

**HIGH COURT OF TRIPURA
AGARTALA
W.P.(C) No.4 of 2025**

Sri Soumitra Chakma,
Son of Late Bijal Behari Chakma,
Aged about 55 years,
Resident of Ujan Abhoynagar Bazaar,
P.O. Abhoynagar, P.S. New Capital Complex,
Sub-Division: Agartala, District: West Tripura
PIN:799 005

----Petitioner (s)

Versus

- 1. The State of Tripura ,**
Represented by the Special Secretary,
General Administration (AR) Department,
Government of Tripura, New Capital Complex,
P.O. Kunjaban, PS New Capital Complex,
Agartala, District: West Tripura
- 2. The Special Secretary,**
Department of Finance,
General Administration (AR) Department,
Government of Tripura, New Capital Complex,
P.O. Kunjaban, PS New Capital Complex,
Agartala, District: West Tripura
- 3. The Secretary,**
General Administration (P & T) Department,
Government of Tripura, New Capital Complex,
P.O. New Secretariat, P.S. New Capital Complex,
Agartala, District: West Tripura, PIN:799 006
- 4. The Deputy Secretary,**
General Administration (P & T) Department,
Government of Tripura, New Capital Complex,
P.O. New Secretariat, P.S. New Capital Complex,
Agartala, District: West Tripura, PIN:799 006
- 5. The Commissioner of Departmental Inquiries,**
Pandit Nehru Complex, Gorkhabasti,
P.O. Kunjaban-799006, P.S. New Capital Complex,
Agartala, District: West Tripura, PIN: 799 006
- 6. The Chief Secretary,**
Government of Tripura,
New Capital Complex, P.O. Kunjaban,
P.S. New Capital Complex, Agartala,
District: West Tripura (Appellate Authority)
- 7. Tripura Public Service Commission,**
Represented by its Secretary, A.K. Road,

Near Fire Service Chowhmani, P.S. West Agartala,
District: West Tripura, PIN:799 001

8. The Secretary,

Tripura Public Service Commission,
A. K. Road, Near Fire Service Chowhmani,
P.S. West Agartala, District: West Tripura,
PIN:799 001

----- Respondents (s)

For Petitioner(s) : Mr. Sankar Lodh, Adv.

Mr. Subham Majumder, Adv.

For Respondent(s) : Mr. Kohinoor N Bhattacharya,
G.A.

Mr. Raju Datta, Adv.

Date of Hearing : 14.07.2025

Date of delivery of
Judgment and Order : 06.08.2025

Whether fit for
Reporting : YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This present writ petition is filed by the petitioner challenging the memo No.F.11(2)-GA(AR)/2022/752-55 dated 02.05.2022 [Annexure-7 to this writ petition], inquiry report dated 28.03.2024 [Annexure-19 to this writ petition], impugned order dated 04.06.2024 [Annexure-25 to this writ petition] and the appellate order dated 23.09.2024 [Annexure-26 to this writ petition].

02. Heard Learned Counsel Mr. S. Lodh along with Learned Counsel Mr. S. Majumder appearing for the petitioner and Mr. Kohinoor N Bhattacharya, Learned G.A. appearing for the State-respondents and also heard Learned Counsel Mr. R. Datta appearing for the TPSC-respondents.

03. The factual background of the case is that by a memorandum vide No. F.11(2)-GA(AR)/2022/752-55 dated 02.05.2022 [Annexure-7] the petitioner was imputed by the Principal Secretary to the Government of Tripura being the disciplinary authority on the charge of misconduct and it was proposed that under the said memorandum departmental proceeding under Rule 14 of the CCS(CCA) Rules, 1965 will be carried out against him on the following charges:

"ARTICLE - I

Shri Soumitra Chakma, during his incumbency period from 11-08-2020 to 30-6-2021 as Land Acquisition Collector has failed to maintain absolute integrity and devotion to duty as he has made arbitrary and unreasonable assessment for compensation of the land and also for compensation of the damage cost of the trees etc. which was found as highly excessive and not in conformity of the provisions of the Land Acquisition Act, 1984.

Shri Chakma was asked to make correct assessment of the damage in conformity with the judgment of Hon'ble High Court in case No. WP(C)1381/2016. A total land measuring 24.08 acres were acquired for construction of IBB fencing at Murticherra Mouja under Kailashahar Sub-Division vide notification No. F.9(5)-REV/ACQ/II/2005 dated 30th August, 2005. Out of total land measuring 24.08 acres, jote land was 19.14 acres and khas land was 4.94 acres. But the LAC, Unakoti has submitted the assessment cost for compensation of land measuring 225.80 acres covering the entire land from zero line to IBB fencing beyond the area of acquisition, which is only 24.08 acres. Further, LAC has also proposed for compensation of damage cost of trees fallen within said 225.80 acres of land.

The market value of land has to be determined as per crucial date of publication of the Notification under Section 4 of the Land Acquisition Act, 1984. But there is no such indication found in the report of LAC vide letter No. DM/LA/KAI/05/2005/2086-90 dated 25-03-2021. Every case must be dealt with on its own fact based on real assessment keeping in mind all these factors that lie in the Land Acquisition Act, 1984 as a prudent purchase or a compensation assessment authority.

Shri Soumitra Chakma, TCS Gr-I while working as a Land Acquisition Collector, Unakoti w.e.f. 11-8-2020 to 30-6-2021 has miserably failed to exercise his statutory power to cause survey by technically sound person to determine the land which has been severed for construction of IBB fencing and also failed to exercise his statutory power as Land Acquisition Collector (LAC) for determining damage etc.

The compensation calculated is highly excessive and contrary to the prevailing settled norms of the Land Acquisition Act, 1984. Furthermore, LAC had given a copy of the damage assessment report to the party of writ petitioners, that is, MS Fortuna Agro Plantations Ltd. and others, without obtaining approval of the competent authority of the State Government in contravention of the provisions of established norms.

By the above acts, Shri Soumitra Chakma, TCS Gr-I, Ex-LAC, O/o the DM & Collector, Unakoti District has committed gross misconduct, which is quite unbecoming of a Government servant and thus, he has violated the provisions of Rule 3 of the TCS (Conduct) Rules, 1988.

ARTICLE II

Shri Soumitra Chakma, TCS while working in the capacity of Land Acquisition Collector, Unakoti district, without taking any Government approval arbitrarily and unreasonably sent a requisition of Rs. 235.00 crore to NBCC for making payment of compensation in L.A Case No.7/Kai/2005 against the award passed in compliance of judgment and order dated 5-1-2021 in W.P No.1381 of 2016 filed by M/s Fortuna Agro Plantation Ltd. in violation of Rule-19 of DFPRT, 2019.

By the above act, the then LAC, Shri Soumitra Chakma, TCS has miserably failed, to exercise his statutory power and violated the provisions of Rule 3 of TCS (Conduct) Rules, 1988 which is unbecoming of a Government servant.

ARTICLE – III

During the aforesaid period and while functioning as Land Acquisition Collector, Shri Soumitra Chakma, TCS illegally made payment of huge LA compensation amounting to Rs. 58,28,476/- to a middleman of Natingcherra Tea Garden in defiance of all settled norms.

By the above act, the then LAC Shri Soumitra Chakma, TCS Gr-I has violated the provisions of Rule 3 of TCS (Conduct) Rules, 1988 which is unbecoming of a Government servant."

04. The statement of imputation of misconduct and misbehavior in support of said Articles of charge by the said memorandum dated 02.05.2022 along with the enclosures were communicated to the petitioner asking him to submit his written statement of defence within a period of fifteen days.

05. Succinctly, the charge postulates that the petitioner during the period of his incumbency from 11.08.2020 to 30.06.2021 as LA Collector, Unakoti District

failed to maintain absolute integrity and devotion of duty as he made arbitrary and unreasonable assessment for compensation of the land and also for compensation of the damaged cost of trees which was found to be highly excessive not in conformity with the LA Act and by a judgment dated 05.01.2021 of this High Court in WP(C)1381 of 2016 the petitioner was asked to make correct assessment of the damage because total land measuring 24.08 acres of land were acquired for construction of IBB fencing of Murticherra mouja under Kailashahar Sub-Division by notification No.F.9(5)-REV/ACQ/II/2005 dated 30.08.2005 and out of total land measuring 24.08 acres jote land was 19.14 acres and khas land was 4.94 acres but the petitioner as LA Collector submitted assessment cost for compensation of land measuring 225.80 acre covering the entire land from zero line to IBB fencing beyond the area of acquisition which was only 24.08 acres but the petitioner proposed compensation of damaged cost of trees fallen within said 225.80 acres. Further as a LA Collector the petitioner failed to exercise his statutory power to cause survey by technically sound person to determine the land which has been severed for construction of IBB fencing and proposed compensation for excessive amount contrary to the prevailing settled norms of the LA Act and further the petitioner was charged with sending requisition of Rs.235.000 crore to NBCC without

taking any approval of the Government authority for making payment of compensation in LA Case No.7/Kai/2005 against the award passed in compliance of the judgment and order dated 05.01.2021 in WP(C)No.1381 of 2016 filed by M/S Fortuna Agro Plantation Ltd. violating Rule 19 of DFPRT Rules, 2019. Thus the petitioner violated the provision of Rule 3 of the TCS(Conduct) Rules, 1988. It was further impugned that as LA Collector the petitioner illegally made payment of LA compensation amounting to Rs.58,28,476/- to a middleman of Natingcherra Tea Garden in defiance of all settled norms violating Rule 3 of the TCS (Conduct) Rules, 1988. The petitioner denied the charges filed against him as per Articles of charge No.I, II and III. Since the disciplinary authority was not convinced by the defence submitted by the petitioner so disciplinary proceeding was continued against him. Aditi Majumder, Commissioner of Departmental Inquiries was appointed to conduct the inquiry after conducting full-fledged inquiry submitted report on the basis of oral and documentary evidence adduced on behalf of contesting parties and held that the charges were proved against the petitioner-accused Officer and the inquiring authority hold that the prosecution successfully established the charges against the petitioner. The inquiring authority in her detailed inquiry report against the articles of charges framed, formulated the following points for decision (a)(b)(c) and gave separate observation against each of the

points. The observation of the inquiring authority in respect of point No.6(a) was as follows:

"From the above analysis, it is found that the AO has indeed failed to justify, within the scope of reasonability, his arbitrary and unreasonable and faulty assessment for compensation of land and damage of botanical assets, which were not in conformity with the provisions of the Land Acquisition Act, 1894, and was calculated without any proper basis. And, as such from the material evidences produced and the examination of the depositions as well as the arguments of both the AO and the PO, and also the analysis recorded here, it is found that the Prosecution has been able to establish the charge in Article-I against the AO, and thus the decision of Point no.6.(a) is given in favour of the Prosecution and against the defence."

The inquiring authority further made the following observation in respect of point No.6(b):

"As the above analysis shows the violation of the provisions of Rule 19 of DFPRT, 2019 as well as the instructions/guidelines of the Revenue Department issued by Memorandum No.F.30(13)-REV/ACQ/09 dated 05.01.2020, by the AO beyond doubt, as such, it is found that the Prosecution had been able to establish satisfactorily the charge brought against the AO in Article II and hence the decision for Point No.6(b) is given in favour of the Prosecution and against the Defence."

Again the inquiring authority after considering oral/documentary evidence of the contesting parties made the following observation in respect of point No.6(c):

"From the above analysis based on materials and evidences, produced and adduced by both the Prosecution and the Defence along with the analysis of the written brief of arguments submitted by both the PO and AO, and viewed in the above perspective of the analysis, employing the standards of preponderance of probability, I find and hold that the Prosecution has been able to successfully establish the charges brought against the AO namely Sri Soumitra Chakma, the then Land Acquisition Collector, and hence the decision for the same is accordingly given as "guilty."

06. After submission of report [Annexure-19] by the inquiring authority to the disciplinary authority, the Charge Officer was served with a copy of the report/findings by a memorandum dated 08.04.2024 issued by the Secretary to the Government of Tripura (Disciplinary Authority)

[Annexure-20] and he was asked to submit his written representation, if any, against the findings of the inquiring authority within fifteen days from the date of receipt of the memorandum. The Charged Officer furnished his written representation within the stipulated period of time. Thereafter the Disciplinary Authority, after consideration of his representation provisionally decided to impose major punishment upon the petitioner.

07. Thereafter in consultation with the Tripura Public Service Commission in terms of Rule-15(4) of the CCS(CCA) Rule, 1965 and further considering all aspects of the matter the disciplinary authority by memo dated 17.05.2024 vide No.F.11(2)-GA(AR)/2022/449-50 [Annexure-22] informed the petitioner that the Government has been provisionally decided to impose a major penalty of (dismissal from service which shall ordinarily be a disqualification for future employment under the Government) as per Rule 11(ix) of the CCS(CCA) Rule, 1965 and the petitioner was further asked to submit his written representation, if any, within fifteen days from the date of receipt of the memorandum and thereafter after considering the representation of the petitioner the competent authority found the same had no substance by memo dated 04.06.2024 agreed with the findings of the inquiring authority in respect of the petitioner-accused officer and imposed the following punishment "dismissal from service which shall ordinarily be a disqualification for future employment under the

Government under Rule-11(ix) of the CCS(CCA) Rules, 1965 and closed the proceedings against him.

08. The petitioner against the said order of major penalty filed departmental appeal before the Chief Secretary, Government of Tripura (Appellate Authority) by filing a memorandum of appeal on 17.08.2024 on the following grounds:

"(i) During the entire process of enquiry, it has been repeatedly brought to the notice of the respected Authority for providing/producing original copies of documents as listed in Annexure-III of the Charge Sheet, but could not be provided/produced during the entire course of Inquiry.

As a citation listed document Annexure-III, SI. No.16 & 17 had been relied on by me as photo copies during my officiating as CALA/LAC. The Inquiry Authority has also relied on the identical photo copies. The Soul difference is that myself has been penalized on basis of reliance on these photocopies whereas the Ld Inquiring Authority has considered the same as evidence.

(ii) In defending Article I and II of the Charge Sheet, it is humbly submitted:

(a) There is no allegation of any financial misappropriation by self.

(b) No financial transaction from Government exchequer has actually happened.

(c) Following official procedure, in concurrence with the D.M. & Collector of Unakoti District, and Assessment Committee was constituted. As per records, without any intervention from self the Committee submitted a report. Consequently, the official concerned of the D.M. Office (L.A. Section) processed the same, based on that report. There was no personal involvement of self and action was taken by me maintaining official procedure.

(iii) In defending Article III, I do fervently request to consider the fact that the Plots which were given compensation were never a part of the proposal of the retention withdrawal proposal.

(a) It is also submitted that following official recommendation from SDM Kumarghat and official process of issuance of Notice etc. the compensation was allowed.

(b) It is also implicit to mention here that award amount was given to such Party which as per record had been paying land revenue for more than 15 years & Labour EPF. Beside there is no complain from any aggrieved regarding such award."

The appellate authority thereafter by an order dated 23.09.2024 was pleased to dismiss the appeal upholding the findings of the disciplinary authority with the following observations:

"(i) The Annexure-III of the charge sheet includes as many as 22 (twenty-two) documents, of which five documents are not in exclusive possession of the Government as these are available in public domain.

Moreover, all the Annexure-III documents were the copies made from the original documents involving mechanical processes which in themselves ensured the accuracy of the copy. These copies were duly authenticated by an officer of the rank of Under Secretary under her stamp and seal and that may not be doubted or the authenticity of the same may not be questioned, despite the fact that the concerned Under Secretary, Revenue deposed before the IA that she could not recollect at that point of time. Failure to recollect does not dilute the authenticity/genuinity of the documents.

(ii) It is painfully observed that Appellant has not approached the Appellate Authority with clean hands as the IA in the findings has clearly mentioned that during the paper works/ file works, relating to the awarding of the compensation amount, the official staff of the LA section had raised the issue on the file note by referring to the existing proposal for withdrawal of retention order, as deposed by the Prosecution Witnesses (PW-3, PW-4 and PW-5), and the relevant notes of the award file (which were exhibited as S/4 during inquiry), the AO had still preferred to go ahead with awarding of the compensation amount in spite of so many red flags at a time which also indicates his non-judicious/imprudent exercise of his statutory power. His act of awarding the payment of such huge compensation amount of Rs.58,28,476/-, on the grounds of the SDM Kumarghat's report dated 18-02-2021 and drawing reference to earlier payment of award to the same party around 10 years back by his predecessor are insufficient and unsatisfactory.

It is clearly revealed by way of undisputed documentary evidences that the Appellant as LAC had made the award and communicated the same to NBCC Ltd asking for placement of fund with copy to the claimant without even taking previous approval of the Government as statutorily required under proviso to Section 11 of Land Acquisition Act, 1984. Besides that, the Ministry of Home Affairs (MHA) through their letter dated 15-07-2021 has also expressed utter dissatisfaction on the unreasonable awarded value of Rs. 235.00 crore.

(iii) The appellant has made wrong assessment of the damages in violation of High Court's order and further sent the faulty requisition to the funding agency i.e. NBCC bypassing the State Government.

(iv) The SDM, Kumarghat had clearly mentioned in the report dated 18-02-2021 that the Sunshine Tea processing Company Ltd. got a NOC vide No. RTCL/2009-10/104 dated 21-12-2009 from the Director, Ranibari Tea Company Ltd. and that the said company had been paying Land Revenue as a possessor since 2010 and in spite of the same, the SDM, Kumarghat had concluded that the said NOC may be verified by the District Authority. It is surprising that the AO relied upon the said document, exhibited as D/2. However, the very basis on which the Sunshine Tea Processing Company Ltd. had approached the LAC i.e. the NOC issued in 2009, has been recommended by the SDM, Kumarghat for verification by the District Authority which is clearly evident from the fact that the genuinity/authencity of the said NOC was

held suspect by the SDM, Kumarghat and the appellant had conveniently chosen to overlook the same and proceeded with the awarding of the compensation amount to the said company.

In consideration of the facts and circumstances it could be asserted that the departmental inquiry was conducted by a competent officer, rules of natural justice were duly complied and the findings arrived at by the Inquiry Officer were based on sufficient evidence. Charges against the Appellant had been proved in a properly conducted departmental inquiry, after giving a reasonable opportunity to the Appellant to defend himself.

Therefore, the Appellate Authority having adjudged the facts & evidence of the case in totality has decided to uphold the penalty imposed upon Shri Soumitra Chakma vide order No.F.11(2)-GA(AR)/2022/502-04 dated 04-06-2024.

The instant appeal thus stands disposed of.

09. Being dissatisfied with the said order of the departmental authority the present petitioner has filed this writ petition claiming the following relief/reliefs:

- (i) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, for calling for the records, lying with the respondents, for rendering substantial and conscientable justice to the petitioner, and for quashing/setting aside the impugned Memorandum No.F.11(2)-GA(AR)/2022/352-55, dated 02.05.2022 (Annexure-7 supra), the Inquiry Report vide case No.23/INQ/DP/GA (AR)/2022, dated 28.03.2024 (Annexure-19 supra), the impugned Order No.F.11(2)-GA(AR)/2022/502-04, dated 04.06.2024 (Annexure-25 supra) and the Appellate Order dated 23.09.2024 (Annexure-26 supra);
- (ii) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for mandating/directing the respondents to revoke/rescind the impugned Memorandum No.F.11(2)-GA(AR)/2022/352-55, dated 02.05.2022 (Annexure-7 supra), the impugned Order No.F.11(2)-GA(AR)/2022/502-04, dated 04.06.2024 (Annexure-25 supra) and the Appellate Order dated 23.09.2024 (Annexure-26 supra), and thereafter, reinstate him in service and pay all the consequential pecuniary benefits including pay and allowances during suspension period;
- (iii) Call for the records, appertaining to this petition;
- (iv) After hearing the parties, be pleased to make the rule absolute in terms of i. & ii. above;
- (v) Costs of and incidental to this proceeding;
- (f) Any other relief(s) as to this Hon'ble High Court may deem fit and proper;

10. The State-respondents have filed counter-affidavit to resist the petition filed by the petitioner and submitted that the petitioner acted beyond his jurisdiction as a LA Collector and committed mis-conduct and failed to maintain absolute integrity and devotion to duty and made arbitrary and unreasonable compensation of land and also for compensation of damaged cost of the trees which were found highly excessive not in conformity with the provisions of LA Act. It was further submitted as per judgment of the High Court dated 05.01.2021 in WP(C)No.1381 of 2016 the petitioner had to make a correct assessment of the damage of the acquired piece of land but the LA Collector submitted assessment cost for compensation of land measuring 225.80 acres covering the entire land from zero line to IBB fencing beyond the area of acquisition which was only 24.08 acres. It was the further plea of the State-respondents that the petitioner as L.A. Collector without taking any approval of the Government arbitrarily and unreasonably had sent direct requisition for Rs.235 crore to NBCC for making payment of compensation in connection with LA Case No.7/Kai/2005 and further the petitioner illegally made payment of huge amount of Rs.58,28,476/- as L.A. compensation to a middleman of Nattingcherra Tea Garden in defiance of all the settled norms and finally submitted that after considering oral/documentary evidence on record and after affording full opportunity the inquiring authority submitted report against the petitioner which was accepted

by the disciplinary authority and the appeal preferred by the petitioner was also duly considered by the Departmental Appellate Authority and the said appeal preferred by the present petitioner was also rejected by the Departmental Appellate Authority by a detailed and reasoned order.

11. Learned Counsel Mr. S. Lodh appearing for the petitioner at the time of hearing of argument submitted that the entire proceeding initiated against the petitioner was unlawful, unjustified and misconceived. The charges levelled against him had no basis because the petitioner as per direction of the Court passed in connection with Case No.WP(C)1381 of 2016 dated 05.01.2021 proceeded with the subject matter constituted a team. Thus there was no abuse of power by the petitioner and he only acted as per jurisdiction. Learned Counsel further submitted that since the entire action was taken in compliance of the direction of Hon'ble High Court so the question of notification under Section-4 of the LA Act was totally baseless. Learned Counsel at the time of hearing further drawn the attention of the Court referring Section-23 of the LA Act and submitted that the petitioner has complied with the said provision and furthermore referring Annexure-3 i.e. the communication of Deputy Secretary, Government of Tripura dated 22.03.2021 it was informed by the Revenue Department to D.M. & Collector, Unakoti District, Kailashahar to take necessary action as per direction of the

Hon'ble High Court. Learned Counsel again referred Annexure-4 i.e. the inquiry report of SDM, Kailashahar dated 18.03.2021 sent to L.A. Collector for assessment of loss suffered by M/S Fortuna Agro Plantation Limited and also referred Annexure-5 i.e. the report of the S.D.F.O. Kailashahar Forest Sub-Division addressing to the Land Acquisition Collector dated 19.03.2021 in pursuance of direction of the High Court. It was further submitted by the Learned Counsel for the petitioner that the said judgment was not challenged by the State-respondents to any other forum. Thus the same has been attained finality. Learned Counsel also submitted that after receipt of the reports of the constituted team the petitioner assessed the compensation following the mandate of LA Act and passed the award which was routed through different tables and the same award was countersigned by one TCS Grade-II LA Officer and after that the petitioner vide communication dated 25.03.2021 communicated the award to the Deputy Secretary, Government of Tripura, Revenue Department supplying copy to D.M. & Collector, Deputy Project Manager, NBCC, M/S Fortuna Agro Plantation Ltd. and Dilkhusha Tea Co. Ltd. and also the petitioner supplied the copy of award to the Fortuna Agro Plantation Limited as there was clear direction from the High Court to pass the award within four months. Learned Counsel further submitted that the inquiring authority without affording full opportunity and

without proper recording the evidence of the petitioner made findings against the petitioner which was totally illegal, unjustified and beyond the principles of natural justice. It was further submitted by Learned Counsel appearing for the petitioner that as alleged by the State-respondents the petitioner did not violate Rule-19 of DFPRT Rules, 2019 and there is also no evidence on record in this regard. Thereafter Learned Counsel referred the findings of the inquiring authority and submitted that on the basis of the evidence on record there was no scope on the part of the inquiring authority to hold the petitioner to be guilty of charges. Thus the inquiring authority failed to appreciate the evidence on record properly and furthermore the evidence of the petitioner as accused officer was also not properly recorded by the inquiring authority. Thus there was gross violation of principles of natural justice in recording evidence on record. It was also submitted that regarding Article-III the Ranibari Tea Estate did not challenge anything regarding payment of award to a middleman of Nattingcherra Tea Garden. To support his contention Learned Counsel also referred some other documents annexed with the writ petition and submitted that petitioner never acted beyond jurisdiction and referring the Office Note No.55 and 56 Learned Counsel submitted that based on documentary evidence on record award was made in favour of the actual party. Finally Learned Counsel for the

petitioner submitted that the proceeding drawn up was misconceived and the inquiring authority failed to appreciate the evidence on record properly and found the petitioner to be guilty of charges causing serious prejudice to the petitioner and on the basis of misconceived proceeding the disciplinary authority imposed major penalty which has been upheld by the appellate authority of the department and the findings of the appellate authority was nothing but the replica of the findings of the inquiring authority and urged before this Court for setting aside the orders of the inquiring authority, appellate authority and other connected memorandums.

12. In support of his contention Learned Counsel appearing for the petitioner relied upon one citation of the Hon'ble Apex Court in **United Bank of India vs. Biswanath Bhattacharjee** reported in **(2022) 13 SCC 329** wherein in para Nos.17,18, 19,20 and 21 Hon'ble the Apex Court observed as under:

"17. In one of the earliest decisions of Union of India v. H.C. Goel:1963 SCC OnLine SC 16 relating to departmental proceedings, this court observed that where a public servant is punished for misconduct after a departmental enquiry is conducted, a clear case where interference under Article 226 of the Constitution is warranted is when there is no evidence to establish the official's guilt.

"22.... The two infirmities are separate and distinct though, conceivably, in some cases both may be present. There may be cases of no evidence even where the Government is acting bona fide; the said infirmity may also exist where the Government is acting mala fide and in that case, the conclusion of the Government not supported by any evidence may be the result of mala fides but that does not mean that if it is proved that there is no evidence to support the conclusion of the Government, a writ of certiorari will not issue without further

proof of mala fides. That is why we are not prepared to accept the learned Attorney General's argument that since no mala fides are alleged against the appellant in the present case, no writ of certiorari can be issued in favour of the respondent.

23. That takes us to the merits of the respondent's contention that the conclusion of the appellant that the third charge framed against the respondent had been proved, is based on no evidence. The learned Attorney General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by the appellant is a reasonably possible view this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondent's case is, is there any evidence on which a finding can be made against the respondent that Charge 3 was proved against him? In exercising its jurisdiction under Article 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not. Applying this test, we are inclined to hold that the respondent's grievance is well founded, because, in our opinion, the finding which is implicit in the appellant's order dismissing the respondent that Charge 3 is proved against him is based on no evidence."

18. Apart from cases of "no evidence", this court has also indicated that judicial review can be resorted to. However, the scope of judicial review in such cases is limited:(2006) 2 SCC 255. In B.C. Chaturvedi v. Union of India:(1995) 6 SCC 749 a three-judge bench of this court ruled that judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It 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 eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority; it does not re-appreciate the evidence. The court held that:

"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 enquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to

determine whether the enquiry 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 enquiry 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 the 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 enquiry 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 co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* (*supra*) 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 *cetiorari* could be issued."

19. Other decisions have ruled that being a proceeding before a domestic tribunal, strict rules of evidence, or adherence to the provisions of the Evidence Act, 1872 are inessential. However, the procedure has to be fair and reasonable, and the charged employee has to be given reasonable opportunity to defend himself (ref: *Bank of India v. Degala Suryanarayana*: (1999) 5 SCC 762 a decision followed later in *Punjab & Sind Bank v. Daya Singh*: (2010) 11 SCC 233). In *Moni Shankar v. Union of India*: (2008) 3 SCC 484 this court outlined what judicial review entails in respect of orders made by disciplinary authorities:

"17. The departmental proceeding is a quasi-judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The courts exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been

excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the Department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely, preponderance of probability. If on such evidence, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere."

20. This court struck a similar note, in **State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya**: (2011) 4 SCC 584, where it was observed that:

"7....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".

21. The bank is correct, when it contends that an appellate review of the materials and findings cannot ordinarily be undertaken, in proceedings under Article 226 of the Constitution. Yet, from H.C. Goel onwards, this court has consistently ruled that where the findings of the disciplinary authority are not based on evidence, or based on a consideration of irrelevant material, or ignoring relevant material, are mala fide, or where the findings are perverse or such that they could not have been rendered by any reasonable person placed in like circumstances, the remedies under Article 226 of the Constitution are available, and intervention, warranted. For any court to ascertain if any findings were beyond the record (i.e., no evidence) or based on any irrelevant or extraneous factors, or by ignoring material evidence, necessarily some amount of scrutiny is necessary. A finding of "no evidence" or perversity, cannot be rendered sans such basic scrutiny of the materials, and the findings of the disciplinary authority. However, the margin of appreciation of the court under Article 226 of the Constitution would be different; it is not appellate in character."

He also relied upon another citation of the Hon'ble Supreme Court of India in **Ram Lal vs. State of Rajasthan and Others** reported in (2024) 1 SCC 175 wherein in para No.32 and 34 Hon'ble the Apex Court observed as under:

"32. This issue need not detain us any further because it is not the case of department that the appellant sought employment based on 10th standard marksheet. It is their positive case that the appellant sought employment on the basis of his 8th standard marksheet. Shravan Lal, PW-4 in the departmental enquiry had also furnished the 10th standard marksheet procured from the Secondary Education Board, Ajmer. In cross-examination, on being asked, he admitted that the appellant

was recruited on the basis of 8th standard marksheet, and he admitted that there was no alteration in the 8th standard marksheet.

34. Accordingly, we set aside the judgment of the D.B. Special Appeal (Writ) No.484/2011 dated 05.09.2018. We direct that the appellant shall be reinstated with all consequential benefits including seniority, notional promotions, fitment of salary and all other benefits. As far as backwages are concerned, we are inclined to award the appellant 50% of the backwages. The directions be complied with within a period of four weeks from today.”

Referring those citations Learned Counsel Mr. Lodh urged for allowing this writ petition by setting aside the impugned orders mentioned in the prayer portion of the writ petition.

13. On the other hand, Learned G.A. Mr. Kohinoor N Bhattacharya appearing on behalf of the State-respondents submitted that there was no illegality or infirmity in the findings of the inquiring authority as well as the appellate authority because the present petitioner in this case could not project any violation of principles of natural justice. He also drawn the attention of the Court referring the entire proceedings and submitted that if the entire proceeding is meticulously examined it would be clear that in the entire proceeding the petitioner was given all opportunities to support his defence not only that he was given the opportunity to defend the charges by adducing oral/documentary evidence on record. So the finding of the inquiring authority was justified, rational and based on oral and documentary evidence on record. The petitioner in this writ petition according to Learned G.A. could not raise any ground to interfere with the findings of the disciplinary authority as well as the appellate authority. It was further

submitted that admittedly there was direction from the side of the Hon'ble High Court in WP(C)No.1381 of 2016 dated 05.01.2021. But the petitioner acted beyond the direction of the Hon'ble High Court and violated the notification issued under Section-4 of the LA Act dated 30.08.2005 and by the said notification only 24.08 acres of land were shown to be acquired out of that jote land was 19.14 acres and khas land was 4.94 acres. Learned G.A. further submitted that inquiring authority in departmental proceeding recorded the evidence on record of the witnesses properly and after elaborate discussions of the evidence on record observed that the Article of charges levelled against the petitioner were proved beyond doubt and accordingly found the petitioner to be guilty. It was further submitted that the petitioner as LA Collector ignoring the report of SDM and violating and ignoring the Office Note No.55 illegally made payment to a middleman of Natingcherra Tea Estate and ignoring the notification dated 30.08.2025 proceeded to make payment of award/compensation for land measuring 225.80 acres. It was also submitted by Learned G.A. that in a writ petition there is very least scope to re-appreciate the evidence on record and the present petitioner in the entire proceeding failed to show any procedural irregularities or lapses to be interfered with. It was further submitted that the petitioner awarded compensation for 225.80 acres of land whereas only 24.08 was actually acquired as per notification dated 30.08.2005 of the Revenue Department

and furthermore the petitioner acted beyond jurisdiction and misinterpreted the direction of the High Court and violating the financial rules of the Government sent requisition for an amount of Rs.235 crores to NBCC without obtaining prior approval of the State Government and not only that the petitioner also violated the Revenue Department's notification dated 13.03.1991 and 05.10.2010. Further the petitioner also made payment of Rs.58,28,476/- to the Sunshine Tea Co. Ltd. processing Private Limited who were claiming the lawful occupiers of the land but there was dispute regarding ownership and the SDM Kumarghat also recommended verification of the 2009 NOC produced by Sunshine Tea. Furthermore the petitioner also ignored the Official Note No.55 and proceeded for payment based on unverified and unregistered documents. Thus according to Learned G.A. the petitioner acted in violation of Rule 3 of the TCS (Conduct) Rules, 1988 which shows non-judicious and imprudent use of statutory power. Learned G.A. also submitted that Ministry of Home Affairs, Government of India wrote a letter to the State Government on 15.07.2021 expressing their dissatisfaction over the excessive award and also intimated the Government that such compensation may set a dangerous precedent across India in other border fencing projects and the action of the petitioner threatened to open a 'Pandora's Box' for future claims. Further Learned G.A. submitted that although office note was prepared by the other staff but the entire responsibility lies upon the

petitioner as LA Collector because it was his duty to verify ownership, obey financial rules and ensure reasonableness in making award and to obtain the approval of the State-authority. It was further submitted that the findings of the appellate authority also was justified which shows that the petitioner proceeded despite several red flags and the petitioner proceeded to make award based on selective and unverified materials. Finally Learned G.A. submitted that the entire process of disciplinary proceeding was fair, reasonable and there was sufficient evidence against the petitioner with the alleged imputation as such the punishment imposed by the authority was lawful, proportionate and considering the seriousness of misconduct, financial irregularity and breach of public duty. Learned G.A. in support of his contention submitted that there is no scope on the part of this Court at this stage to reassess/appreciate the evidence on record. In support of his contention he relied upon one citation of the Hon'ble Supreme Court of India in **Pravin Kumar vs. Union of India and Others** reported in **(2020) 9 SCC 471** wherein in para Nos.25, 26 and 27 Hon'ble the Apex Court observed as under:

"I. Scope of Judicial Review in Service Matters

25. The learned counsel for the appellant spent considerable time taking us through the various evidences on record with the intention of highlighting lacunas and contradictions. We feel that such an exercise was in vain, as the threshold of interference in the present proceedings is quite high. The power of judicial review discharged by Constitutional Courts under Article 226 or 32, or when sitting in appeal under Article 136, is distinct from the appellate power exercised by a departmental appellate authority. It would be gainsaid that judicial review is an evaluation of the decision-

making process, and not the merits of the decision itself. Judicial Review seeks to ensure fairness in treatment and not fairness of conclusion. It ought to be used to correct manifest errors of law or procedure, which might result in significant injustice; or in case of bias or gross unreasonableness of outcome: (2006) 2 SCC 373.

26. These principles are succinctly elucidated by a three-judge Bench of this Court in BC Chaturvedi v. Union of India: (1995) 6 SCC 749 in the following extract:

“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. Goel [(1964) 4 SCR 718] this Court held at SCR PP. 728-29 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.”

27. These parameters have been consistently reiterated by this Court in a catena of decisions, including:

- (i) State of Tamil Nadu v. S Subramaniam, (1996) 7 SCC 509.
- (ii) Lalit Popli v. Canara Bank, (2003) 3 SCC 583.
- (iii) Himachal Pradesh State Electricity Board Ltd v. Mahesh Dahiya, (2017) 1 SCC 768.”

14. Learned G.A. further referred the provision of Section-11 of the L.A. Act and relied upon one citation of the Hon'ble Supreme Court of India in **State of U.P. and Others vs. Rajiv Gupta and Another** reported in **(1994) 5 SCC 686** wherein in para No.6 Hon'ble the Apex Court

observed as under:

"6. Section 11 postulates of conducting an enquiry and making the award by the Collector. The first proviso envisages that "no award shall be made by the Collector under sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf ". It is common knowledge that exercising the power under the first proviso, the appropriate Government made rules or statutory orders or instructions whatever be the nomenclature, they have statutory operation giving authorisation to the Land Acquisition Collector to make an award up to a particular pecuniary limit without prior approval either of the appropriate Government or an officer authorised by the appropriate Government in that behalf. If the award exceeds the limit, prior approval of the State Governments or authorised officer is mandatory. Any award made in violation thereof, renders the award non est and void as it hinges upon the jurisdiction of the Land Acquisition Collector or Officer. No doubt, Mr Markandeya is right that the State had not produced before us rules or orders issued under the first proviso to Section 11 that the Land Acquisition Officer shall not make an award exceeding one crore of rupees without prior approval of the Commissioner, namely, Commissioner, Board of Revenue. But nonetheless, there is a statutory inhibition by first proviso to Section 11 that the prior approval either of the appropriate Government or of an officer which the appropriate Government authorises in that behalf, is mandatory for making an award. It is a condition precedent. Obviously, for this reason, the Collector in his letter dated 20- 12-1992, addressed to the Commissioner, seeking prior approval thus:

"Proposed award

* * *

Thus the proposed lands are disputed lands, and therefore, it has been mentioned in the proposed award that payment of compensation shall be made after obtaining the final report of the enquiry officer and the final judgment passed in the cases pending in different courts. Since, in the present case, the award is to be made up to 21-12-1992 only, it is to request you to kindly give your prior approval on the proposed award."

Its bare reading clearly indicates that the conscience that he is required to make the award on or before 21-12-1992 and to seek prior approval and accordingly he requested the Commissioner to grant him prior approval as is enjoined in the first proviso to Section 11 to make the proposed award. The heading of the award itself clearly indicates working of his mind that it is only a

proposed award and after prior approval is given, he is enjoined to make the award under Section 11 of the Act. Since prior approval was not given before the expiry of 21-12-1992, there is no award made by the Land Acquisition Officer. In the eye of law the proposed award of the Collector under Section 11 of the Act is not the award. As seen, Section 11-A is mandatory and on expiry of two years from the date of publication of declaration, i.e., on 21-12-1992, the entire proceedings under the Act stood lapsed. We are not concerned in this case with the proviso to Section 11-A. The High Court was, therefore, not right in its construction that there was an award made by the Collector on 20-12-1992 and the direction to take further steps in that behalf are clearly illegal. The review petition is accordingly allowed. The order dated 10-12-1993 of the High Court is set aside and the appeal is allowed. The writ petition stands dismissed but in the circumstances parties are directed to bear their own costs."

He also referred another citation of the Hon'ble Supreme Court of India in **State of Rajasthan vs. B.K. Meena and Others** reported in **(1996) 6 SCC 417** wherein in para No.17 Hon'ble the Apex Court observed as under:

"17. There is yet another reason. The approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings the question is whether offences registered against him under the Prevention of Corruption Act (and the Indian Penal Code, if any) are established and, if established, what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different. Staying of disciplinary proceedings pending criminal proceedings, to repeat, should not be matter of course but a considered decision. Even if stayed at one stage, the decision may require reconsideration if the criminal case gets unduly delayed."

15. Learned G.A. further referred another citation of Supreme Court of India in **M.V. Bijlani vs. Union of India and Others** reported in **(2006) 5 SCC 88** wherein in para No.25 Hon'ble the Apex Court observed as under:

"25. It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidences to prove the charge. Although the charges in a

departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."

Referring those citations Learned G.A. drawn the attention of the Court that the principles of said citations are very much relevant for decision of this petition because there is no scope on the part of this Court at this stage to act as a judicial review and to re-appreciate the evidence on record and furthermore according to Learned G.A. since the petitioner in course of hearing of argument failed to satisfy the Court by showing any cogent grounds to interfere with the findings of the disciplinary authority as well as the appellate authority. So Learned G.A. urged for dismissal of this writ petition with heavy costs.

16. Learned Counsel Mr. Raju Datta appearing on behalf of the TPSC-respondents submitted that the role of TPSC was very limited. TPSC acted as consulting authority for imposition of punishment upon the petitioner. However in support of his contention he relied upon one citation in

State Bank of India and Another vs. K.S. Vishwanath
reported in **(2022)15 SCC 190** wherein in para Nos.17-21 Hon'ble the Apex Court observed as under:

17. From the impugned judgment and order:2021 SCC OnLine Kar 15232 passed by the High Court it appears that the High Court has dealt with and considered the writ petition under Articles 226/227 of the Constitution

of India challenging the decision of the Bank/Management dismissing the delinquent officer as if the High Court was exercising the powers of the Appellate Authority. The High Court in exercise of powers under Articles 226/227 of the Constitution of India has reappreciated the evidence on record which otherwise is not permissible as held by this Court in a *catena of decisions*.

18. Recently in *N. Gangaraj*:(2020) 3 SCC 423 after considering other decisions of this Court on judicial review and the power of the High Court in a departmental enquiry and interference with the findings recorded in the departmental enquiry, it is observed and held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is further observed and held that the High 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. It is further observed that if there is some evidence, that 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 under Article 226 of the Constitution of India to review/reappreciate the evidence and to arrive at an independent finding on the evidence.

19. In paras 9 to 14, this Court had considered other decisions on the power of the High Court on judicial review on the decisions taken by the Disciplinary Authority as under:

"9. In *State of A.P. v. S. Sree Rama Rao* [State of A.P. v. S. Sree Rama Rao, AIR 1963 SC 1723] , a three Judge Bench of this Court has held that the High Court is not 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. The Court held as under: (AIR pp. 1726 27, para 7)

7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence."

10. In B.C. Chaturvedi v. Union of India:(1995) 6 SCC 749 again a three-Judge Bench of this Court has held that power of 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 eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under: (SCC pp. 75960, paras 1213)

“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 the Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

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

canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* [Union of India v. H.C. Goel, (1964) 4 SCR 718 : AIR 1964 SC 364], this Court held at SCR 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."

11. In *High Court of Bombay v. Shashikant S. Patil* [High Court of Bombay v. Shashikant S. Patil (2000) 1 SCC 416, this Court held that interference with the decision of departmental authorities is permitted if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry while exercising jurisdiction under Article 226 of the Constitution. It was held as under:

"16. The Division Bench [Shashikant S. Patil v. High Court of Bombay, 1998 SCC OnLine Bom 97 : (2000) 1 LLN 160] of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the enquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed under Article 226 of the Constitution."

12. In *State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya* [State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya (2011) 4 SCC 584, this Court held 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 ground for interfering with the findings in departmental enquiries. The Court held as under:

"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.

10. The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceeding invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him."

13. In another judgment reported as *Union of India v. P. Gunasekaran* [Union of India v. P. Gunasekaran, (2015) 2 SCC 610 : (2015) 1 SCC (L&S) 554], this Court held that while reappreciating evidence the High Court

cannot act as an appellate authority in the disciplinary proceedings. The Court held the parameters as to when the High Court shall not interfere in the disciplinary proceedings : (SCC p. 617, para 13)

"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. On the other hand the learned counsel for the respondent relies upon the judgment reported as Allahabad Bank v. Krishna Narayan Tewari: [Allahabad Bank v. Krishna Narayan Tewari, (2017) 2 SCC 308 : (2017) 1 SCC (L&S) 335] , wherein this Court held that if the disciplinary authority records a finding that is not supported by any evidence whatsoever or a finding which is unreasonably arrived at, the writ court could interfere with the finding of the disciplinary proceedings. We do not find that even on touchstone of that test, the Tribunal or the High Court could interfere with the findings recorded by the disciplinary authority. It is not the case of no evidence or that the findings are perverse. The finding that the respondent is guilty of misconduct has been interfered with only on the ground that there are discrepancies in the evidence of the Department. The discrepancies in the evidence will not make it a case of no evidence. The inquiry officer has appreciated the evidence and returned a finding that the respondent is guilty of misconduct."

20. That thereafter this Court has observed and held in paragraph 7, 8 and 15 as under: (N. Gangaraj case(2020) 3 SCC 423.

"7. The disciplinary authority has taken into consideration the evidence led before the IO to return a finding that the charges levelled against the respondent stand proved.

8. We find that the interference in the order of punishment by the Tribunal as affirmed:2011 SCC Online Kar 4510 by the High Court suffers from patent error. The power of judicial review is confined to the decision-making process. The power of judicial review conferred on the constitutional court or on the Tribunal is not that of an appellate authority.

* * *

15. The disciplinary authority agreed with the findings of the enquiry officer and had passed an order of punishment. An appeal before the State Government was also dismissed. Once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by reappreciating evidence as if the courts are the appellate authority. We may notice that the said judgment has not noticed the larger Bench judgments in S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, AIR 1963 SC 1723] and B.C. Chaturvedi [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] as mentioned above. Therefore, the orders passed by the Tribunal and the High Court:2011 SCC OnLine Kar 4510 suffer from patent illegality and thus cannot be sustained in law."

21. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has committed a grave error in interfering with the order passed by the disciplinary authority dismissing the respondent – delinquent officer from service. The High Court has erred in reappreciating the entire evidence on record and thereafter interfering with the findings of fact recorded by the Enquiry Officer and accepted by the disciplinary authority. By interfering with the findings recorded by the Enquiry Officer which as such were on appreciation of evidence on record, the order passed by the High Court suffers from patent illegality. From the findings recorded by the Enquiry Officer recorded hereinabove, it cannot be said that there was no evidence at all which may reasonably support the conclusion that the Delinquent officer is guilty of the charge."

Referring the same Learned Counsel Mr. Datta drawn the attention of this Court that at this stage there is no scope to reappreciate the evidence on record recorded by the inquiring authority and in this proceeding the petitioner could not show any satisfactory grounds to interfere with the findings alleging that principles of natural justice were violated and finally urged for dismissal of this case.

17. I have heard both the sides at length and examined the case of the petitioner within the parameters laid down by the Hon'ble Apex Court in the judgment as referred above and after going through the writ petition

supported by the annexures as well as the counter-affidavits supported by the annexures it appears that on the basis of Articles of charges framed against the present petitioner inquiry was conducted by the inquiring authority and before the inquiring authority both the parties have adduced the oral/documentary evidence on record. It was the case of the petitioner that based on the direction of the Hon'ble High Court dated 05.01.2021 in WP(C)No.1381 of 2016 the petitioner proceeded with the subject matter of acquisition and after formation of team based on the report of survey team he proceeded to determine compensation and passed an award showing acquisition of land measuring 225.80 acres in place of 24.08 acres as per notification dated 30.08.2005 issued by the Revenue Department, Government of Tripura and further it appears that the petitioner as LA Collector failed to obtain approval of the authority of the State Government before sending the requisition to NBCC for an amount of Rs.235 crores and also in respect of Articles of Charge No.3 the petitioner passed an order for making payment to an unauthorized person ignoring the norms without confirmation of the ownership and entitlement of the right person. Thus as a public servant he was found to be guilty of mis-conduct under Rule-14 of the CCS(CCA)Rules, 1965 and also the violation of Rule-3 of the TCS(Conduct) Rules, 1988. It is the settled position of law that there is very limited scope on the part of

this Court at this stage to reappreciate/reassess the evidence on record of the departmental proceeding. The petitioner in course of hearing of argument could not show any justified grounds in support of his contention that the principles of natural justice were violated against him. Furthermore as alleged by the petitioner that the inquiring authority failed to consider his defence is also not true because after perusal of the evidence on record it transpires that huge opportunity was given to the petitioner to establish his defence properly and furthermore the standard of proof required in a disciplinary proceeding is a preponderance probability. In this regard Hon'ble Supreme Court of India in **Indian Oil Corporation and Others vs. Ajit Kumar Singh and Another** reported in (2023) 19 SCC 102 in para Nos.10-12 observed as under:

"10. The facts of the case leading to the issuance of chargesheet, initiation of departmental inquiry, the report of the inquiry officer and the punishment inflicted upon respondent no.1 have already been narrated in the preceding paragraphs. It is not in dispute that during the course of inquiry, fair opportunity of hearing was afforded to the respondent no.1 at every stage. This was even found by the learned Single Judge while dismissing the writ petition challenging the punishment inflicted upon him. The judgment 2019 SCC OnLine Pat 3395 passed by the Division Bench of the High Court shows that matter was dealt with in a manner as if it was the first stage of the case, namely, the inquiry was being conducted and inquiry report was being prepared, which is not the scope in judicial review.

11. The views expressed by this Court on the scope of judicial review in SBI (Appellate Authority) vs. Ajai Kumar Srivastava:(2021) 2 SCC 612, are extracted below:

"24. It is thus settled that the power of judicial review, of the constitutional courts, is evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural

justice or in violation of the statutory rules prescribing the mode of enquiry 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 or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

25-27 * * *

28. The constitutional court while exercising its jurisdiction of judicial review under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of *mala fides* or perversity i.e. where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at those findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained."

(emphasis supplied)

Similar view was expressed in the later judgment of this Court in **Mukesh Kumar Raigar vs. Union of India:(2023)11 SCC 159.**

12. If the facts of the case are examined in the light of the settled principles of law in scope of judicial review, we find that the Division Bench of the High Court proceeded to reappreciate the entire evidence as if conviction in a criminal trial was being re-examined by the next higher court. The stand taken by the respondent no.1 was that he was on leave and there was no question of his tampering with any document. His contention was that merely because he had the duplicate key of the drawer where the documents were kept, he cannot be made responsible for any tampering. However, there was no answer to the finding recorded by the Inquiry Officer in the Inquiry Report, namely, that the changed form of quotation of M/s. Laxmi Singh contained original signature of respondent no.1. The fact that this "Form of quotation" was changed is not in dispute. When the changed form of quotation also contained signature of respondent no.1, it clearly established his involvement in the tampering of document. This fact has not even been noticed by the Division Bench of the High Court."

Further the Hon'ble Apex Court in **State of Rajasthan and Others vs. Bhupendra Singh** reported in **2024 SCC OnLine SC 1908** in para Nos.21-28 observed as under:

ANALYSIS, REASONING AND CONCLUSION:

21. Having considered the matter, the Court finds that the Impugned Judgment cannot be sustained. On a prefatory note, we would begin by quoting what the Division Bench has noted on page No.7:

'It is well settled preposition (sic) of law that courts will not act as an Appellate Court and reassess the evidence led in domestic enquiry, nor interfere on the ground that another view was possible on the material on record. If the enquiry has been fairly and properly held and findings are based on evidence, the question of adequacy of evidence or reliable nature of the evidence will be no ground for interfering with the finding in departmental enquiry. However, when the finding of fact recorded in departmental enquiry is based on no evidence or where it is clearly perverse then it will invite the intervention of the court.'

22. The learned Single Judge held that the findings returned in the enquiry were without evidence, contrary to the record, and as the Removal Order based on the same was not reasoned, proceeded to quash the same. This course of action adopted by the learned Single Judge has been affirmed by the Division Bench. Surprisingly, despite noticing the aforesaid position in law relating to non-interference by the Appellate Court to re-assess the evidence led in an enquiry or to interfere on the ground that another view was possible on the material on record, the Division Bench went on to record that the learned Single Judge had rightly held that the enquiry proceedings were vitiated as they were based on no evidence and were perverse, without giving any reasons of its own as to how the learned Single Judge had arrived at such a conclusion, namely, that the enquiry was based on no evidence and the findings rendered therein were perverse. Upon detailed assistance from both sides on the factual prism, coupled with the materials on record, we are of the considered opinion that the judgments delivered by the learned Single Judge and the Division Bench are unsustainable.

23. The scope of examination and interference under Article 226 of the Constitution of India (hereinafter referred to as the 'Constitution') in a case of the present nature, is no longer *res integra*. In *State of Andhra Pradesh v S Sree Rama Rao*, AIR 1963 SC 1723, a 3-Judge Bench stated:

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

manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.'

(emphasis supplied)

24 The above was reiterated by a Bench of equal strength in *State Bank of India v Ram Lal Bhaskar*, (2011) 10 SCC 249. Three learned Judges of this Court stated as under in *State of Andhra Pradesh v Chitra Venkata Rao*, (1975) 2 SCC 557:

'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:(1964) 3 SCR 25: (1964) 2 LLJ 150]. 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.

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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: (1964) 5 SCR 64].

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.

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26. For these reasons we are of opinion that the High Court was wrong in setting aside the dismissal order by reviewing and reassessing the evidence. The appeal is accepted. The judgment of the High Court is set aside. Parties will pay and bear their own costs.'

(emphasis supplied)

25. In **State Bank of India v S K Sharma**, (1996) 3 SCC 364, two learned Judges of this Court held:

'28. The decisions cited above make one thing clear, viz., principles of natural justice cannot be reduced to any hard and fast formulae. As said in **Russell v. Duke of Norfolk** [(1949) 1 All ER 109: 65 TLR 225] way back in 1949, these principles cannot be put in a strait-jacket. Their applicability depends upon the context and the facts and circumstances of each case. (See **Mohinder Singh Gill v. Chief Election Commr.** [(1978) 1 SCC 405: (1978) 2 SCR 272]) The objective is to ensure a fair hearing, a fair deal, to the person whose rights are going to be affected. (See **A.K. Roy v. Union of India** [(1982) 1 SCC 271: 1982 SCC (Cri) 152] and **Swadeshi Cotton Mills v. Union of India** [(1981) 1 SCC 664].) As pointed out by this Court in **A.K. Kraipak v. Union of India** [(1969) 2 SCC 262], the dividing line between quasi-judicial function and administrative function (affecting the rights of a party) has become quite thin and almost indistinguishable — a fact also emphasised by **House of Lords in Council of Civil Service Unions v. Minister for the Civil Service** [(1984) 3 All ER 935 : (1984) 3 WLR 1174 : 1985 AC 374, HL] where the principles of natural justice and a fair hearing were treated as synonymous. Whichever the case, it is from the standpoint of fair hearing — applying the test of prejudice, as it may be called — that any and every complaint of violation of the rule of *audi alteram partem* should be examined. Indeed, there may be situations where observance of the requirement of prior notice/hearing may defeat the very proceeding — which may result in grave prejudice to public interest. It is for this reason that the rule of post-decisional hearing as a sufficient compliance with natural justice was evolved in some of the cases, e.g., **Liberty Oil Mills v. Union of India** [(1984) 3 SCC 465]. There may also be cases where the public interest or the interests of the security of State or other similar considerations may make it inadvisable to observe the rule of *audi alteram partem* altogether [as in the case of situations contemplated by clauses (b) and (c) of the proviso to Article 311(2)] or to disclose the material on which a particular action is being taken. There may indeed be any number of varying situations which it is not possible for anyone to foresee. In our respectful opinion, the principles emerging from the decided cases can be stated in the following terms in relation to the disciplinary orders and enquiries: a distinction ought to be made between violation of the principle of natural justice, *audi alteram partem*, as such and violation of a facet of the said principle. In other words, distinction is between "no notice"/"no hearing" and "no adequate hearing" or to put it in different words, "no opportunity" and "no adequate opportunity". To illustrate — take a case where the person is dismissed from service without hearing him altogether (as in **Ridge v. Baldwin** [1964 AC 40: (1963) 2 All ER 66: (1963) 2 WLR 935]). It would be a case falling under the first category and the order of dismissal would be

invalid — or void, if one chooses to use that expression (Calvin v. Carr [1980 AC 574: (1979) 2 All ER 440: (1979) 2 WLR 755, PC]). But where the person is dismissed from service, say, without supplying him a copy of the enquiry officer's report (Managing Director, ECIL v. B. Karunakar [(1993) 4 SCC 727: 1993 SCC (L&S) 1184: (1993) 25 ATC 704]) or without affording him a due opportunity of cross-examining a witness (K.L. Tripathi [(1984) 1 SCC 43 : 1984 SCC (L&S) 62]) it would be a case falling in the latter category — violation of a facet of the said rule of natural justice — in which case, the validity of the order has to be tested on the touchstone of prejudice, i.e., whether, all in all, the person concerned did or did not have a fair hearing. It would not be correct — in the light of the above decisions to say that for any and every violation of a facet of natural justice or of a rule incorporating such facet, the order passed is altogether void and ought to be set aside without further enquiry. In our opinion, the approach and test adopted in B. Karunakar [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] should govern all cases where the complaint is not that there was no hearing (no notice, no opportunity and no hearing) but one of not affording a proper hearing (i.e., adequate or a full hearing) or of violation of a procedural rule or requirement governing the enquiry; the complaint should be examined on the touchstone of prejudice as aforesaid.'

26. In *Union of India v K G Soni*, (2006) 6 SCC 794, it was opined:

'14. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case [Associated Provincial Picture Houses Ltd. v. Wednesbury Corp., (1948) 1 KB 223: (1947) 2 All ER 680 (CA)] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in the decision-making process and not the decision.

15. To put it differently, unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigations it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In the normal course if the punishment imposed is shockingly disproportionate, it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.'

(emphasis supplied)

27. The legal position was restated by two learned Judges in *State of Uttar Pradesh v Man Mohan Nath Sinha*, (2009) 8 SCC 310:

'15. The legal position is well settled that the power of judicial review is not directed against the decision but is confined to the decision-making process. The court does not sit in judgment on merits of the decision. It is not open to the High Court to reappreciate and reappraise the evidence led before the inquiry officer and examine the findings recorded by the inquiry officer as a court of appeal and reach its own conclusions. In the instant case, the High Court fell into grave error in scanning the evidence as if it was a court of appeal. The approach of the High Court in consideration of the matter suffers from manifest error and, in our thoughtful consideration, the matter requires fresh consideration by the High Court in accordance with law. On this short ground, we send the matter back to the High Court.'

28. Turning our gaze back to the facts herein, we find that the learned Single Judge and the Division Bench acted as Courts of Appeal and went on to re-appreciate the evidence, which the above- enumerated authorities caution against. The present coram, in Bharti Airtel Limited v A S Raghavendra, (2024) 6 SCC 418, has laid down:

'29. As regards the power of the High Court to reappraise the facts, it cannot be said that the same is completely impermissible under Articles 226 and 227 of the Constitution. However, there must be a level of infirmity greater than ordinary in a tribunal's order, which is facing judicial scrutiny before the High Court, to justify interference. We do not think such a situation prevailed in the present facts. Further, the ratio of the judgments relied upon by the respondent in support of his contentions, would not apply in the facts at hand.'

(emphasis supplied)

As already stated, to prove the charges before the inquiring authority the prosecution in total adduced 9 nos. of witnesses and relied upon some documents which were marked as Exhibits S1 to S10 and in order to prove the defence the petitioner was examined as DW-1 and relied upon some documents which were marked as Exhibit.D1 to D-23 and at the time of determination of the charges the inquiring authority framed three separate points as narrated earlier and in respect of point No.6(a) it was the observation of the inquiring authority that the petitioner failed to justify his unreasonable and faulty assessment for compensation of

land and damage of botanical assets which were not in conformity of the provision of Land Acquisition Act and calculated the assessment without any basis ignoring the actual quantum of land acquired for compensation and in respect of point No.6(b) it appears that the inquiring authority observed that the petitioner at the time of making of award violated the provision of Rule-19 of DFPRT Rules, 2019 without obtaining approval of the State Government and also violated the guidelines/instructions of the Revenue Department vide memo No.F.30(13)-REV/ACQ/09 dated 05.01.2010 and in respect of point No.6(c) the inquiring authority came to the observation that during the relevant period as LA Collector the petitioner illegally made payment of huge amount of Rs.58,28,476/- as LA compensation to a middleman of Nottingcherra Tea Garden being defiance of all the settled norms and after going through the aforesaid principles of law laid down by the Hon'ble Apex Court in the aforesaid cases it appears that there is no scope to reappreciate the evidence on record as alleged by the petitioner because after going through the proceedings and also after hearing Learned Counsel for the petitioner it appears that the petitioner as LA Collector acted beyond his jurisdiction and in the entire proceeding all opportunities were given to the petitioner to defend the charges levelled against him. But the petitioner failed to inspire the confidence of the inquiring authority to exonerate him from

the charges. Situated thus, after going through the entire record it appears that the disciplinary authority after examining the entire evidence recorded by the inquiring authority agreed with the findings of the inquiring authority and found the petitioner to be guilty of charges framed which has been affirmed by the appellate authority after affording reasonable opportunity to him. As such, I find no merit in the writ petition to interfere with the findings of the inquiring authority affirmed by the disciplinary authority and subsequent findings of the appellate authority of the department as the petitioner has failed to satisfy the Court by showing any cogent grounds to interfere with the proceedings.

In the result, the writ petition filed by the petitioner stands dismissed being devoid of merit.

Pending application, if any, stands disposed of.

Return back the departmental records to Learned G.A. after observing all formalities.

JUDGE