CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1793 OF 2014
New Delhi, this the 2nd day of March, 2017
CORAM:
HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBEER
AND
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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H.C.Hansraj,
s/o late Sh.G.L.Meena,
R/o H.No.RZ-47, Shyam Vihar,
Kakrola, P.S.Sector 16, Dwarka,
South West Distt.,
New Delhi ..... Applicant
(By Advocate: Mr.G.S.Rana)
Vs.

1. Commissioner of Police, Delhi,
through Joint Commissioner of Police,
South Eastern Range, Police Headquarters,
I.P.Estate, New Delhi.

2. Dy.Commissioner of Police,
New Delhi District,
New Delhi.

3. Enquiry Officer,
through Dy.Commisioner of Police,
New Delhi District,
New Delhi ..... Respondents

(By Advocate: Mr.N.K.Singh for Ms.Avnish Ahlawat)

ORDER

***Per* Raj Vir Sharma, Member(J):**

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the findings/enquiry report(Annexure A-1) submitted by the Enquiry Officer

(EO) holding the charge as proved against the applicant, the orders dated 9.5.2013 and 13.3.2014 (Annexure A-2 collectively) passed by the Disciplinary Authority (DA) imposing on applicant the punishment of óforfeiture of five years approved service permanently entailing reduction in his payô and deciding the suspension period of the applicant from 6.3.2009 to 9.5.2013 as not spent on duty, and the order dated 5.2.2014 (Annexure A-3) passed by the Appellate Authority (AA) rejecting the applicantôs appeal and upholding the DAôs order dated 9.5.2013,ibid.

2. The respondents have filed a counter reply resisting the O.A. The applicant has filed a rejoinder reply thereto.

3. We have perused the records, and have heard Mr.G.S.Rana, the learned counsel appearing for the applicant, and Mr.N.K.Singh, for Ms.Avnish Ahlawat, the learned counsel appearing for the respondents. We have also perused the DE file produced by Mr. N.K.Singh.

4. F.I.R.No.43 dated 6.3.2009, Parliament Street PS, under Section 384 IPC, was registered against the applicant on the basis of the statement/complaint made by Shri Prakash Jus Roy that during the intervening night of 3 / 4 March 2009 at about 1.00 A.M., the applicant came to his residence and told his son Pranay Jus Roy that his wife Mrs. Rachna had lodged a complaint at Parliament Street Police Station against him and he (his son) had to accompany him at that moment, and saying so the applicant took his son downstairs and got him sit in a Santro Car parked there. He rushed downstairs and took Pranay into his car and told the

applicant that he would take his son to Police Station. On the way to the Police Station, the applicant at first took them to RML Hospital where the applicant got down from Santro Car and the driver of Santro Car drove away that car. The applicant got his son medically examined. Thereafter, the applicant in his own car, and he in his car with Pranay reached PS Parliament Street where they were made to sit in the room of the applicant wherein there were some counters. After that the applicant told that Pranay was to be arrested. When the complainant asked the applicant to show the complaint, the applicant refused to show the complaint and verbally told that it was a complaint of dowry demand and violence which was lodged by his wife, namely, Mrs. Rachna. Thereafter, the applicant conducted personal search and took purse, watch, and chain from his son and gave the same to him and prepared an Arrest Memo on which the applicant got the signatures of the complainant/informant and his son. The applicant told his son that he cannot be released on bail in Police Station and will be produced before the Magistrate on the next day, and that he would add such Sections due to which he would not be released on bail up to 15 days. Hearing this from the applicant, the complainant became panic and called his lawyer Mr.D.S.Dalal on telephone. The said lawyer came and discussed the matter with the applicant. The lawyer told him that the applicant was demanding Rs.50,000/- for his sonôs release, otherwise he would not release his son. On this, the complainant asked the son of his *Sali* (sister-in-law) Mr.Mohit on phone to bring some money to PS Parliament Street. Mr.Mohit brought money to the

PS Parliament Street and he himself gave Rs.25,000/- to the applicant in that room. After that Mr.D.S.Dalal, Advocate, asked the complainant and his son to leave the Police Station and that he would remain there for about half an hour to take return of the papers of the case and to get the case file closed. It was about 5 A.M. During the entire episode, neither Mrs. Rachna nor any of her family members was seen in RML Hospital or at the Police Station. The applicant extorted Rs.25, 000/- from him by putting threat and fear. The amount given to the applicant was in currency notes of Rs.500/- denomination. After registration of the FIR, the applicant was arrested and released on bail.

5. As per the order dated 23.12.2009 (Annexure A-8) passed by the DA, a regular Departmental Enquiry (DE) was initiated against the applicant and the EO was appointed to hold the enquiry and submit his findings. On 22.4.2010 the EO issued the summary of allegations, along with the lists of witnesses and of documents, to the applicant. The allegations against the applicant were as follows:

> ñAn information vide DD No.17A at 11.55 PM on 03/03/09 was received at police station Parliament Street from duty constable RML Hospital that one Vijendra Gupta has brought Rachna W/o Pranay r/o 3/8 Rani Jhansi Marg, New Delhi to RML hospital who received injuries in a scuffle, in front of Le Meridian Hotel, Delhi. You HC Hansraj NO.223/ND was detailed on this information for enquiry and necessary action.
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> You HC Hansraj collected the MLC NO.26599/09 dt.03/03/09 of injured Rachna and also brought her husband Pranay Jusroy, in police station with whom, altercation of injured Rachna took place and she (Smt. Rachna) received injuries, he was also examined vide MLC No.26622/09

> dt.04/03/09. You HC Hansraj made an entry in Rojnamcha vide DD No.22A, dt.03/03/09 regarding above information stating therein that it was a minor altercation between a husband and his wife, where the husband Pranay slapped her. The above information was kept pending enquiry after bringing it to the notice of SHO/Pt.Street.
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> On 5/03/09, a complaint was received from the office of LG/Delhi through Citizen Complaint Information, wherein Sh.Prakash Jusroy alleged that his son Pranay was released from police station Parliament Street only after giving Rs.25,000/- to you (Head Constable Hans Raj P.S.Parliament Street). On this complaint Sh.Prakash Jusroy was contacted, his statement was recorded and a case FIR No. 43/09, U/S 384 IPC was got registered against you HC Hans Raj No.223/ND at P.S. Parliament Street on 05/06/09. You were arrested in this case and released on bail as per his anticipatory bail order.
>
> The above act on the part of you HC Hans Raj No.232/ND amounts to gross misconduct, negligence, carelessness and misuse of his official position for which he is liable to be dealt with departmentally under the provisions of the Delhi Police (Punishment & Appeal) Rules, 1980 read with Section 21 of Delhi Police Act, 1978.ò

In the DE, eight P.Ws. were examined, and four D.Ws. were examined. The applicant also submitted his defence statement. On 6.10.2011 the EO submitted enquiry report/findings to the DA, holding that the charge was proved against the applicant. On 11.11.2011, the applicant submitted representation against the findings of the EO. After considering the materials available on record, the findings of the EO, and the applicantôs representation, and after hearing the applicant, the DA passed order dated 9.5.2013 imposing on applicant the penalty of óforfeiture of five years approved service permanently entailing reduction in his payô and deciding the suspension period of the applicant from 6.3.2009 to 9.5.2013 as not spent

on duty. The applicantôs appeal dated 25.6.2013 made against the DAôs order was rejected by the AA, vide its order dated 5.2.2014.

6. Mr.G.S.Rana, the learned counsel appearing for the applicant, submitted that copy of the listed document, i.e., complaint no.118LG dated 6.3.2009 was not supplied to the applicant, and, therefore, prejudice was caused to the applicant. Mr.G.S.Rana also submitted that the EO has failed to appreciate the evidence of the complainant (PW 5) and the evidence of DW 1, DW 2 and DW 3 in proper perspective. When the complainant-PW 5 deposed that money was given to Shri D.S.Dalal, Advocate (DW 3) and when DW 1- the uncle of Mrs.Rachna, DW 2-the Duty Officer of PS Parliament Street, and DW 3-Shri D.S.Dalal, Advocate, deposed that no money was demanded and accepted by the applicant, the finding arrived at by the EO that Mr.Prakash Jus Roy gave Rs.25,000/- to the applicant for releasing his son Mr.Pranay is perverse. Thus, the punishment order passed by the DA accepting such perverse finding of the EO, and the order passed by the AA are unsustainable and liable to be quashed.

7. Mr. N.K.Singh, the learned counsel appearing for the respondents, invited our attention to the reply dated 14.6.2013 (Annexure A-15) issued by the Dy. Commissioner of Police, New Delhi Distt. to the applicantôs application dated 24.5.2013 and submitted that the DE was initiated against the applicant on registration of a criminal case, vide FIR No. 43/09 under Section 384 IPC PS Parliament Street. Copy of the said FIR No.43/09, ibid, was supplied to the applicant. Though the complaint

No.118LG dated 6.3.2009 was a listed document, yet the same was neither produced during the enquiry, nor were the contents of the same relied on by the EO, DA and AA to hold that the charge was proved against the applicant. Therefore, no prejudice can be said to have been caused to the applicant for non-supply of copy of the complaint No.118LG dated 6.3.2009. It was also submitted by Mr. N.K.Singh that cogent evidence was available on record to prove the charge against the applicant. This was not a criminal case, and was only a case of departmental proceedings, and, therefore, the charge need not be proved beyond doubt and it only required the establishment of preponderance of probabilities. He submitted that the position in law is clear that the Tribunal does not have to go into other evidence and as long as there is some evidence, the question of sufficiency of evidence need not be gone into by the Tribunal. He also submitted that this was not a case of no evidence, and it is only in cases of no evidence that the Tribunal could interfere with the findings of the departmental authorities.

8. After having given our thoughtful consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in the contentions of the applicant.

9. On a perusal of the DE file and the records of the present proceedings, we have found that besides complaint no. 118LG dated 6.3.2009 through Citizen Complaint Information, five other documents, viz., Duty Roster (Chittha) of PS Parliament Street dt.3.3.2009, Roznamcha óAô of PS Parliament Street dt.3.3.2009 and 4.3.2009 for DD No.17A and 22A

of 3.3.2009, MLC no.E-26622/09 of Mr.Pranay Jusroy dt.4.3.2009 RML Hospital, MLC No.26599/09 of Smt. Rachna dated 3.3.2009, RML Hospital, and FIR no.43/09 u/s 384 IPC PS Parliament Street, were mentioned in the list of documents by which the charge was proposed to be proved against the applicant. The said complaint no.118LG dated 6.3.2009 was not produced during the enquiry. The other five documents were produced by the prosecution and were marked as Exhibits. One complaint purported to be registered on 5.3.2009 through the Citizen Complaint Information, with the endorsement of the Assistant Commissioner of Police, Parliament Street, New Delhi, dated 5.3.2009, was produced and marked as Ex.6/A. It is not the case of the applicant that copy of the said complaint registered on 5.3.2009 through the Citizen Complaint Information was not furnished to him. Thus, it is clear that copies of the documents which were produced and marked as Exhibits during the enquiry and were relied on by the EO, DA, and AA to record their findings were duly supplied to the applicant. Therefore, non-supply of the complaint no.118LG dated 6.3.2009, which was not produced during the enquiry and was not relied on by the EO, DA and AA, cannot be held to have caused any prejudice to the defence of the applicant.

10. It is well settled legal proposition that the provisions of the Evidence Act are not strictly applicable in the DE, as are applicable in criminal trials, because proceeding in a criminal case and the departmental proceedings operate in distinct and different jurisdictional areas. Whereas in

the departmental proceedings, where a charge relating to misconduct is being investigated, the factors operating in the mind of DA may be many such as enforcement of discipline, or to investigate the level of competency of the delinquent. The standard of proof required in those proceedings is also different from that is required in criminal case. In departmental proceedings, the standard of proof is one of preponderance of the probabilities, whereas in a criminal case the charge has to be proved by the prosecution beyond reasonable doubt. Thus, the EO is required to decide the real controversy between the parties, on the doctrine of preponderance of probability of evidence. Therefore, it cannot possibly be said that there is no cogent evidence on record to prove the charges against the applicant.

11. After evaluating the evidence led by the prosecution and defence, and considering the written statement of defence submitted by the applicant, the EO arriving at the following conclusion:

> ñ In view of the discussion made above and enquiry in respect of the charge served upon the delinquent HC Hansraj No.223/ND PIS No.28910286, as far as he charge regarding demand of Rs.50,000/- through advocate D.S.Dalal and acceptance of Rs.25,000/- is concerned, it stands proved beyond doubt because PW 5 Shri Prakash Jusroy stated that he handed over Rs.25,000/- to HC Hansraj No.223/ND for releasing his son Pranay Jusroy at about 4.45 A.M.on the night intervening 03-04/03/09. The DW 4 also corroborated the version of PW 5 that he delivered money to Prakash Jusroy outside PS Parliament Street, New Delhi, at about 4 AM on the night intervening 03-04/03/09. The point raised during enquiry has a weightage that there was no point going to the house of Prakash Jusroy at about 1 AM as the matter was not so serious. The delinquent himself made an entry in Roznamcha vide DD No.22A dated 03.03.09 regarding above information stating therein that it was a minor altercation between husband and wife.ò

12. In his representation against the findings of the EO, besides stating about the ego of the complainant (PW 5), and his own uprightness, the applicant pointed out that the demand and acceptance of Rs.25,000/- by him from the complainant (PW 5) were not established by the prosecution. The statement made by the complainant (PW 5) that he handed over the money to Mr.D.S.Dalal, Advocate (DW 3) was not supported by DW 3. Mr.D.S.Dalal, Advocate (DW 3) deposed that no matter of illegal nature or transaction of any money was discussed in the Police Station. The statement of DW 3 was also supported by DW 1- Mr.Vijendeer Gupta who deposed that no demand of money was made by the applicant from Mr.Pranay, or his father (the complainant), or any other person, who were present at the Police Station. It was also pleaded by the applicant in his representation that the EO has failed to analyse and understand the lies, infirmities and discrepancies in the statement of the complainant (PW 5).

13. It transpires from the impugned order dated 9.5.2013 that the DA duly considered the pleas raised by the applicant in his representation against the findings of the EO and did not find any substance therein. The relevant portion of the DAôs order dated 9.5.2013 is reproduced below:

> ñAgreeing with the findings of the EO, a copy of the findings was served upon the defaulter HC on 28.10.2011 vide this office U.O.No.6921/HAP/NDD (D-I) dated 24.10.2011 for furnishing his written reply in response to the findings of the EO and also called upon to show cause as to why his suspension period from 06.03.2009 should not be decided as period not spent on duty for all intents and purposes.
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> The defaulter HC submitted his written reply in response to the finding of the EO. The main plea taken by the defaulter in

his written reply is that complainant, Shri Prkash Jusroy is a high profile person being Director of Delhi Stock Exchange. He took it his ego when the defaulter favoured the law and not the mighty. PW-5, Shri Prakash Jusroy wanted to settle the grudge against him as he knew that if he gets the case registered against the defaulter HC, it will be in his favour, in future as he had kept the call pending and could have taken action according to law after receiving the MLC result of his daughter-in-law, so he made complaint to the L.G., Delhi directly against the defaulter regarding acceptance of Rs.25000/- as bribe despite making complaint either to SHO/Parliament Street, ACP/Pr.Street or DCP/NDD on the next day.

I have carefully gone through the DE file, written reply submitted by defaulter HC and also heard him in OR. During OR he did not adduce anything new except of that what he has already stated in his written reply. The above main plea of the defaulter HC has no force because the defaulter HC made an entry in Ronamcha vide DD No.22A dated 03.03.2009 stating therein that it was a minor altercation between a husband and wife, where the husband Pranay slapped her and the above information was kept pending after bringing it to the notice of SHO/Pt.Street, so there was no need to visit the house of the complainant by the defaulter HC Hans Raj on the same intervening night of 3 / 4.03.2009 at about 1 a.m. and brought the complainant Shri Prkash Jusroy and his son Pranay Jusroy to PS Pt.Street. Moreover, it has been proved from the deposition of the complainant Shri Prakash Jusroy (PW 5) that Shri Mohit Aggarwal (Nephew of the complainant) brought 90 notes of Rs.500/- denomination each from his wife and handed over the same to him outside PS Pt.Street, out of which he handed over Rs.25000/- (50 notes of Rs.500/- denomination each) to HC Hans Raj when his son Pranay Jusroy and Advocate Shri J.S.Dalal came out of I.Oôs room to release his son. DW-4 Shri Mohit Aggarwal (Nephew of the complainant PW 5) deposed that on the intervening night of 3 / 4.03.2009 on receipt of telephone call from his aunt that police has taken Pranay Jusroy, he reached at his auntôs house and she gave him some currency notes of Rs.500/- denomination with the direction to hand over the same to his uncle and he handed over the same to his uncle outside PS Pt.Street.

From the deposition of PWs and other material available on record the charge of acceptance of Rs.25,000/- by the defaulter HC Hans Raj, No.223/ND from Shri Prakash Jusroy to release his son Pranay Jusroy stands proved.ò

14. The appeal made by the applicant against DAôs order was rejected by the AA, vide it order dated 5.2.2014, the relevant part of which reads thus:

> ñI have gone carefully gone through the appeal submitted by the appellant and have also heard him in OR on 30.10.2013 during which he had nothing new to add other than that submitted by him in his written appeal. He has pleaded that Disciplinary Authority had to take final decision on the enquiry report within a period of three months but in the present case, final order was passed after about 19 moths which is barred by time limitations. The plea of the appellant is not tenable as when the DE was on final stage, the appellant was called by the disciplinary Authority in OR to decide the issue but the appellant approached the Honôble High Court. Thereafter, the DE was kept in abeyance as such, there is no delay in the issue of final orders. The Court rulings cited by the appellant in this regard are also not relevant in the case because delay in finalization of the DE was not directly attributed on the part of office. Another contention of the appellant is that the subsistence allowance was not reviewed during suspension. It is also incorrect as subsistence allowance was reviewed as per provisions of the FR. The appellant further pleaded that EO submitted his findings without properly considering the solid points of the appellant. The plea is also vague. Since the charge levelled against the appellant in the DE was corroborated by the witnesses, EO submitted finding accordingly and the same is self contained. I also find that the DE proceedings have been concluded as per provisions of DP (P&A) Rules, 1980 and the appellant pleadings that the DE proceedings contain infirmities do not hold good.ò

15 It is no more *res integra* that the power of judicial review does not authorize the Tribunal to sit as a court of appeal either to reappraise the evidence/materials and the basis for imposition of penalty, nor is the Tribunal entitled to substitute its own opinion even if a different view is possible. Judicial intervention in conduct of disciplinary proceedings and the consequential orders is permissible only (i) where the disciplinary proceedings are initiated and held by an incompetent authority; (ii) such

proceedings are in violation of the statutory rule or law; (iii) there has been gross violation of the principles of natural justice; and (iv) on account of proven bias and mala fide.

16. The Hon'ble Apex Court in the case of **K.L. Shinde v. State of Mysore**, (1976) 3 SCC 76, having considered the scope of jurisdiction of this Tribunal in appreciation of evidence, has ruled as under:

> ñ9. Regarding the appellant's contention that there was no evidence to substantiate the charge against him, it may be observed that neither the High Court nor this Court can re-examine and re-assess the evidence in writ proceedings. Whether or not there is sufficient evidence against a delinquent to justify his dismissal from service is a matter on which this Court cannot embark. It may also be observed that departmental proceedings do not stand on the same footing as criminal prosecutions in which high degree of proof is required. It is true that in the instant case reliance was placed by the Superintendent of Police on the earlier statements made by the three police constables including Akki from which they resiled but that did not vitiate the enquiry or the impugned order of dismissal, as departmental proceedings are not governed by strict rules of evidence as contained in the Evidence Act. That apart, as already stated, copies of the statements made by these constables were furnished to the appellant and he cross-examined all of them with the help of the police friend provided to him. It is also significant that Akki admitted in the course of his statement that he did make the former statement before P. S. I. Khada-bazar police station, Belgaum, on November 21, 1961 (which revealed appellant's complicity in the smuggling activity) but when asked to explain as to why he made that statement, he expressed his inability to do so. The present case is, in our opinion, covered by a decision of this Court in State of Mysore v. Shivabasappa, (1963) 2 SCR 943 = AIR 1963 SC 375 where it was held as follows:-
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> > "Domestic tribunals exercising quasi-judicial functions are not courts and therefore, they are not bound to follow the procedure prescribed for trial of actions in courts nor are they bound by strict rules of evidence. They can, unlike courts, obtain all information material for the points under enquiry from all sources, and through all channels,

> without being fettered by rules and procedure which govern proceedings in court. The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to the party against who it is to be used and give him a fair opportunity to explain it. What is a fair opportunity must depend on the facts and circumstances of each case, but where such an opportunity has been given, the proceedings are not open to attack on the ground that the enquiry was not conducted in accordance with the procedure followed in courts.
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> 2. In respect of taking the evidence in an enquiry before such tribunal, the person against whom a charge is made should know the evidence which is given against him, so that he might be in a position to give his explanation. When the evidence is oral, normally the explanation of the witness will in its entirety, take place before the party charged who will have full opportunity of cross-examining him. The position is the same when a witness is called, the statement given previously by him behind the back of the party is put to him, and admitted in evidence, a copy thereof is given to the party and he is given an opportunity to cross-examine him. To require in that case that the contents of the previous statement should be repeated by the witness word by word and sentence by sentence, is to insist on bare technicalities and rules of natural justice are matters not of form but of substance. They are sufficiently complied with when previous statements given by witnesses are read over to them, marked on their admission, copies thereof given to the person charged and he is given an opportunity to cross-examine them."

17. In **Rajinder Kumar Kindra v. Delhi Administration through Secretary (Labour) and Others,** AIR 1984 SC 1805, it has been laid down by the Hon'ble Supreme Court that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man could come, the findings can be rejected as perverse. It has also been

laid down that where a quasi judicial tribunal records findings based on no legal evidence and the findings are its mere *ipse dixit* or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated.

18. In **B.C. Chaturvedi v. Union of India**, AIR 1996 SC 484, reiterating the principles of judicial review in disciplinary proceedings, the Hon'ble Apex Court has held as under:

> ñ12. 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 eye of the Court. When an inquiry is conducted on charges of a 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 be 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 office is guilty of the charge. The Court/Tribunal on its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at the 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 of 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 re-appreciate 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), this Court held at page 728 (of SCR): (at p 369 of AIR), 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 issuedò.

19. In **R.S. Saini v. State of Punjab and ors**, (1999) 8 SCC 90, the Honôble Apex Court has observed as follows:

> "We will have to bear in mind the rule that the court while exercising writ jurisdiction will not reverse a finding of the inquiring authority on the ground that the evidence adduced before it is insufficient. If there is some evidence to reasonably support the conclusion of the inquiring authority, it is not the function of the court to review the evidence and to arrive at its own independent finding. The inquiring authority is the sole judge of the fact so long as there is some legal evidence to substantiate the finding and the adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the court in writ proceedings."

20. The above view has been followed by the Honôble Apex Court in **High Court of Judicature at Bombay through its Registrar v. Shashikant S. Patil,** (2000) 1 SCC 416, wherein it has been held as under:

> ñ...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 inquiry 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 inquiry 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 before Article 226 of the Constitution.ò

21. In **Syed Rahimuddin v. Director General, CSIR and others**, (2001) 9 SCC 575, the Hon'ble Apex Court has observed as under:

> ñé It is well settled that a conclusion or a finding of fact arrived at in a disciplinary enquiry can be interfered with by the court only when there are no materials for the said conclusion, or that on the materials, the conclusion cannot be that of a reasonable mané .ò

22. In **Sher Bahadur v. Union of India,** (2002) 7 SCC 142, the order of punishment was challenged on the ground of lack of sufficiency of the evidence. The Hon'ble Apex Court observed that the expression "sufficiency of evidence" postulates "existence of some evidence" which links the charged officer with the misconduct alleged against him and it is not the "adequacy of the evidence".

23. In **Government of Andhra Pradesh v. Mohd. Nasrullah Khan,** (2006) 2 SCC 373, the Hon'ble Apex Court has reiterated the scope of judicial review as confined to correct the errors of law or procedural error if it results in manifest miscarriage of justice or violation of principles of natural justice. In para 7, the Hon'ble Court has held:

> ñBy now it is a well established principle of law that the High Court exercising power of judicial review under Article 226 of the Constitution does not act as an Appellate Authority. Its jurisdiction is circumscribed and confined to correct errors of law or procedural error if any resulting in manifest

> miscarriage of justice or violation of principles of natural justice. Judicial review is not akin to adjudication on merit by appreciating the evidence as an Appellate Authorityé ..ò

24. Taking into consideration the material and evidence on record and the legal position, as discussed herein above, we are of the considered opinion that the EO has correctly evaluated the evidence available on record. The DA and AA have recorded cogent reasons and examined the matter in the right perspective. We do not find any illegality, irregularity or any perversity in the impugned orders. Hence, no interference is warranted by this Tribunal.

25. No other point worth consideration has been urged or pressed by the learned counsel appearing for the parties.

26. In the light of our above discussions, we do not find any merit in the O.A. Accordingly, the O.A. is dismissed. The parties are left to bear their own costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

AN