one purpose is exercised for a different purpose, then it will be deemed that the power has not been validly exercised. If the power in this case is found to have not been exercised genuinely for the purpose of taking immediate action but has been used only to avoid embarrassment or wreck personal vengeance, then the power will be deemed to have been exercised improperly. [See Natesa Asari v. State of Madras, AIR 1954 Mad 481].
41. Fifthly, the grounds which are relevant for the purpose for which the power can be exercised have not been considered or grounds which are not relevant and yet are considered and an order is based on such grounds, then the order can be attacked as invalid and illegal. In this connection, reference may be made to Ram Manohar Lohia v. State of Bihar, AIR 1966 SC 740; Dwarka Das Bhatia v. State of J. and K., AIR 1957 SC 164 and Moti Lal Jain v. State of Bihar, AIR 1968 SC 1509. On the same principle, the administrative action will be invalidated if it can be established that the authority was satisfied on the wrong question: [See Maradana Mosque Trustees v Mahumud [1967] 1 A.C. 13].

9.5. In the case of **Union of India & Anr. Vs. P. Gunasekaran (supra)**, the Hon'ble Supreme Court explained the limits of judicial review available to High Courts under Articles 226 and 227 of the Constitution in matters relating to departmental disciplinary proceedings. The Court held that the High Court cannot act as an appellate authority in disciplinary matters and must refrain from re-appreciating evidence or interfering with conclusions recorded in a duly conducted enquiry. The relevant principles and the scope of interference were succinctly laid down in the following paragraphs: -

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 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) 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 A.P. v. S. Sree Rama Rao, 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, 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. 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 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 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.)

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 a 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."

9.6. In the case of **State of Andra Pradesh Vs. S. Sree Rama Rao (supra)**, a Constitution Bench of the Supreme Court laid down the foundational principles governing the scope of judicial review by High Courts under Article 226 of the Constitution in matters related to departmental disciplinary proceedings. The Court held that the High Court does not sit as a court of appeal over the decisions of departmental authorities and cannot reappreciate the evidence or interfere with findings of fact recorded in a duly conducted enquiry. The scope of interference is limited to cases involving violation of natural justice, procedural irregularity, extraneous considerations, or findings that are perverse or based on no evidence. The relevant para of the said judgment are reproduced as under: -

7. There is no warrant for the view expressed by the High Court that in considering whether a public officer is guilty of the 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, and if that rule be not applied, the High Court in a petition I... under Article 226 of the Constitution is competent to declare the order of the authorities holding a departmental enquiry invalid. 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.

10. Learned counsel, in view of the submissions and the above cited judgments, prayed that the present appeal be allowed and the impugned order dated 18.05.2021 passed by the learned Single Judge, the punishment order dated 04.04.2018 and dismissal of the departmental appeal by order dated 16.10.2020 be quashed and set aside.

11. Per contra, learned counsel for the respondents strongly opposed the submissions and argued that the wisdom of the Disciplinary Authority as well as the Appellate Authority cannot be questioned by the Courts in exercise of judicial powers in terms of law as settled by the Supreme Court, and therefore, the learned Single Judge has not committed any mistake while dismissing the writ petition by judgment

dated 18.05.2021. Learned counsel submitted that the petitioners herein have to stand on their own legs and they cannot claim any relief by citing the order of the Appellate Authority as passed in the case of Anil Kumar Pandey, Dharmesh Dayma & Shambu Singh.

12. In support of his arguments, learned counsel relied upon the following judgments passed by the Hon'ble Supreme Court, which are as under:-

1. **Director General of Police, Railway Protection Force and Ors. Vs. Rajendra Kumar Dubey[9].**

2. **Union of India and Ors. Vs. Dalbir Singh[10].**

3. **State of Uttar Pradesh and Others Vs. Rajit Singh[11].**

12.1. In the case of **Director General of Police, Railway Protection Force and Ors. Vs. Rajendra Kumar Dubey**, the Hon'ble Supreme Court reiterated the well-settled principles governing the scope of judicial review by High Courts under Articles 226 and 227 of the Constitution in matters arising from departmental/disciplinary proceedings. The Court held that the High Court must not act as an appellate authority and reappreciate evidence led before the enquiry officer, and can interfere only on limited grounds such as violation of natural justice, findings based on no evidence, or perversity. The relevant principles were enunciated in the following paragraphs: -

> *21.1. We will first discuss the scope of interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings. It is well settled that the High Court must not act as an appellate authority, and reappreciate the evidence led before the enquiry officer. We will advert to some of the decisions of this Court with respect to interference by the High Courts*

9 (2021) 14 SCC 735

10 (2021) 11 SCC 321

11 (2022) 15 SCC 254

with findings in a departmental enquiry against a public servant.

21.2. In State of Andhra Pradesh v. S. Sree Rama Rao: AIR 1963 SC 1723, a three judge bench of this Court held that the High Court Under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory Rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed 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. If, however, the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the 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 writ petition.

21.3. These principles were further reiterated in the State of Andhra Pradesh v. Chitra Venkata Rao: (1975) 2 SCC 557. The jurisdiction to issue a writ of certiorari Under Article 226 is a supervisory jurisdiction. The court exercises the power not as an appellate court. The findings of fact reached by an inferior court or tribunal on the appreciation of evidence, are not re-opened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ court, but not an error of fact, however grave it may be. A writ can be issued if it is shown that in recording the finding of fact, the tribunal has erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence. A finding of fact recorded by the tribunal cannot be challenged on the ground that the 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.

RAJASTHAN HIGH COURT
सत्यमेव जयते

21.4. In subsequent decisions of this Court, including Union of India v. G. Ganayutham: (1997) 7 SCC 463, Director General RPF v. Ch. Sai Babu: (2003) 4 SCC 331, Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali: (2014) 4 SCC 108, Union of India v. Manab Kumar Guha: (2011) 11 SCC 535, these principles have been consistently followed.

21.5. In a recent judgment delivered by this Court in the State of Rajasthan and Ors. v. Heem Singh this Court has summed up the law in following words: (SCC para 37)

"37. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a Rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy - deference to the position of the disciplinary authority as a fact-finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation

of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

21.6. In Union of India v. P. Gunasekaran, this Court held that the High Court in exercise of its power Under Articles 226 and 227 of the Constitution of India shall not venture into re-appreciation of the evidence. The High Court would determine whether:

"(a) the enquiry is held by the 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 which are 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."

21.7. In paragraph 13 of the judgment, the Court held that: (P. GunasekRn case, SCC p. 617)

"13. Under Articles 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 the 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;

RAJASTHAN HIGH COURT
सत्यमेव जयते

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

12.2. In the case of **Union of India and Ors. v. Dalbir Singh**, the Hon'ble Supreme Court reiterated the well-settled principles governing the scope of judicial review by High Courts under Articles 226 and 227 of the Constitution in matters arising from departmental disciplinary proceedings. The Court held that the High Court must not act as an appellate authority and reappreciate evidence led before the enquiry officer, and can interfere only on limited grounds such as violation of natural justice, findings based on no evidence, or perversity. The relevant paragraphs are reproduces as under: -

16. We find that the High Court has exceeded its jurisdiction while exercising the power of judicial review over the orders passed in the disciplinary proceedings which were conducted while adhering to the principles of natural justice.

21. This Court in Union of India and Ors. v. P. Gunasekaran (2015) 2 SCC 610 had laid down the broad parameters for the exercise of jurisdiction of judicial review. The Court 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:

(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.

29. The burden of proof in the departmental proceedings is not of beyond reasonable doubt as is the principle in the criminal trial but probabilities of the misconduct. The delinquent such as the writ Petitioner could examine himself to rebut the allegations of misconduct including use of personal weapon. In fact, the reliance of the writ petitioner is upon a communication dated 1.5.2014 made to the Commandant through the inquiry officer. He has stated that he has not fired on higher officers and that he was out of camp at the alleged time of incident. Therefore, a false case has been made against him. His further stand is that it was a terrorist attack and terrorists have fired on the Camp. None of the departmental witnesses have been even suggested about any terrorist attack or that the writ Petitioner was out of camp. Constable D.K. Mishra had immobilized the writ Petitioner whereas all other witnesses have seen the writ Petitioner being immobilized and being removed to quarter guard. PW-5 Brij Kishore Singh deposed that 3-4 soldiers had taken the Self-Loading Rifle (S.L.R.) of the writ Petitioner in their possession. Therefore, the allegations in the chargesheet dated 25.2.2013 that the writ Petitioner has fired from the official

weapon is a reliable finding returned by the Departmental Authorities on the basis of evidence placed before them. It is not a case of no evidence, which alone would warrant interference by the High Court in exercise of power of judicial review. It is not the case of the writ Petitioner that there was any infraction of any rule or regulations or the violation of the principles of natural justice. The best available evidence had been produced by the appellants in the course of enquiry conducted after long lapse of time.

12.3. In **State of Uttar Pradesh and Others v. Rajit Singh**, the Hon'ble Supreme Court examined two crucial aspects of departmental proceedings: (i) whether the "doctrine of equality" can be invoked to set aside a punishment on the ground that co-delinquents were exonerated, and (ii) what is the proper remedy when a disciplinary enquiry is found to be vitiated due to violation of principles of natural justice. The Court held that the doctrine of equality cannot be applied in such a manner, and that where an enquiry is vitiated, the matter must be remanded to the disciplinary authority to proceed from the stage of violation, rather than reinstating the employee. The relevant paragraphs of the judgment are as under: -

10. Now, so far as the quashing and setting aside the order of punishment imposed by the Disciplinary Authority applying the Doctrine of Equality on the ground that other officers involved in the incident have been exonerated and/or no action has been taken against them, is concerned, we are of the firm view that on the aforesaid ground, the order of punishment could not have been set aside by the Tribunal and the High court. The Doctrine of Equality ought not to have been applied when the Enquiry Officer and the Disciplinary Authority held the charges proved against the delinquent officer. The role of the each individual officer even with respect to the same misconduct is required to be considered in light of their duties of office. Even otherwise, merely because some other officers involved in the incident are exonerated and/or no action is taken against other officers cannot be a ground to set aside the order of punishment when the

charges against the individual concerned - delinquent officer are held to be proved in a departmental enquiry. There cannot be any claim of negative equality in such cases. Therefore, both the Tribunal as well as the High Court have committed a grave error in quashing and setting aside the order of punishment imposed by the Disciplinary Authority by applying the Doctrine of Equality.

11. It appears from the order passed by the Tribunal that the Tribunal also observed that the enquiry proceedings were against the principles of natural justice inasmuch as the documents mentioned in the charge sheet were not at all supplied to the delinquent officer. As per the settled proposition of law, in a case where it is found that the enquiry is not conducted properly and/or the same is in violation of the principles of natural justice, in that case, the Court cannot reinstate the employee as such and the matter is to be remanded to the Enquiry Officer/Disciplinary Authority to proceed further with the enquiry from the stage of violation of principles of natural justice is noticed and the enquiry has to be proceeded further after furnishing the necessary documents mentioned in the charge sheet, which are alleged to have not been given to the delinquent officer in the instant case.

12. In the case of Chairman, Life Insurance Corporation of India and Ors. v. A. Masilamani: (2013) 6 SCC 530, which was also pressed into service on behalf of the Appellants before the High Court, it is observed in paragraph 16 as under:

"16. It is a settled legal proposition, that once the court sets aside an order of punishment, on the ground that the enquiry was not properly conducted, the court cannot reinstate the employee. It must remit the case concerned to the disciplinary authority for it to conduct the enquiry from the point that it stood vitiated, and conclude the same. (Vide ECIL v. B. Karunakar: (1993) 4 SCC 727], Hiran Mayee Bhattacharyya v. S.M. School for Girls [(2002) 10 SCC 293], U.P. State Spg. Co. Ltd. v. R.S. Pandey : (2005) 8 SCC 264] and Union of India v. Y.S. Sadhu: (2008) 12 SCC 30])."

13. From the impugned judgment and order passed by the High Court, it appears that when the aforesaid submission and the aforesaid decision was pressed

into service, the High Court has not considered the same on the ground that the other officers involved in respect of the same incident are exonerated and/or no action is taken against them. Applying the law laid down in the case of A. Masilamani (supra) to the facts of the case on hand, we are of the opinion that the Tribunal as well as the High Court ought to have remanded the matter to the Disciplinary Authority to conduct the enquiry from the stage it stood vitiated. Therefore, the order passed by the High Court in not allowing further proceedings from the stage it stood vitiated, i.e., after the issuance of the charge sheet, is unsustainable.

13. In the end, learned counsel for the State submitted that there is no error in the judgment passed by the learned Single Judge and therefore, as the conduct of the petitioners was serious rightly noted by the Disciplinary Authority as well as the Appellate Authority and also affirmed by the learned Single Judge, deserves no interference and the special appeals deserve to be dismissed.

14. This Court is aware of the law as settled by the Hon'ble Supreme Court with regard to exercise the power of judicial review in the departmental proceedings and further that the Court cannot even examine the adequacy of the evidence nor substitute a punishment until and unless it shocks the conscience of the Court.

15. Considering the law as laid down by the Hon'ble Supreme Court in the above cited judgment by counsel for respondent with regard to power of judicial review, this Court is not inclined to interfere in the findings as recorded by the Enquiry Officer and the punishment order dated 04.04.2018 as passed by the Disciplinary Authority. The Enquiry Officer specifically recorded that the charges were found to be proved against all the employees, and thereafter, the Disciplinary Authority after providing sufficient opportunity of hearing and following the

principles of natural justice, imposed punishment on the respective employees by order dated 04.04.2018.

16. This Court noted that the Enquiry Officer as well as the Disciplinary Authority considered their role and conduct in the entire incident in depth and thereafter the charges were found to be proved and petitioners were punished vide order dated 04.04.2018. Once the charges were found to be proved, the punishment order was passed. The Appellate Authority decided the appeal and the learned Single Judge rightly dismissed the writs.

17. The Court is not inclined, as already noted hereinabove, to interfere with the findings as recorded by the Enquiry Officer and the punishment as awarded by the Disciplinary Authority and the Appellate Authority which decided the departmental appeal as preferred by the petitioners herein.

18. The law in regard to powers of the Court with regard to judicial review in the disciplinary cases is well settled by the Supreme Court, as noted from the judgments cited by both the counsels.

19. This Court has noted that, in the case of ***Union of India and Ors v Ex Constable Ram Karan***[12]**,** the Hon'ble Supreme Court set out the limits of judicial interference in the matters of the disciplinary proceedings. The Court held that it is sole prerogative of the Disciplinary Authority or Appellate Authority, to determine the punishment based on the gravity of the misconduct. While the power of judicial interference in the matter of disciplinary proceedings is available with the Courts but the scope is very narrow. The judicial interference is warranted only in cases where the imposed penalty is so disproportionate that it *shocks the conscience* of the Court.

---
12 2022 (1) SCC 373

RAJASTHAN HIGH COURT

20. In view of the above settled law as quoted in as quoted in initial paras of the judgment regarding the exercise of power of judicial review in the matters of disciplinary proceedings, this Court, is not inclined to interfere in the impugned order.

21. The order passed by the Appellate Authority in the case of Anil Kumar Pandey is not available on record for perusal of the Court and therefore the reasons as recorded in their case cannot be considered by this Court even otherwise the petitioners herein are required to stand on their own legs. Learned counsel for the petitioner failed to satisfy this Court in regard to violation of any procedure by the Disciplinary Authority and also there is no violation of principle of natural justice. In the absence of the above, this Court finds no merits in the present appeal.

21. In view thereof, the present Special Appeals Writ are dismissed and the order passed by the Learned Single Judge dated 18.05.2021 along-with order of the Appellate Authority dated 16.10.2020 are affirmed.

22. No order as to costs.

23. All pending application(s), if any, stands disposed off.

(RAVI CHIRANIA),J (INDERJEET SINGH),J

Monika