CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 537/2013

Reserved on 29.05.2019
Pronounced on 01.08.2019

Hon'ble Mr. S.N.Terdal, Member (J)
Hon'ble Mr. A.K.Bishnoi, Member (A)

1. Rishal Khan, Age-47 years
993-SD
S/o Sh. Ishab Khan,
R/o Village- Aryuka
PO&PS- Gopal Garh, Distt. Bharatpur,
Rajasthan.

2. Ranbir Singh, Age-40 years,
S/o Sh. Shiv Baksh,
R/o Village- Gauripur,
PO- Katlana, PS& District- Bhiwani,
Haryana. … Applicants

(By Advocate: Mr. Sachin Chauhan)

VERSUS

1. Govt. of NCTD through
The Commissioner of Police,
PHQ, IP Estate, New Delhi.

2. The Joint. Commissioner of Police,
Southern Range through
The Commissioner of Police,
PHQ, IP Estate, New Delhi.

3. The Addl. Dy. Commissioner of Police,
South District through
The Commissioner of Police,
PHQ, IP Estate, New Delhi. .. Respondents

(By Advocate Mrs. Harvinder Oberoi)

O R D E R

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr.Sachin Chauhan, counsel for applicants and Mrs. Harvinder Oberoi, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

> "i) To quash and set- aside the order dated 17.11.03 whereby the major punishment of forfeiture of four years approved service has been imposed upon the applicants at A-1 and order dated 18.5.04 whereby the appeal of the applicant has been rejected by the Appellate Authority at A-2 and to further direct the respondent that forfeited year of service be restored as it was never reduced with all consequential benefit including seniority and promotion and pay & allowances.
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> ii) To direct the respondent to decide the suspension period of applicants from 26.9.1998 to 29.12.99 and intervening period from the date of dismissal to the date of reinstatement i.e. from 29.12.99 to 17.11.03 be decided as 'Spent on duty' for all intents and purposes.
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> Or/and
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> iii) Any other relief which this Hon'ble court deems fit and proper may also be awarded to the applicant."

3. This is third round of litigation. The relevant facts of the case are that on allegation that the applicants permitted etching work to be done by private persons with their connivance taking electric supply from the police picket, as such they had derelicted from their duties, a departmental action was proposed to be initiated against them. The detailed summary of allegation is extracted below:

> "I, Surender Sharma, EO/Inspr. AATS/South Distt., New Delhi charge you, Constable Ranbir Singh No. 694/SD of gross misconduct, negligence and misuse of powers that on 26/9/98 at about 7.00pm, a surveillance was conducted by the PRG staff comprising Inspr. Amarjeet Singh and others under the supervision of Shri R.A. Sanjeev, ACP/PRG Cell (Traffic) on the traffic police. While in the way at police picket of Badarpur border, they noticed that two police personnel were indulging in illegal activities alongwith a public person. The activities at the picket were watched and finally PRG team reached the picket where a Jeep was being checked by you and constable Rishal Khan No. 793/SD of PS Badarpur.
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> On enquiry, Sh. R.S.Katyal s/o Sh. B.D.Katyal r/o village Kanuri Jalalpur, PO: Sandalpur, Distt. Kanpur (UP) driver of Jeep No. MP-07/B-9003 handed over a yellow etching 'parchi' for Rs.40/- issued by Delhi Etching Authority given to him by Sh.Pradeep and stated that you have demanded Rs.300/- from him otherwise his vehicle will not be allowed to go. A search of both of you was carried out and Rs.100/- and Rs.250/- were found with you and

> const. Rishal Khan,. When you were searched thoroughly an amount of Rs.1020/- was also recovered from you for which you could not give any account and when taken into possession through seizure memo. Rs.440/- were also recovered from Sh.Pradeep Kumar (public person) and taken into possession through seizure memo.
>
> The aforesaid act on your part renders you liable to departmental action under Delhi Police (Punishment & Appeal) Rules, 1980."

4. Along with the above said summary of allegation, list of witnesses and list of documents were served on the applicants. As the applicants did not admit the allegation, an Inquiry Officer was appointed. The Inquiry Officer following the principles of natural justice and all the relevant rules regarding holding of the departmental enquiry recorded the deposition of the witnesses and examined and analyzed the evidence and took on record the defence statement of the applicant and came to the conclusion that the charges were established against the applicants. The inquiry report was served on the applicants. The applicants submitted representations. The disciplinary authority after carefully considering the evidence brought on record in the departmental enquiry and carefully considering the representation submitted by the applicants with regard to the inquiry report imposed a penalty of dismissal from service on both the applicants. The operative part of the said order is extracted below:

> "The etching was being done just at the distance of 10/15 feet from this police check post. While there was no such verbal or written permission of any Sr. Officer for getting the etching done, I agree with the findings of the EO that it was being done with the tacit approval of both the defaulters. It is also a fact that a case FIR No. 690 dated 26.9.98 u/s 420/468/471 IPC PS Badarpur was registered in this regard which is pending trial in the Court of law in which the said Pradeep Kumar as well as both the defaulter Consts. are co-accused.
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> Assessing all relevant aspects of the case and quantum of guilt so proved against the defaulters, I impose upon both the said defaulter Consts. Rishal Khan, NO. 793/SD and Ranbir Singh No.694/SD the penalty of dismissal from Govt. service as their act

> leaves them unreliable for Govt. duty. Their suspension period w.e.f. 26.9.98 to date is treated as period not spent on duty."

The appeals filed by the applicants against the dismissal orders were rejected by the appellate authority. In the first round of litigation, the applicants filed OA 1115/2001 challenging the inquiry report, the order passed by the disciplinary authority dismissing the applicants and the order passed by the appellate authority rejecting their appeal. This Tribunal vide order dated 6.08.2003 disposed of the said OA no.1115/2001 holding that the punishment awarded is shockingly disproportionate to the misconduct which was proved against the applicants relying on the law laid down by the Hon'ble Supreme Court in the case of **State Bank of India and Ors** Vs. **Samaredra Kishore Endow and Another** (1994) 2 SCC 537) and set aside the punishment order and directed the disciplinary authority to impose any punishment other than the dismissal. The relevant portion of the order is extracted below:

> "15. In the present case, once the applicants have already been exonerated of the main charge, the only allegation against them was that they permitted the etching work to be done by a private person and they were conniving with him. This conclusion has been arrived at because the said public person was taking electric supply from the police picket. We are conscious of the fact that discipline has to be maintained in the police force and in a disciplined force, indiscipline has to be dealt with a firm hand, but we are of the considered opinion that for such a dereliction, dismissal or removal is a punishment disproportionate to the nature of the dereliction. It is in this back-drop that we quash the impugned order.
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> 16. On merits while disposing the present application, we direct that the disciplinary authority may impose a punishment other than what has been referred to above. N costs."

In pursuance to the order dated 6.08.2003 passed by this Tribunal, the disciplinary authority re-considered the quantum of punishment and vide

order dated 17.11.2003 imposed a penalty of forfeiture of 4 years approved service permanently on the applicants. The applicants filed appeals. The appellate authority by a reasoned and speaking order rejected the appeals filed by the applicants vide order dated 18.05.2004. In the second round of litigation, the applicants filed OA No.1255/2005 seeking relief only with respect to the payment of pay and allowances from the date of dismissal passed on 29.12.1999 to the date of reinstatement effected on 17.11.2003. Vide order dated 3.06.2005, the said OA 1255/2005 was disposed of by this Tribunal directing the respondents to pass appropriate order regarding the said relief. A Review Application (RA) No. 162/2005 was filed against the said order dated 3.06.2005, in which after allowing the RA, the said OA No.1255/2005 was heard afresh, and after hearing the said OA, vide order dated 11.12.2006 the said OA was dismissed. All the above said sequences of events are not stated by the applicants in his present OA, but, however, these events are stated in the counter reply filed by the respondents which are extracted below:-

> "The disciplinary authority after assessing all the facts and circumstances of the case, imposed a major punishment of dismissal from service upon the applicants vide order No.14778-878/SD(P-III), dated 29.12.1999. The applicants filed their appeals which were considered and rejected by the Appellate Authority by passing a speaking and reasoned order vide order No.5075-79/SO(AC-II)/SR, dated 24.8.2000.
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> The applicants filed an O.A.No.1115/2001-Rishal Khan & Anrs. Vs. UOI &Ors in the CAT. The Hon'ble CAT disposed off the O.A. vide judgment dated 6.8.2003 and had held that the applicants have already been exonerated from the main charge, the only allegation against them was that they permitted the etching work to be done by a private person and they were conniving with him. This conclusion has been arrived at because the said public person was taking electric supply from the police picket. The Hon'ble Tribunal is also conscious of the facts that discipline has to be maintained in the police force and in a discipline force, indiscipline has to be dealt with a firm hand but the Hon'ble Tribunal is of the considered opinion that for such a dereliction, dismissal or

removal is a punishment disproportionate to the nature of the dereliction. Hence, the Hon'ble Tribunal quashed the order with the direction that disciplinary authority may impose a punishment other than dismissal or removal.

In pursuance of Hon'ble CAT's judgment dated 6.08.2003, the disciplinary authority after assessing all the facts and circumstances of the case Constables Rishal Khan, No. 793/SD and Ranbir Singh, No. 694/SD, the applicants were re-instated from dismissal with immediate effect. The applicants however, awarded the punishment of forfeiture of four years approved service permanently entailing reduction in their pay from the respective stage, where they were drawing at the time of their dismissal, their intervening period since the date of their dismissal from service i.e. 29.12.1999 to the date of re-instatement in service i.e. 17.11.2003 as well as suspension period from 26.09.1998 to 29.12.1999 was also decided as period not spent on duty. The period from the date of re-instatement is service to the date of their joining duty was decided as Leave of the Kind Due vide order No.8336-8436/SD(P-III), dated 17.11.2003.

Thereafter, the applicants filed O.A. No.1255/2005 and M.A. No.1098/2005-Rishal Khan & Ors Vs GNCT of Delhi & Others. The Hon'ble CAT disposed of the OA vide judgment dated 3.6.2005 at the admission stage with the remarks that the precise grievances presently is that no order has been passed pertaining to their pay and allowances for the intervening period from the date of dismissal till the date of re-instatement. The Hon'ble Tribunal directed that the disciplinary authority would consider the same and pass an appropriate speaking order in accordance with law within three months of the receipt of the certified copy or order dated 3.6.2005.

Since the intervening period from the date of dismissal to the date of reinstatement in service was decided as period not spent on duty and the period from the date of re-instatements in service to the date of joining duty was decided as Leave of kind Due vide order N. 8336-8436/SD (P-III) dated 17.11.2003. Therefore, R.A. No. 162/2005 against the order dated 3.6.2005 passed by the Hon'ble Tribunal has been filed for re-consideration of the decision in OA No.1255/2005 and MA No. 1098/2005. The Hon'ble Tribunal as been pleased to allow the RA No. 162/2005 vide order dated 18.7.2006 and directed the respondents to file reply to OA in four weeks.

The Hon'ble Tribunal CAT rejected the OA No. 1255/2005 vide judgment dated 11.12.2006, mentioning that the law is well settled that if a relief is prayed for which is not granted, it is deemed to have been rejected (2001 (1) SCC 73, State Bank of India Vs. Ram Chandra Dubey and Ors.) therefore, once the relief for back wages is deemed to have been rejected, applicants could not have claimed the same relief by filing another O.A. Now, the applicants have filed the present original application."

The counsel for the respondents on the basis of the relief prayed in the previous OAs extracted above submits, that this OA is hit by res-judicata and constructive res-judicata as the applicants in the first OA No.1115/2001 challenged the finding of the inquiry officer and the orders passed by the disciplinary authority and the appellate authority but ultimately this Tribunal vide order dated 6.08.2003 considered the quantum of punishment of dismissal and held that it is disproportionate without disturbing the findings of the inquiry officer and the other aspects of the orders passed by the disciplinary authority and Appellate authority and the said order dated 6.08.2003 has attained finality; the counsel for the respondents further submitted that in the second OA 1255/2005 the applicants did not challenge the impugned order of the disciplinary authority dated 17.11.2003 and that of the appellate authority dated 18.05.2004 which were in existence and operating against the applicants before he filed OA No. 1255/2005 but they sought relief only about the pay and allowances from 1999 to 2005 which relief was also ultimately dismissed by this Tribunal vide order dated 11.12.2006. In the said OA No. 1255/2005, the applicants did not state anything about the pendency of the criminal proceedings against them for reserving their right to seek relief after the disposal of the criminal proceedings. As stated in detailed in the extracted portion above, the said order of this Tribunal dated 11.12.2006 has also attained finality.

Subsequently in 2012, the Court of Shri Anuj Agarwal, MM-01 (SE) Saket Court, Delhi on the same set of facts both applicants were tried in the case FIR no.690/98 under section 420/468/471/120-B/34 IPC and vide judgment 28.08.2012 acquitted the applicants as the prosecution

witnesses did not support the case and as such there was no evidence to prove the charge. After the above said acquittal order dated 28.08.2012 the applicants claim that they have submitted a representation to the respondents for revisiting the penalty imposed on them under Rule 12 of the Delhi Police (Punishment and Appeal) Rules, 1980, this fact of submitting any representation is disputed by the respondents in their counter reply.

5. The counsel for the applicants vehemently and strenuously contended that in view of the Full Bench order passed by this Tribunal dated 18.02.2011 in the case of **Sukhdev Singh and another** Vs **Govt. of NCT of Delhi through Commissioner of Police and Others** (OA 2816/2008) and in view of the orders passed by this Tribunal dated 5.05.2016 in the case of **Constable Acheta Nand** Vs. **Govt. of NCTD through Commissioner of Police and Others** (OA No.2493/2014), dated 19.05.2016 in the case of **Head Constable Ram Dayal and another** Vs. **Govt. of NCTD through Commissioner of Police and Others** (OA No.3620/2013), dated 30.08.2018 in the case of **Constable Mangal Singh** Vs. **Govt. of NCTD through Commissioner of Police and Others** (OA No.3687/2013), dated 16.11.2018 in the case of **Constable Om Pal** Vs. **Govt. of NCTD through Commissioner of Police and Others** (OA No.4054/2013) and dated 6.05.2016 in the case of **Ct. Shaji E.J.** Vs. **Govt. of NCTD through Commissioner of Police and Others** (OA No.3617/2013) and the compliance orders dated 29.07.2016, 23.06.2016 and 17.06.2016 passed in OAs No 2493/2014, 3620/2013 and OA 3617/2013 which have been passed following the order dated 18.02.2011 passed in the Full bench case of **Sukhdev Singh**

(supra) and in view of the provisions of Rule 12 of the aforesaid Rules the respondents are bound to re-visit the penalty imposed upon them in view of they being acquitted in a criminal trial and are, therefore, entitled to the reliefs prayed for.

6. The Hon'ble Supreme Court in para 23, 26 and 27 in the case of **Deputy Inspector General of Police and Another** Vs. **S.Samuthiram,** reported in (2013) 1 SCC 598), has clearly laid down the law that the acquittal in the criminal proceeding will have no impact on the departmental proceedings initiated earlier unless the rules governing the employee specifically provide for revisiting the punishment imposed in the departmental enquiry. Para 23, 24 and 26 of the judgment, are extracted below:

> "23. We are of the view that the mere acquittal of an employee by a criminal court has no impact on the disciplinary proceedings initiated by the Department....
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> xxx xxx
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> 26. As we have already indicated, in the absence of any provision in the service rule for reinstatement, if an employee is honourably acquitted by a Criminal Court, no right is conferred on the employee to claim any benefit including reinstatement.
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> 27. We have also come across cases where the service rules provide that on registration of a criminal case, an employee can be kept under suspension and on acquittal by the criminal court, he be reinstated. In such cases, the re-instatement is automatic. There may be cases where the service rules provide in spite of domestic enquiry, if the criminal court acquits an employee honourably, he could be reinstated. In other words, the issue whether an employee has to be reinstated in service or not depends upon the question whether the service rules contain any such provision for reinstatement and not as a matter of right. Such provisions are absent in the Tamil Nadu Service Rules."

The law laid down in the case of S.Samuthiram is relied upon, approved and followed in the case of **State of West Bengal and Others** Vs. **Sankar Ghosh** (2014)3 SCC 610) and **Baljinder Pal Kaur** Vs. **State of Punjab and Others** (2016) 1 SCC 671). In para 16 of the judgment in the case of Sankar Ghosh (supra), the Hon'ble Supreme Court has held as follows:

> "16. In Inspector General of Police v. S. Samuthiram, this Court in paras 24, 25 and 26 of the judgment has elaborately examined the meaning and scope of the "honourable acquittal" and held as follows:-
>
> > "26. As we have already indicated, in the absence of any provision in the service rules for reinstatement, if an employee is honourably acquitted by a criminal court, no right is conferred on the employee to claim any benefit including reinstatement. Reason is that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient. There may be cases where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the other witnesses turned hostile, etc. In the case on hand the prosecution did not take steps to examine many of the crucial witnesses on the ground that the complainant and his wife turned hostile. The court, therefore, acquitted the accused giving the benefit of doubt. We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so."

7. The Hon'ble Supreme Court in the case of **Union of India and Another** Vs. **Purushottam,** reported in (2015) 3 SCC 779) has clearly recorded the reasons for not disturbing the punishment imposed after holding due departmental enquiry even if subsequently there is an acquittal in the criminal trial stating that firstly, standard of proof required

in the criminal trial is that of establishing the guilt beyond reasonable doubt, whereas in the case of departmental enquiry the standard of proof required is only that of preponderance of probability; Secondly, criminal prosecution is not within the control of the concerned department and acquittal could be the consequence of shoddy investigation or slovenly assimilation of evidence, or lackadaisical if not collusive conduct of the trial etc; Thirdly, an acquittal in a criminal prosecution may preclude a contrary conclusion in a departmental enquiry if the former is a positive decision in contradistinction to a passive verdict which may be predicated on technical infirmities; and Fourthly the consequences of these two proceedings are also entirely different, namely, the criminal proceedings result in punishment by way of imprisonment or imposition of some amount of fine and if he is acquitted he will not be sent to jail or fined and he will not have stigma of being called a criminal; whereas in the departmental enquiry the impugned conduct of the employee will be considered for his suitability in continuing in service or he may lose some service benefits. In the case of Purushottam (supra), the Hon'ble Supreme Court has clearly recognised the above differences in para 14 of the judgment after referring to various earlier judgments as follows:

> "14. ……..However, on this aspect of the law we need go no further than the recent decision in Deputy General of Police vs. S. Samuthiram (2013) 1 SCC 598, since it contains a comprehensive discourse on all the prominent precedents. This Court has concluded, and we respectfully think correctly, that acquittal of an employee by a Criminal Court would not automatically and conclusively impact Departmental proceedings.
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> 14.1. Firstly, this is because of the disparate degrees of proof in the two, viz. beyond reasonable doubt in criminal prosecution contrasted by preponderant proof in civil or departmental enquiries.
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> 14.2. Secondly, criminal prosecution is not within the control of the concerned department and acquittal could be the consequence of

> shoddy investigation or slovenly assimilation of evidence, or lackadaisical if not collusive conduct of the Trial etc.
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> 14.3. Thirdly, an acquittal in a criminal prosecution may preclude a contrary conclusion in a departmental enquiry if the former is a positive decision in contradistinction to a passive verdict which may be predicated on technical infirmities. In other words, the Criminal Court must conclude that the accused is innocent and not merely conclude that he has not been proved to be guilty beyond reasonable doubt."

These are fundamental differences in the criminal trial resulting in acquittal and the civil consequence of departmental proceedings.

8. In para 12 and 13 in the case of **B.C.Chaturvedi** Vs. **UOI & Others** (AIR 1996 SC 484), the Hon'ble Supreme Court laid down the law regarding the procedure followed in the departmental disciplinary proceedings and the sanctity of finality attached to them saying that these proceedings shall not be subjected to appellate jurisdiction and that they are subjected only of the power of judicial review wherein scope of challenge to the departmental proceedings is limited only decision making process and not the decision itself. Para 12 and 13 of the judgment, are extracted below:

> "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 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.
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> 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 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 issued".

Thus no Court can disturb the sanctity attached to the finality attained in the legally conducted disciplinary proceedings.

9. In the case of **Life Insurance Corporation of India & Others** Vs. **S.Vasanthi** (Civil Appeal No. 7717/2014), the Hon'ble Supreme Court after referring to catena of cases laid down the law stating that courts have no jurisdiction to interfere with the quantum of punishment imposed by the competent departmental authorities as a consequent of holding departmental enquiry, with one exemption of the punishment being shockingly disproportionate as stated in para 6, which is extracted below:

> "6. When the charge proved, as happened in the instance case, it is the disciplinary authority with whom lies the discretion to decide as to what kind of punishment is to be imposed. Of course, this discretion has to be examined objectively keeping in mind the nature and gravity of charge. The Disciplinary Authority is to decide a particular penalty specified in the relevant Rules. Host of factors go into the decision making while exercising such a discretion which include, apart from the nature and gravity of misconduct, past

> conduct, nature of duties assigned to the delinquent, responsibility of duties assigned to the delinquent, previous penalty, if any, and the discipline required to be maintained in department or establishment where he works, as well as extenuating circumstances, if any exist. The order of the Appellate Authority while having a re-look of the case would, obviously, examine as to whether the punishment imposed by the Disciplinary Authority is reasonable or not. If the Appellate Authority is of the opinion that the case warrants lesser penalty, it can reduce the penalty so imposed by the Disciplinary Authority. Such a power which vests with the Appellate Authority departmentally is ordinarily not available to the Court or a Tribunal. The Court while undertaking judicial review of the matter is not supposed to substitute its own opinion on reappraisal of facts.(See: Union Territory of Dadra & Nagar Haveli vs. Gulabhia M.Lad (2010) 5 SCC 775) In exercise of power of judicial review, however, the Court can interfere with the punishment imposed when it is found to be totally irrational or is outrageous in defiance of logic. This limited scope of judicial review is permissible and interference is available only when punishment is shockingly disproportionate, suggesting lack of good faith. Otherwise, merely because in the opinion of the Court lesser wpunishment would have been more appropriate, cannot be a ground to interfere with the discretion of the departmental authorities."

Thus no Court can interfere with the quantum of punishment imposed by the disciplinary and appellate authority unless it is shockingly disproportionate.

10. Even in the case of Constable Acheta Anand (supra), relied upon by the counsel for the applicant the impugned orders of the disciplinary authority and appellate authority were not set aside.

11. When the law laid down in the above cases was being noticed at the time of hearing, the counsel for the applicants Shri Sachin Chauhan submitted that in view of the analysis made above, he is not pressing for either re- visiting the impugned orders nor he is pressing for setting aside them and he further submitted that, he is simply praying for consideration of the representation submitted under Rule 12 of the above said Delhi Police Rules, as stated by the applicants in para 1.3 and 1.4 of the OA. The counsel for the respondents, referring to the counter filed

with respect to the said averments made in para 1.3 and 1.4 of the OA, submitted that no representation of the applicants was received in the concerned Branch of the respondents. Be that as it may, there is no specific prayer in the OA regarding consideration of any representation made under Rule 12 of the above said Delhi Police Rules. As such, no relief as to the said representation stated to have been made under Rule 12 of the above said rules, can be entertained at this stage.

12. In view of the facts and circumstances narrated above and in view of the law laid down by the Hon'ble Supreme Court referred to above and also in view of the analysis of the orders passed by this Tribunal dated 6.03.2003 and 11.12.2006 in earlier OAs bearing no.1115/2003 and 1255/2005 respectively, which have attained finality, the reliefs prayed for by the applicants cannot be granted. However, in view of the settled law as laid down in Sukhdev Singh and Another (supra) and other cases decided accordingly, as referred to in Para 5 above, without setting aside the impugned orders, we dispose of the present O.A. with direction to the respondents that if the applicant makes a representation as stated above, within two weeks of receiving a certified copy of this order, then the respondents shall consider the same and pass an appropriate order in accordance with law within a period of two months thereafter.

13. Accordingly, OA is disposed of. No order as to costs.

(A.K.Bishnoi)
Member (A)

(S.N.Terdal)
Member (J)

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