 # Law Today Live Doc. Id. 15345

SUPREME COURT OF INDIA

Before: N.V. Ramana, S. Abdul Nazeer & Surya Kant, JJ.

Civil Appeal No. 6270 of 2012 Decided on: 10.09.2020

Pravin Kumar Appellant

Versus

Union of India and Ors. Respondent

For Appellant(s):

Mr. K. L. Janjani, AOR

For Respondent(s):

Mr. B. V. Balaram Das, AOR

A. Constitution of India, Article 226, 311 – Departmental enquiry – Judicial review – Nature of – 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 – 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.

(Para 25)

B. Constitution of India, Article 226, 311 – Disciplinary proceedings -- Constitutional Courts while exercising their powers of judicial review would not assume the role of an appellate authority – Their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice -- Put differently, judicial review is not analogous to venturing into the merits of a case like an appellate authority.

(Para 28)

C. Constitution of India, Article 226, 311 – Indian Evidence Act, 1872 (1 of 1872), Section 165 -- Disciplinary proceedings -- Objection on role of Enquiry officer – It must be recognized that, under Section 165, Evidence Act, judges have the power to ask any question to any witness or party about any fact, in order to discover or to obtain proper proof of relevant facts -- While strict rules of evidence are inapplicable to disciplinary proceedings, enquiry officers often put questions to witnesses in such proceedings in order to discover the truth -- Indeed, it may be necessary to do such direct questioning in certain circumstances -- No specific malice or bias has been alleged against the enquiry officer, and even during the enquiry no request had been made to seek a replacement; thus, evidencing how these objections are nothing but an afterthought.

(Para 31)

D. Constitution of India, Article 226, 311 – Departmental enquiry – Allegation of corruption – Non-action in criminal case -- Dismissal from

service -- After investigation, the CBI though did not find adequate material to launch criminal prosecution but recommended major disciplinary action – In a disciplinary enquiry, strict rules of evidence and procedure of a criminal trial are inapplicable, like say, statements made before enquiry officers can be relied upon in certain instances -- Appellant's contention that he should be exonerated in the present proceedings as no criminal chargesheet was filed by the CBI after enquiry, is liable to be discarded – Employer always retains the right to conduct an independent disciplinary proceeding, irrespective of the outcome of a criminal proceeding.

(Para 33-35)

E. Constitution of India, Article 226, 311 – Allegation of corruption -- Departmental enquiry – Dismissal from service – Interference in -- Unlike in criminal cases, in matters of disciplinary proceedings Courts only interfere on grounds of proportionality when they find that the punishment awarded is inordinate to a high degree, or if the conscience of the Court itself is shocked -- Thus, whereas imposition of major penalty (like dismissal, removal, or reduction in rank) would be discriminatory and impermissible for trivial misdeeds; but for grave offences there is a need to send a clear message of deterrence to the society -- Charges such as corruption, misappropriation and gross indiscipline are prime examples of the latter category, and ought to be dealt with strictly – Dismissal order, upheld.

(Para 1, 36)

Cases referred:

1. Shashi Prasad v. CISF, 2019 7 SCC 797.

2. Government of Andhra Pradesh v. Mohd Nasrullah Khan, (2006) 2 SCC 373.

3. BC Chaturvedi v. Union of India, (1995) 6 SCC 749.

4. State of Tamil Nadu v. S Subramaniam, (1996) 7 SCC 509.

5. Lalit Popli v. Canara Bank, (2003) 3 SCC 583.

6. Himachal Pradesh State Electricity Board Ltd v. Mahesh Dahiya, (2017) 1 SCC 768.

7. Union of India v. T.R. Varma, 1958 SCR 499.

8. Karnataka SRTC v. MG Vittal Rao, (2012) 1 SCC 442.

9. Ajit Kumar Nag v. Indian Oil Corp Ltd (2005) 7 SCC 764.

10. BHEL v. M Mani, (2018) 1 SCC 285.

11. Jameel v. State of Uttar Pradesh, (2010) 12 SCC 532.

JUDGMENT

SURYA KANT, J. –

The present civil appeal, which has been heard over video-conferencing, is directed against the order dated 05.05.2009 passed by a Division Bench of the High Court of Bombay in WP No. 1001/2001, whereby appellant's plea for

quashing disciplinary proceedings and setting-aside a dismissal order on charges of corruption and extra-constitutional conduct while employed as a paramilitary officer, was rejected.

FACTUAL MATRIX

2. The appellant joined the Central Industrial Security Force ("CISF") in January, 1995 as a Sub-Inspector. After completing requisite training in Hyderabad, he was allocated to Mumbai Office of the Western Zone and posted at the local unit of Bharat Petroleum Corporation Ltd ("BPCL") in March, 1996. Although he was initially deputed to perform shift duty, but since July, 1997 he was deployed in the Crime and Intelligence Wing. As evidenced by an office order dated 08.05.1998, the appellant was specifically entrusted with conducting surprise searches of personnel and taking strict action against anyone indulging in corruption.

3. On 28.02.1999 at around 6PM, Constable Ram Avtar Sharma (CW-1; hereinafter "Sharma") was commuting in a CISF bus near the BPCL compound when Inspector Hiralal Chaudhary (PW-1; hereinafter, "Chaudhary") noticed a large bundle of high-denomination notes in Sharma's pocket. Suspicious, Chaudhary got the bus turned back towards the BPCL compound, and forcibly made Sharma deboard near the North-gate. Amidst witnesses, Chaudhary searched Sharma's person, during which a total sum of Rs 10,780 in the form of 100 notes of Rs 100 and the rest in smaller denominations was recovered. No explanation for the large sum of unaccounted cash was forthcoming from Sharma, except for a plea for mercy, post which the amount was seized and the incident recorded in the General Diary ("GD") kept at the Northgate of the BPCL compound.

4. Later, it was found that a conflicting GD entry had been made at the Main-gate of the BPCL compound a little earlier at around 6:05PM, noting how an amount of Rs 9,000 had been handed over by dog-handler Constable KK Sharma (PW-2) on behalf of another official, as personal loan to Sharma (CW-1). It was discovered over the course of investigation that this entry was false and had been registered at the instance of the present appellant who made numerous phone calls between 6:30 and 7PM to ASI Surjan Singh (PW-5) who was stationed at the Main-gate and was in-charge of the other GD register.

5. The following morning, KK Sharma (PW-2) who was projected to have delivered the cash to Sharma, was pressurised by the appellant to falsely support his alternate 'loan' theory by deposing that he indeed had delivered the impounded sum of money.

6. An FIR was thus registered by the respondent-authorities with the regional Anti-Corruption Branch of the Central Bureau of Investigation ("CBI") on 06.03.1999 under various provisions of the Indian Penal Code, 1860 and the Prevention of Corruption Act, 1988. Simultaneously, an enquiry under Rule 34 of CISF Rules, 1969, with Assistant Commandant PB Patil as the enquiry officer, was also initiated and the appellant was placed under suspension vide order dated 31.05.1999.

a. Chargesheet

7. The chargesheet contained three charges against the appellant, *first,* gross misconduct and indiscipline by virtue of ordering of a false GD Entry (No. 257, on 6:05PM at 28.02.1999); *second,* becoming an extra-constitutional

authority by issuing unlawful orders to Constable KK Sharma to give false statement to substantiate the aforementioned fake GD entry; and *third,* corruption for illegally collecting bribes from contractors of BPCL through his subordinates. All these charges were contested by the appellant, who sought and was provided a detailed list of evidence and documents.

b. Investigation and Enquiry Report

8. The enquiry officer submitted a self-speaking report on 17.09.1999, which contained written statements and depositions of six witnesses who were substantiating the charges, as well as evidence led by the appellant in the form of five defence witnesses. Inspector Hiralal Chaudhary (PW-1) testified to the search of Sharma, the seizure of a sum of Rs 10,780 from his person, and the lack of any explanation by him on the spot regarding source of the suspicious sum. Head Constable KK Sharma (PW-2), who as per the appellant's defence had handed over the seized amount as loan amount to Sharma, negated this alternate version and instead implicated the appellant by mentioning that not only did he not give any money to anyone, but that he had instead been threatened by the appellant into giving a false statement. Head Constable RK Sharma (PW-3) claimed to have witnessed the search and seizure, and denied any talk of a loan during such event. ASI Karan Singh (PW-4) deposed that two empty garbage trucks had entered the BPCL premises earlier in the afternoon. ASI Surjan Singh (PW-5) testified that at around 6:30PM when he was on duty at the BPCL Maingate, he received a call from the appellant intimidating him into registering a false GD Entry with earlier time of 6:05PM to substantiate a fictitious loan transaction with the stated objective of protecting Sharma (CW-1).

9. Additionally, the enquiry officer examined Constable Ram Avtar Sharma (CW-1) who testified that at around 2PM on 28.02.1999 he received a bundle of notes totalling Rs 10,000 on behalf of the appellant from one DK Parmar, who was contracted by BPCL for the job of lifting garbage/waste. These notes were in his possession, in addition to his personal cash of Rs 780, when he was caught around 6:15PM by Chaudhary (PW-1) while he was travelling in the CISF Bus. He admitted that he had falsely claimed that the money had been given to him by KK Sharma (PW-2), and in response to a question disclosed that bribes were illegally collected from BPCL's contractors at the rate of Rs 20 per vehicle entering the plant and Rs 5 per vehicle exiting. The seized sum of money, particularly, was to be handed over to the appellant for facilitating theft of 'iron scrap' and 'brass' which was smuggled out of the compound in the middle of the garbage. CW-1, later on though, retracted and claimed that the record reflected something other than what he had stated, and that his signatures ought not to be relied upon as he had not read the document.

10. The appellant in his defence evidence examined Constable MN Dhanwat (DW-1) who deposed that although he was posted at Northgate on the date of the incident, he had left for personal work during duty hours with the permission of the appellant. Constable Jaimal Singh (DW-2) testified that he had witnessed the search of Sharma and recording of the GD Entry by Chaudhary when he reached the North-gate at around 6:40PM. Further, he claimed that Sharma was repeatedly trying to get in touch with the appellant, but could only get through at around 7PM and then informed him that he was

caught carrying his own money. ASI SP Mishra (DW-3) who was on duty at the CISF Control room in Vashi stated that in his presence no message had been conveyed to the appellant regarding the incident. PK Nashkar (DW-4) states that during his duty at the 'Quarter Guard' in the Vashi Complex at 7PM, he was directed by ASI SP Mishra (DW-3) to convey a message to the appellant that there was a phone call for him from Jaimal Singh (DW-2). Finally, Pravin Dhanji Parmar (DW-5), who had been performing house-keeping work at the BPCL refinery for the past twenty years on behalf of contractor DK Parmar & Co, stated that he did not hand over any money to Sharma. In addition, the enquiry officer perused the relevant GD entries and other documents on record.

11. Based on these numerous evidences and after according the appellant an opportunity to cross-examine all the witnesses as well as leading his own substantive arguments, the enquiry officer through report dated 17.09.1999 held the appellant guilty under each of the three charges. The enquiry officer found as a matter of fact that the GD No. 257, entered at 6:05PM on 28.02.1999, was a false entry made at the instance of the appellant by Surjan Singh (PW-5), so that an alternate version could be crafted in which Sharma (CW-1) had allegedly received the seized money as loan. Qua the second charge, it stood established from the version of KK Sharma (PW-2) that he had not advanced any loan and that he was approached by the appellant to give a false statement to substantiate the GD No. 257. Finally, upon a holistic interpretation of all evidence, that is, falsification of GD, threatening of KK Sharma (PW-2), as well as indications of wrongdoing from the statements of other witnesses like DW-1; the enquiry officer concluded that illegal sums were being collected by the appellant from BPCL's contractors through his subordinate officers and therefore, the third charge of corruption too had been proved.

c. Proceedings before the Disciplinary Authority

12. This voluminous enquiry report was placed before the disciplinary authority, which gave the appellant both a copy of the report as well as an opportunity to respond to it. Detailed rebuttals put forth by the appellant through his written submission dated 14.10.1999 were examined at length by the disciplinary authority. Preliminary objections of the enquiry officer being biased and of being predisposed to convict the appellant, were rejected by the disciplinary authority with cogent reasons. It was noted that not only had proper opportunity of cross-examining witnesses and of availing assistance been accorded to the appellant, but that sufficient opportunities of seeking explanations, clarifications and records of testimonies and documents had in fact also been availed of by him.

13. The disciplinary authority noted that no material contradictions could be pointed out in the witnesses' testimonies, and no compelling alternate evidence had been produced. Keeping in mind the nature of the allegations which entailed surreptitious corruption amongst members of the paramilitary, the disciplinary authority observed that it was unlikely that there would be independent witnesses to many incidents like the charge of intimidating KK Sharma (PW-2) to give false testimony, or of collecting bribe from BPCL's contractors.

14. The disciplinary authority noticed that it was an undisputed fact that a

sum of Rs 10,780 had been recovered from Sharma (CW-1), which was far in excess of the maximum permissible amount of Rs 10. The testimonies of different officials revealed the appellant's modus operandi of collecting illegal monies through a network of subordinate officers; and more crucially, his attempts at supressing witnesses and fabricating evidence when caught. The disciplinary authority noted that the enquiry officer had followed the prescribed procedure and no challenge had been made earlier to his impartiality and no request to change the enquiry officer was ever made. Therefore, no malice or bias could even be suggested at this stage of the disciplinary proceedings. Similarly, the appellant's attempt to implicate other officials was held to be irrelevant, as the present enquiry was limited only to the appellant's conduct.

15. Thus, considering the serious nature of the misconduct and the rank and duty bestowed upon the appellant, and the multiplicity of the charges which called into question both the personal integrity of the delinquent officer and the collective image of the force, the Disciplinary Authority passed the order dated 20.11.1999, imposing exemplary punishment of dismissal from service under Rule 29(a) read with Rule 31(a) Schedule II of CISF Rules, 1969.

d. Decision of the Appellate Authority

16. The appellant preferred departmental appeal against the order of his dismissal from service before the Deputy Inspector General of the CISF Western Zone. In addition to highlighting contradictions in testimonies and re-interpreting the evidence on record, the appellant also raised a new defence that the entire proceedings were at the behest of a particular superior officer.

17. The appellate authority went into each and every contention of the appellant and after reappreciating the evidence on record, it dismissed the appeal vide order dated 12.07.2000, concluding that:

> *"Further I find that there is no material irregularity or miscarriage of justice in the departmental enquiry proceedings. After considering the gravity of proven misconduct, the petitioner is not found fit for retention in an armed force of the Union of India like CISF. The contentions made in his appeal petitions are totally devoid of merits both in fact and in law. The punishment imposed by the disciplinary authority is not excessive in view of proven misconduct. As such I do not find any reason to interfere with the orders passed by the disciplinary authority and do hereby reject the appeal petition being devoid merits."*

e. Writ before the High Court

18. A further challenge was laid to the orders passed by the Disciplinary and Appellate authorities by way of a writ petition under Article 226 before the High Court of Bombay. The appellant sought in sum and substance, re-appraisal of the evidence on record, claiming that it was qualitatively insufficient to hold him guilty of the charges levelled against him. Additionally, the appellant raised a new ground of non-compliance with Rule 34(10)(ii)(b) of CISF Rules, 1969 which specified serving of a second show cause notice and opportunity of hearing regarding the proposed penalty. The appellant fairly submitted before the High Court that it was not his case that the penalty imposed against him was disproportionate, if the charges against him were held to be proved.

19. The High Court, through the order-under-challenge, conducted a detailed re-examination of the facts and material-on-record, expanding the scope of judicial review under Article 226 and concluded that there existed ample evidence to establish the appellant's involvement in the organised collection of illegal monies from BPCL's contractors and his role in fabricating official records and intimidating subordinate officers to falsely testify to support his alternate version.

20. The High Court categorically held that the domestic enquiry followed all procedures and was in conformity with principles of natural justice and the appellant had been accorded numerous opportunities of putting forth his version of events. The CISF Rule sought to be relied upon by the appellant, was found to have been amended in 1981, therefore, leaving no requirement for a separate show cause notice at the stage of penalty. The writ petition was accordingly dismissed on 05.05.2009.

CONTENTIONS OF PARTIES

21. The instant appeal being the last resort, learned senior counsel for the appellant, once more, took us through the enquiry-record and highlighted how the main witness (CW-1) had retracted his statement, and how there was no corroboration between witnesses and documents. The conduct of the enquiry officer was called into question, contending that his decision to put questions to witnesses was unfair. Acting as both the judge and prosecutor, the enquiry officer was alleged to have vitiated the entirety of the proceedings. Till the last minute, the appellant vehemently stuck to his alternate version that the recovered sum of Rs 10,780 was nothing but a loan extended between two officials in a private capacity, and that the false charges were levelled on him with oblique motives at the instance of certain superiors. Finally, the appellant sought leniency and urged that given another 21 years of remaining service, imposition of the severest punishment of dismissal from service was highly disproportionate which ought to shock the conscience of this Court.

22. These contentions have dexterously been countered by the learned counsel for the respondents, who highlights through specific reference to the impugned order that retraction of CW-1's statement had been noted by all prior authorities and that no significant reliance had been placed on it while holding the appellant guilty. Adequate opportunities were granted and had been availed by him. Attention was drawn to the fact that the present proceedings constituted the fifth venue where the appellant was pleading his case, with the first four and the CBI having found his guilt concurrently.

23. The deliberate and planned manner of the falsifications, and the blatant threats made to subordinate officials was highlighted by the respondents, and the loan theory propounded by the appellant was shown as having been recurrently agitated and discarded by all the previous forums. Given the concurrent findings of the enquiry officer, disciplinary authority, appellate authority, and the High Court; as well as the detailed evaluation and reasoned order passed by each, it was submitted that there remained little scope of re-appreciation or further adjudication. The ratio of ***Shashi Prasad v. CISF[1] [[1]2019 7 SCC 797]*** was distilled to drive home the argument that departmental enquiries don't stand on the same pedestal as criminal proceedings. Acquittal in one would not pre-judge the other owing to a difference in standards of proof. It was claimed that there could be no re-

appreciation of evidence as per ***Govt of Andhra Pradesh v. Mohd Nasrulla Khan[2] [[2]2006 2 SCC 373],*** and that Constitutional Courts ought not to act as appellate authorities against disciplinary proceedings of government employees. Finally, given the delicate nature of employment in paramilitary forces and breach of the high trust reposed in him by society, the strict punishment of dismissal of the appellant from service was justified.

ANALYSIS

24. At the outset, it may be noted that the appellant has chosen to raise some new grounds before this Court, despite those issues involving questions of fact. Nevertheless, a few pertinent questions of service jurisprudence do arise in this appeal, which we deem appropriate to answer.

I. Scope of Judicial Review in Service Matters

25. 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.[3] *[[3]**Government of Andhra Pradesh v. Mohd Nasrullah Khan, (2006) 2 SCC 373,** ¶ 11.]*

26. These principles are succinctly elucidated by a three judge Bench of this Court in ***BC Chaturvedi v. Union of India[4] [[4](1995) 6 SCC 749*** ¶ *12.]* 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 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

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.**

28. It is thus well settled that the Constitutional Courts while exercising their powers of judicial review would not assume the role of an appellate authority. Their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice. Put differently, judicial review is not analogous to venturing into the merits of a case like an appellate authority.

29. The High Court was thus rightly concerned more about the competence of the enquiry officer and adherence to natural justice, rather than verifying the appellant's guilt through documents and statements. It clearly noted that evidence was led, cross-examination was conducted and opportunities of addressing arguments, raising objections, and filing appeal were granted. The conclusion obtained was based upon these very evidences and was detailed and well-reasoned. Furthermore, the High Court didn't restrict the scope of judicial review, rather adopted a liberal approach, and delved further to come to its own independent conclusion of guilt. Similarly, we have no doubt in our minds that the appellate authority had carefully dealt with each plea raised by the appellant in his appeal and had given detailed responses to all the contentions to satisfy the appellant's mind. The disciplinary authority too was impeccable and no infirmity can be found in the report of the enquiry officer either.

30. Even in general parlance, where an appellate or reviewing Court/authority comes to a different conclusion, ordinarily the decision under appeal ought not to be disturbed in so far as it remains plausible or is not found ailing with perversity. The present case is neither one where there is no evidence, nor is it one where we can arrive at a different conclusion than the

disciplinary authority, especially for the reasons stated hereunder.

II. Appropriateness of procedure and PNJ

31. Significant emphasis has been placed by the appellant on the fact that the enquiry officer put his own questions to the prosecution witness and that he cross-examined the witnesses brought forth by the defence. This, it is claimed, amounts to making the prosecutor the judge, in violation of the natural justice principle of "*nemo judex in sua causa*". However, such a plea is misplaced. It must be recognized that, under Section 165, Evidence Act, judges have the power to ask any question to any witness or party about any fact, in order to discover or to obtain proper proof of relevant facts. While strict rules of evidence are inapplicable to disciplinary proceedings, enquiry officers often put questions to witnesses in such proceedings in order to discover the truth. Indeed, it may be necessary to do such direct questioning in certain circumstances. Further, learned counsel for the appellant, except for making a bald allegation that the enquiry officer has questioned the witnesses, did not point to any specific question put by the officer that would indicate that he had exceeded his jurisdiction. No specific malice or bias has been alleged against the enquiry officer, and even during the enquiry no request had been made to seek a replacement; thus, evidencing how these objections are nothing but an afterthought.

32. Rather it appears that the delinquent person received a fair trial, which can illustratively be determined by analysing whether he received an opportunity of adducing evidence, cross-examining witnesses and whether depositions were recorded in his presence.[5] *[[5]**Union of India v. T.R. Varma, 1958 SCR 499** ¶ 10.]* The record clearly elucidates that all these essentials had been duly observed in the present proceedings. Opportunity to seek assistance of another officer was accorded, right of making representation was granted before each authority, multiple opportunities were granted to lead evidence, cross-examine witnesses, and raise objections. The appellant exercised most of these options, though some were given up despite reminders. Minor delays on part of the appellant were ignored and each concern of his had been addressed through detailed reasons.

III. Effect of criminal enquiry on disciplinary proceedings

33. The incident of 28.02.1999 raised serious questions of criminality under the Indian Penal Code and the Prevention of Corruption Act, as well as of violation of Service Regulations and administrative misconduct. Thus, in addition to appointment of enquiry officer, the authorities also registered a criminal complaint with the CBI. After investigation, the CBI though did not find adequate material to launch criminal prosecution against the appellant but through its self-speaking report dated 07.03.2000, the CBI recommended major disciplinary action against the appellant and a few others.

34. It is beyond debate that criminal proceedings are distinct from civil proceedings. It is both possible and common in disciplinary matters to establish charges against a delinquent official by preponderance of probabilities and consequently terminate his services. But the same set of evidence may not be sufficient to take away his liberty under our criminal law jurisprudence.[6] *[[6]**Karnataka SRTC v. MG Vittal Rao, (2012) 1 SCC 442,** ¶ 11.]* Such distinction between standards of proof amongst civil and criminal litigation is

deliberate, given the differences in stakes, the power imbalance between the parties and the social costs of an erroneous decision. Thus, in a disciplinary enquiry, strict rules of evidence and procedure of a criminal trial are inapplicable, like say, statements made before enquiry officers can be relied upon in certain instances.[7] *[[7] **Ajit Kumar Nag v. Indian Oil Corp Ltd (2005) 7 SCC 764,** ¶ 11.]*

35. Thus, the appellant's contention that he should be exonerated in the present proceedings as no criminal chargesheet was filed by the CBI after enquiry, is liable to be discarded.[8] *[[8]**BHEL v. M Mani, (2018) 1 SCC 285,** ¶ 20-22,* 33*.]* The employer always retains the right to conduct an independent disciplinary proceeding, irrespective of the outcome of a criminal proceeding. Furthermore, the CBI report dated 07.03.2000 does recommend major disciplinary action against the appellant. The said report also buttresses the respondent's case.

IV. Punishment and plea of leniency

36. In our considered opinion, the appellant's contention that the punishment of dismissal was disproportionate to the allegation of corruption, is without merit. It is a settled legal proposition that the Disciplinary Authority has wide discretion in imposing punishment for a proved delinquency, subject of course to principles of proportionality and fair play. Such requirements emanate from Article 14 itself, which prohibits State authorities from treating varying-degrees of misdeeds with the same broad stroke. Determination of such proportionality is a function of not only the action or intention of the delinquent, but must also factor the financial effect and societal implication of such misconduct.[9] *[[9]**Jameel v. State of Uttar Pradesh, (2010) 12 SCC 532,** ¶ 14-16.]* But unlike in criminal cases, in matters of disciplinary proceedings Courts only interfere on grounds of proportionality when they find that the punishment awarded is inordinate to a high degree, or if the conscience of the Court itself is shocked. Thus, whereas imposition of major penalty (like dismissal, removal, or reduction in rank) would be discriminatory and impermissible for trivial misdeeds; but for grave offences there is a need to send a clear message of deterrence to the society. Charges such as corruption, misappropriation and gross indiscipline are prime examples of the latter category, and ought to be dealt with strictly.

37. Applying these guidelines to the facts of the case in hand, it is clear that the punishment of dismissal from service is far from disproportionate to the charges of corruption, fabrication and intimidation which have unanimously been proven against the appellant. Taking any other view would be an anathema to service jurisprudence. If we were to hold that systematic corruption and its blatant cover-up are inadequate to attract dismissal from service, then the purpose behind having such major penalties, which are explicitly provided for under Article 311 of the Constitution, would be obliterated.

38. Still further, the appellant's actions would most probably have caused huge consequential losses to BPCL and lowered the reputation of the CISF amongst members of the public. Given the paramilitary nature of the appellant's force, a sense of integrity, commitment, discipline, and camaraderie is paramount.10 This expectation is only heightened in the case of the appellant given how he was specifically tasked with weeding out corruption and

conducting surprise raids. Once shattered through acts of intimidation, forgery, and corruption; only the severest penalty ought to be imposed.

CONCLUSION

39. In light of the above discussion, we do not find any merit in this appeal which is accordingly dismissed.

Appeal dismissed.

****