* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 13.08.2025
Pronounced on: 24.09.2025

\+ **W.P.(C) 6161/2007**

ROHTAS SINGH .....Petitioner

Through: Mr. N.S. Dalal, Ms. Nidhi Dalal, Mr. Alok Kumar, Ms.Rachana Dalal and Mr. Karan Mann, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS. .....Respondents

Through: Mr. Piyush Gaur, Advocate.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. This petition has been filed challenging the Order dated 04.01.2007 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi, (hereinafter referred to as the 'Tribunal') in O.A. No. 401/2006, titled ***Rohtas Singh v. Government of NCT of Delhi and Ors.,*** whereby the learned Tribunal dismissed the O.A. filed by the petitioner herein, and upheld the order of the Appellate Authority whereby the penalty upon the petitioner of withholding his increment for a period of three years with cumulative effect was

upheld.

FACTS OF THE CASE:

2. Briefly stated, the facts leading to the filing of the present petition are that the petitioner was working as Additional SHO, P.S. Saraswati Vihar, North West District, Delhi during the period 02.11.1994 to 21.03.1997. At that time, one Sh. H.S. Bhardwaj was functioning as the regular SHO of Police Station. During this period, the petitioner had also officiated as SHO of PS Saraswati Vihar from 18.12.1996 to 16.02.1997.

3. The Police Headquarters, on 14.11.1994, had issued a Circular regarding duties and responsibilities of Additional SHOs in Police Station / Districts. Clause 1 of Circular provided as follows:-

> "*It is suggested that the SHO should be responsible for all law and order arrangements in the PS and the additional SHO should be called only for dealing with a grave emergency with the specific approval of the district DCP*."

4. The petitioner, who was functioning as Additional SHO, PS Saraswati Vihar, was issued a show cause notice of censure on 29.01.1997, alleging negligence and dereliction in discharge of duties, along with Head Constable and Constables. At that time the petitioner was functioning as Addl. SHO of PS Saraswati Vihar with Shri H.S. Bhardwaj, who was functioning as a regular SHO PS Saraswati Vihar. However, the censure notice issued to Shri Bhardwaj was withdrawn

by the Competent Authority on 13.03.1997. The petitioner was subsequently transferred from the said Police Station, on 21.03.1997.

5. On 24/25.03.1997, a tragic incident occurred within the jurisdiction of P.S. Saraswati Vihar, wherein seven persons lost their lives after consuming illicit liquor.

6. A preliminary enquiry was ordered by DCP, North West District on 01.04.1997, to be conducted by Additional DCP, North West District, Sh. Uday Sahay.

7. The petitioner did not participate in the aforesaid enquiry, nor was he permitted to cross-examine the witnesses. The Enquiry Officer, in his preliminary enquiry report dated 21.04.1997, substantiated the charges against the police officials, including the petitioner.

8. Pursuant to the preliminary Enquiry, departmental proceedings were initiated against the petitioner and other police officers. A summary of allegations was issued to the petitioner and other police officers and, *vide* a report dated 09.02.1999, the enquiry officer held the charges against the petitioner to be proved.

9. The enquiry report was challenged by the petitioner by making a representation before the Disciplinary Authority, which, *vide* order dated 02.06.2000, imposed a penalty of withholding of his next increment for a period of three years with cumulative effect and that his suspension period to be not treated as spent on duty. The Appellate

Authority also rejected the appeal of the petitioner, *vide* order dated 10.07.2003.

10. The petitioner then approached the learned Tribunal by way of O.A. No. 1768/2004, challenging the penalty as well as appellate authority order. The said OA was disposed of *vide* Order dated 05.07.2005, remanding the matter back to the Appellate Authority, holding as under:

> *" 2. In all fairness to the parties counsel, it must be stated that there were other pleas raised and replied to; pertaining to which this Tribunal is not expressing any opinion at this stage.*
>
> *xxx*
>
> *8. What has happened in the present case is that the appellate authority inadvertently took into consideration the report of the preliminary enquiry. That is not permissible in law. Therefore we, for the present, quash the order passed by the appellate authority and direct that a fresh order in accordance with law may be passed preferably within four months of the receipt of the certified copy of the present order. O.A. is disposed of."*

11. The Appellate Authority then passed the order dated 12.09.2005, again rejecting the appeal filed by the petitioner.

12. Aggrieved by the same, the petitioner filed O.A. No. 401/2006 before the learned Tribunal, and the same was dismissed by the learned Tribunal on 04.01.2007, holding as under:-

> "*18. In the instant case, it is abundantly clear that the applicant has not been denied reasonable opportunity and also that the charge has been proved on the basis of evidence.*
> *19. In view of the above, we find no infirmity or illegality in the order passed by the appellate authority. The OA is accordingly dismissed. No order as to costs.*"

13. Aggrieved by the Impugned Order, the petitioner has filed the present writ petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

14. The learned counsel for the petitioner has submitted that, the Inquiry Report, penalty order, as well as the appellate order, stand vitiated as the Inquiry Officer as well as the appellate authority has placed undue reliance on the statements made in the Preliminary Enquiry as well as the Preliminary Enquiry report, which is inadmissible under Rule 15 (3) of the Delhi Police (Punishment and Appeal) Rules, 1980 ('the Rules'). Rule 15(3) of the Rules states that:

> *"15. Preliminary Enquiries*
>
> *(3) The suspected police officer may or may not be present at a preliminary enquiry but when present he shall not cross-examine the witness. The file of preliminary enquiry shall not form part of the formal departmental record, but statements therefrom may be brought on record of the departmental proceedings when the witnesses are no longer available. There shall be no bar to the Enquiry Officer bringing on record any other*

> *documents from the file of the preliminary enquiry, if he considers it necessary after supplying copies to the accused officer. All statements recorded during the preliminary enquiry shall be signed by the person making them and attested by enquiry officer."*

15. The learned counsel for the petitioner also placed reliance on the Judgment of ***Nirmala Jhala v. State of Gujarat and Anr.***, (2013) 4 SCC 301, in which the Supreme Court has held as under:

> *"41. In the aforesaid backdrop, we have to consider the most relevant issue involved in this case. Admittedly, the enquiry officer, the High Court on administrative side as well on judicial side, had placed a very heavy reliance on the statement made by Shri C.B. Gajjar, Advocate, Mr G.G. Jani, complainant and that of Shri P.K. Pancholi, Advocate, in the preliminary inquiry before the Vigilance Officer. Therefore, the question does arise as to whether it was permissible for either of them to take into consideration their statements recorded in the preliminary inquiry, which had been held behind the back of the appellant, and for which she had no opportunity to cross-examine either of them.*
>
> *xxx xxx xxx*
>
> *51. There is nothing on record to show that either the preliminary enquiry report or the statements recorded therein, particularly, by the complainant-accused or Shri C.B. Gajjar, Advocate, had been exhibited in regular inquiry. In the absence of information in the charge-sheet that such report/statements would be relied upon against the appellant, it was not permissible for the enquiry officer or the High Court to rely upon the same. Natural justice is an inbuilt and inseparable ingredient of fairness and reasonableness. Strict*

> *adherence to the principle is required, whenever civil consequences follow up, as a result of the order passed. Natural justice is a universal justice. In certain factual circumstances even non-observance of the rule will itself result in prejudice. Thus, this principle is of supreme importance. (Vide S.L. Kapoor v. Jagmohan [(1980) 4 SCC 379 : AIR 1981 SC 136] , D.K. Yadav v. J.M.A. Industries Ltd. [(1993) 3 SCC 259 : 1993 SCC (L&S) 723] and Mohd. Yunus Khan v. State of U.P. [(2010) 10 SCC 539 : (2011) 1 SCC (L&S) 180])"*

16. He submits that the reliance placed upon the preliminary enquiry report and statements recorded therein, vitiated the departmental proceedings and the orders passed on the basis thereof.

17. The learned counsel further contended that the learned Tribunal has completely changed the complexion of the matter by ignoring its earlier Order dated 05.07.2005 and Rules 15(3) of the Rules, by observing that the enquiry conducted by Shri. Uday Sahay was only an 'initial enquiry' and cannot be treated as a preliminary inquiry. He submitted that there is no term like 'initial enquiry' in service jurisprudence and that if it is assumed that the said enquiry was only an 'initial enquiry' then the entire proceedings stand vitiated.

18. He further submitted that Shri. Uday Sahay was not called as a witness in the departmental proceedings and that once a witness turns hostile, his earlier testimony could not have been used in the departmental proceedings.

19. On merits, the learned counsel contended that none of the prosecution witnesses had attributed any role to the petitioner, either in his capacity as Additional SHO or during the brief period when he officiated as SHO. It was urged that no evidence has come on record to establish that any complaint regarding the sale of illicit liquor was ever addressed to the petitioner. In fact, having regard to the circular dated 14.11.1994, which specifically delineated the division of duties between the SHO and the Additional SHO, the petitioner could not have been held responsible for law and order, including for controlling the sale of illicit liquor. According to the learned counsel, this fundamental aspect was completely overlooked by the Disciplinary Authority, the Appellate Authority and by the learned Tribunal.

20. He submitted that other individuals who were serving as SHO of the concerned police station, have not been dealt with departmentally and in fact, Shri H.S. Bhardwaj who was the regular SHO, was merely issued a censure notice which was also subsequently withdrawn.

21. He has also highlighted that the tragic incident of the seven deaths after consumption of illicit liquor occurred after the petitioner had been transferred out of the concerned police station.

22. He submitted that therefore the entire departmental proceedings stood vitiated on both, procedure as well as on merits, and the Impugned Order is liable to be set aside.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS

23. On the other hand, the learned counsel for the respondents placed reliance on the Circular dated 14.11.1994, which enunciated the *Duties of Additional SHOs in Police Stations/Distts*, emphasizing that the petitioner could not escape responsibility for law and order lapses during his tenure. We reproduce the relevant excerpts here below:-

> *"1. It is suggested that the SHO should be responsible for the law and order arrangements in the police station, and the Additional SHO should be called only for dealing with a grave emergency with the specific approval of the District DCP.*
> *2. The Additional SHO should supervise the entire work of MHC(R), MHC(M), General Store, HC(Process), and the mess.*
> *3. He would also be entrusted with the job of maintenance of the police station building and all welfare activities of the police personnel in the police station and other units occupying space in the building.*
> *4. The Addl.SHO would be responsible for ensuring the sending of input forms of CPO and Traffic, preparation of dossiers, immediate issue of information sheets and their verification, as well as taking action on unverified information sheets etc.*
> *5. The Addl.SHO should also ensure compliance with formal inspection notes.*
> *6. In the absence of the SHO, the Addl. SHO should hold daily roll calls in the morning and in the evening. A register should be maintained in each police station containing important day-to-day instructions in brief to be*

> *told to the police personnel. This register would help in keeping a record of past instructions and for their repetition of the instructions in case it is needed.*
> *7. The Addl. SHO shall hold Sampark Sabha alternatively with the SHO.*
> *8. Either the Addl.SHO or the SHO should be present in the police station at night time and perform night patrolling in the jurisdiction of the police station.*
> *9. The Addl.SHO should be present in the police station most of the time during the daytime and meet every visitor complainant. He should keep the SHO informed of any important matter that he comes across during such meetings.*
> *10. The Addl. SHO can supervise investigation and prosecution of certain types of non-heinous offences like accidents and Misc. IPC cases.*"

24. He highlighted that the respondent being the Additional SHO of the Saraswati Vihar Police station from 02.11.1994 to 21.03.1997 and in the *interim*, even being the SHO from 18.12.1996 to 16.02.1997, had evidently failed to discharge his duties properly.

25. The learned counsel for the respondent also placed reliance on the Judgment of ***The State of Rajasthan and Ors. v. Bhupendra Singh,*** 2024 SCC OnLine SC 1908, in which it was held:

> "***21.*** *Having considered the matter, the Court finds that the Impugned Judgment cannot be sustained. On a prefatory note, we would begin by quoting what the Division Bench has noted on page No. 7:*
> *'It is well settled preposition (sic) of law that courts will not act as an Appellate Court and re-assess the evidence led in domestic enquiry,*

> *nor interfere on the ground that another view was possible on the material on record. If the enquiry has been fairly and properly held and findings are based on evidence, the question of adequacy of evidence or reliable nature of the evidence will be no ground for interfering with the finding in departmental enquiry. However, when the finding of fact recorded in departmental enquiry is based on no evidence or where it is clearly perverse then it will invite the intervention of the court.*"

26. He submitted that the preliminary enquiry is in fact a fact finding enquiry and that the participation and cross examination of the witnesses by the delinquent employee during the same is not warranted. He further submitted that the Inquiry Officer as well as the Appellate Authority had formed an independent opinion on the basis of the evidence available, and did not merely rely upon the report of the Preliminary Enquiry. He highlighted that four additional witnesses were also called upon during the departmental enquiry.

27. He stated that therefore, the orders passed in the departmental proceedings as well as the Impugned Order of the learned Tribunal do not suffer from any infirmity.

ANALYSIS AND FINDINGS

28. We have considered the submissions made by the learned counsels for the parties.

29. We may begin by noting the settled position of law that the scope of interference by this Court in matters pertaining to

disciplinary proceedings is limited. This Court does not sit in appeal over the findings recorded by the disciplinary authority, and cannot undertake a re-appreciation or re-evaluation of evidence. However, undisputedly, where the proceedings are vitiated by a breach of the principles of natural justice, or there is a manifest violation of the prescribed procedure, or where the delinquent has been denied a fair opportunity to defend himself, the Court would be justified in exercising its writ jurisdiction under Article 226 of the Constitution of India. In this regard, we may refer to the decision in ***Union of India and Ors v. P. Gunasekaran,*** (2015) 2 SCC 610, the relevant extract of which reads as under:

> "***12***. *Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence W.P.(C) 9370/2007 Page 10 of 15 before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:*
> *(a) the enquiry is held by a competent authority;*
> *(b) the enquiry is held according to the procedure prescribed in that behalf;*
> *(c) there is violation of the principles of natural justice in conducting the proceedings;*
> *(d) the authorities have disabled themselves*

from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;
(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
(i) the finding of fact is based on no evidence.
***13**. Under Articles 226/227 of the Constitution of India, the High Court shall not:*
(i) reappreciate the evidence;
(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
(iii) go into the adequacy of the evidence;
(iv) go into the reliability of the evidence;
(v) interfere, if there be some legal evidence on which findings can be based.
(vi) correct the error of fact however grave it may appear to be;
(vii) go into the proportionality of punishment unless it shocks its conscience."

30. So far as the contention of the petitioner is concerned, that none of the prosecution witnesses have substantiated the charge against the petitioner, it may be mentioned that some of the independent witness, who are residents of the area, indicated that complaints regarding the sale of illicit liquor were brought to the notice of the police prior to the tragic incident, that is, during the tenure of the petitioner as Additional SHO. No doubt as per Delhi Police Circular dated 14.11.1994, it is the

SHO who is responsible for all law and order arrangements in the police station, and the Additional SHO should be called only for dealing with a grave emergency with the specific approval of the District DCP, however, in the present case, it is not disputed that the regular SHO was on leave. During this period, several complaints regarding open sale of illicit liquor were received. The record further shows that a pattern of illicit sale of liquor was taking place in Shakurpur and that even a show cause notice had been issued to the petitioner in the past regarding this problem. The petitioner being an Additional SHO, cannot absolve of his duty by merely stating that it was the regular SHO who was responsible for the entire law and order situation in the area. Already a number of complaints, representations, information and the allegations kept on pouring about the open sale of illicit liquor in the area, and he being the Additional SHO, failed in his duty to correct the situation.

31. It may be mentioned that the petitioner initially filed an O.A. before the learned Tribunal against the Inquiry Report, the order of his punishment as well as the Appellate Authority's order dated 10.07.2003, and his O.A. was disposed of without delving into the other issues and by simply directing the Appellate Authority to pass a reasoned order. Subsequently, and in view of the order dated 08.09.2005 of the learned Tribunal, the Appellate Authority passed a fresh order. Therein, the Appellate Authority has not only examined the appeal but also the Departmental Inquiry file as well as all

documents available on the file. It has independently evaluated the material and concurred with the finding of guilt.

32. The learned Tribunal in its Impugned Order, has observed that the petitioner was functioning as SHO PS Saraswati Vihar at least for two months prior to the incident and it was only in that period that maximum complaints regarding the sale of illicit liquor was received, but despite having the knowledge of the same, the petitioner did not take any effective steps to take down the sale of illicit liquor. It has been opined that although certain witnesses turned hostile at the time of their deposition in the departmental enquiry, while others diluted their statements, they have still confirmed that there was indeed an open sale of illicit liquor in the area prior to the festival of Holi in 1997. The testimonies of the witnesses have correctly not been viewed in isolation. It is common knowledge that the petitioner, being the Additional SHO of the area, the common person/public living in the area will definitely have a fear to depose against him, but still, some of the public witnesses have mentioned that they brought to the notice of the police the sale of illicit liquor prior to the happening of the tragic incident. The learned Tribunal rightly observed that public witnesses corroborated the allegation that illicit liquor was being openly sold, and despite knowledge thereof, the petitioner failed to act.

33. We are therefore, not able to find any infirmity in the above findings of the learned Tribunal.

34. As regards the reliance on Preliminary Enquiry material is concerned, while we are unable to agree with the learned Tribunal's finding that the inquiry conducted by Sh. Uday Sahay had the status of only an 'Initial Enquiry' and not a preliminary enquiry, we agree with observation that nonetheless the findings, statement and other documents in the said inquiry were brought on record in the departmental enquiry, by duly supplying all the copies to delinquent officials during the proceeding. We find that Shri. Uday Sahay was in fact called as a witness in the departmental enquiry and that the petitioner had the chance to cross-examine him. We also find that as per the noting of the enquiry proceedings, the inquiry conducted by Shri. Uday Sahay features in the list of documents to be relied upon and the enquiry report mentions that the same was duly supplied to the petitioner. Hence, the technical objections raised by the petitioner of the violation of Rule 15(3) of the Rules, does not hold good. The Judgement of the Supreme Court in ***Nirmala J. Jhala*** (supra), therefore, does not come to the aid to the petitioner in the facts of the present case.

35. We find that not only the preliminary inquiry was conducted, but after the preliminary inquiry, the charges were framed. The petitioner was also given full opportunity to cross examine witnesses, lead his defence evidence, and he also produced nine defence witnesses. Whereafter, considering the evidence on record and the statement of the departmental witnesses and the defence witnesses, the

Inquiry Officer came to conclusion that the charges stands proved against the delinquent officer, that is, the petitioner. The same was affirmed by the Appellate Authority *vide* a speaking order dated 12.09.2005 and later by the learned Tribunal *vide* its Impugned Order.

36. In view of the above facts and circumstances, the Impugned Order of the learned Tribunal is upheld and the petition is accordingly, dismissed.

37. No order as to costs.

MADHU JAIN, J.

NAVIN CHAWLA, J.

SEPTEMBER 24, 2025/scc/VG/P