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

% ***Judgment reserved on: 08.01.2026***
Judgment pronounced on: 03.02.2026

\+ **W.P.(C) 7831/2024 and CM APPL. 32435/2024**

COMPTROLLER AND AUDITOR GENERAL OF INDIA & ANR. .....Petitioners

Through: Dr. S. S. Hooda, Mr. Shaurya Banshtu and Mr. Manpreet Singh, Advs. (M: 8383035136)

Versus

MANOJ KUMAR .....Respondent

Through: Mr. Anil Nauriya, Mr. Prakhar Gupta and Ms. Sumita Hazarika, Advs. (M: 8010409522)

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

AMIT MAHAJAN, J.

1. The present writ petition has been field under Article 226/227 of the Constitution of India, 1950, assailing the Order dated 29.05.2023, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (*hereinafter* '**CAT**') in O.A. No. 1489 of 2015, *vide* which the orders/charge-memos dated 11.05.2006 and 05.03.2007 were quashed with directions to the Petitioners to reconsider the matter and impose a lesser penalty than "*dismissal*

from service" against the Respondent/ Charged Official - Sh. Manoj Kumar.

2. In the present case, the Petitioner No. 1 is the head of the Indian Audit and Accounts Department, the Petitioner No. 2 is an independent authority/Office under the aegis of the Petitioner No. 1 and the Respondent is a former employee of the Petitioner No. 1.

3. Succinctly stated, the quintessential facets governing the present dispute are that the Respondent had joined service as a Peon on 27.11.1991 and was promoted to the post of *Daftry* on 01.01.1998 and to the post of Clerk on 03.01.2000.

4. Undisputedly, he was absent without authorization from 04.09.2000 to 29.04.2003, i.e., for a continuous period of nearly three years, without obtaining prior sanction of leave. According to the Respondent, he was suffering from Tuberculosis during this period.

5. Upon joining back service on 30.04.2003, the Respondent submitted Medical Certificate dated 29.04.2003 and Fitness Certificate dated 30.04.2003 purportedly issued by one Dr. T.P. Singh, then CMO, CGHS, Sunder Vihar.

6. Correspondence was thereafter exchanged between the Petitioners and the Central Government Health Scheme ('**CGHS**') authorities seeking verification of the medical and fitness certificates submitted by the Respondent. *Vide* communication dated 08.02.2006, the Additional Director (HQ), CGHS informed the Petitioners that no such certificates had been issued from the CGHS dispensaries concerned.

7. On 11.05.2006, a charge memorandum was issued to the Respondent alleging submission of false/fabricated certificates. In Reply, the Respondent *vide* his letter dated 05.06.2006, not only denied the article of charge but also submitted that the medical certificate dated 29.04.2003 and fitness certificate dated 30.04.2003 issued to him by Dr. T.P. Singh were genuine as the doctor had never refused/denied this fact. The Respondent further submitted that Dr. T.P. Singh was still the CMO, CGHS Dispensary, Sunder Vihar, New Delhi and the doctor had again certified on 03.06.2006 that the certificates in question were issued by him.

8. Since, certain additional facts were placed on record which required verification, the above chargesheet was withdrawn. A fresh Chargesheet dated 05.03.2007 was issued against the Respondent alleging giving false statements that Dr. T.P. Singh is still a sitting CMO, CGHS and submission of false/fabricated medical/fitness certificates in connivance with the said doctor, amounting to misconduct under Rule 3(1)(i) and 3(1)(iii) of the CCS (Conduct) Rules, 1964. The Article of charges are as under: -

> ***" Statement of article of charge framed against Shri Manoj Kumar, Clerk***
>
> ***Article***
>
> *Shri Manoj Kumar, Clerk* ***absented himself from duty w.e.f. 4.9.2000 to 29.4.2003 unauthorisedly****. Shri Manoj Kumar joined duty on 30.4.2003 and submitted medical certificate dated 29.4.2003 and fitness certificate dated 30.4.2003 alleged to have been issued by Dr. (Captain) T.P. Singh, CMO, CGHS Dispensary, Sunder Vihar, New Delhi in support of his leave for the period from 5.1.2001 to 29.4.2003 on the ground of self-illness. Subsequently it revealed that* ***the medical and fitness certificates***

had not been issued by the aforesaid CGHS dispensary. *Shri Manoj Kumar, Clerk was directed vide this office memorandum no. PPS/1-551MK/2006-07/89 dated 11.5.2006 to submit within 10 days of its receipt, a written statement of defence on the statement of imputation of misconduct in support of article of the charge enclosed with the memorandum dated 11.5.2006. In reply, Shri Manoj Kumar vide his letter dated 5.6.2006 submitted that the medical/fitness certificates issued by Dr. (Captain) T.P. Singh, Chief Medical Officer (CGHS), Sunder Vihar, Delhi to him* ***were very much genuine*** *as the doctor had never refused/denied this fact.* ***He submitted another certificate dated 3.6.2006 issued by Dr. TP. Singh again certifying that the certificates in question were issued by him. He also submitted that Dr. T.P. Singh was still the sitting CMO in the same dispensary.***

*Further correspondence with the Additional Director (Headquarters), Central Government Health Scheme, New Delhi and the CMO/Incharge, CGHS Dispensary No. 82, Sunder Vihar, New Delhi (the concerned dispensary), from where the certificates in question i.e. medical certificate dated 29.4.2003 fitness certificate dated 30.4.2003 and certificate dated 3.6.2006 were stated to have been issued by Dr. TP Singh while working as CMO there****, confirmed that Dr. T.P. Singh was absent on 29.4.2003 and 30.4.2003*** *and* ***he was not in government service on 3.6.2006 as he had retired from government service on 26.12.2005 on invalid pension under Rule 38 of the CCS (Pension) Rules, 1972.*** *Both authorities also informed that as per the provisions of Central Government Health Scheme, a government employee is entitled to receive CGHS facility in his allotted dispensary. On the basis of residential address given by Shri Manoj Kumar, his* ***allotted CGHS dispensary for· medical treatment was CGHS Dispensary No. 73, Gurgaon.*** *The CMO/Incharge, CGHS Dispensary No 82, Sunder Vihar, New Delhi also informed that medical/fitness certificate books have serial numbers* ***whereas the medical and fitness certificates issued by Dr. T.P. Singh to Shri Manoj Kumar do not bear any serial***

> ***number.*** *She also informed that Dr. T.P. Singh was in the* ***habit of issuing medical/fitness certificates by misutilising official powers.***
>
> *The above facts establish that Shri Manoj Kumar repeatedly* ***submitted false statements that the medical certificate dated 29.4.2003****,* ***fitness certificate dated 30.4.2003 and certificate dated 3.6.2006 were issued to him by CMO, CGHS, Sunder Vihar, Delhi dispensary*** *as Dr TP Singh who had issued these certificates and stated to be the sitting CMO of that dispensary was actually on leave on 29.4.2003 and 30.4 200l and was not even in Government service on 3.6.2006. Thus the conduct of Shri Manoj Kumar is grossly immoral and untrustworthy.* ***By wilfully submitting false statements and producing fabricated medical/fitness certificates in connivance with Dr. T.P. Singh****, Shri Manoj Kumar has failed to maintain absolute integrity and has also acted in a manner unbecoming of a government servant thereby violating Rules 3 (1) (i) and 3 (1) (iii) of the CCS (Conduct) Rules, 1964."*
>
> (emphasis supplied)

9. A departmental inquiry was conducted and the Respondent was afforded opportunity to defend himself, was assisted by a Defence Assistant, and also participated throughout the proceedings.

10. The Inquiry Officer, *vide* report dated 31.12.2009, after examining documentary evidence and considering the defence raised, returned a categorical finding that the charges stood proved. The Inquiry Officer concluded that the Respondent had knowingly relied upon and submitted non-genuine/fabricated certificates to justify his unauthorised absence.

11. The Disciplinary Authority, by a detailed order dated 18.06.2010, concurred with the Inquiry Officer and concluded as under: -

Considering the above position, it is clear that Shri Manoj Kumar had produced false medical / fitness certificates in connivance with Dr. T.P. Singh with the intention to regularize his unauthorized absence. This conclusion is based on the following facts:

1) ***He remained unauthorisedly absent from duty with effect from 4.9.2000 to 29.4.2003. He did not submit any leave application*** *either during the entire period of his unauthorized absence or at the time of joining his duty i.e., 30.4.2003.*
2) ***Instead of submitting an application for leave on medical grounds****, accompanied by a medical certificate, defining as clearly as possible the probable duration of illness, in time as required under Rule 19(1)(ii) of the CCS (Leave) Rules, 1972, Shri Manoj Kumar submitted medical certificate dated 29.4.2003 for the continuous period from 5.1.2001 to 29.4.2003 on 30.4.2003 i.e.,* ***after a period of over 27 months from the date of his absence from duty / office.*** *The medical certificate for a continuous period from 5.1.2001 to 29.4.2003, as produced by Shri Manoj Kumar,* ***was issued by the doctor only on 29.4.2003 i.e., at the end of his illness and just a day before he was declared fit by the same doctor.***
3) *The Additional Director (HQ), CGHS, Nirman Bhawan, New Delhi, vide his letter no. 3-24 / 2004-CGHS / VC / 51 dated* ***8.2.2006 had confirmed that the medical certificate dated 29.4.2003 and fitness certificate dated 30.4.2003 submitted by Shri Manoj Kumar were not issued by the CGHS Dispensary, Sunder Vihar, New Delhi****.*
4) *Both the Additional Director, CGHS (HQ), New Delhi, vide his letter no. 3-24 / 2004-CGHS (VC) / 1291 dated 20.9.2006 and the Chief Medical Officer J/C, CGHS Dispensary, Sunder Vihar, New Delhi vide her letter dated 2.12.2006, had confirmed that* ***Dr. T. P. Singh was absent on 29.4.2003 and 30.4.2003,*** *the dates on which MC and FC respectively were issued by Dr. T.P. Singh in the capacity of CMO, CGHS, Sunder Vihar, Delhi.*

5) *The Chief Medical Officer Incharge, CGHS Dispensary No. 82, Sunder Vihar, New Delhi vide her letter dated 2.12.2006 had mentioned that medical certificates / fitness certificates books used by the CGHS Dispensary No. 82, Sunder Vihar, New Delhi have serial numbers whereas the medical and fitness certificates issued by Dr. T.P. Singh* ***do not bear serial number.*** *Besides,* ***the Token No. of the beneficiary was not mentioned on medical / fitness certificates issued*** *by Dr. T.P. Singh.*

6) As per letter dated 2.12.2006 of the Chief Medical Officer Incharge, CGHS Dispensary, Sunder Vihar, New Delhi, ***Dr. T.P. Singh was in the habit of issuing medical / fitness certificates by misutilising official powers.***

7) *Shri Manoj Kumar* ***submitted false statement on 5.6.2006 that Dr. T.P. Singh was still the sitting CMO in the same dispensary i.e., CGHS Dispensary, Sunder Vihar, Delhi.*** *In* ***fact, Dr. T.P. Singh was not in government service at that time as he was permitted to take retirement from government service on 26.12.2005*** *on invalid pension under Rule 38 of the CCS (Pension) Rules, 1972 as confirmed by the Additional Director, Central Government Health Scheme (HQ), New Delhi vide his letter no. 3-24 / 04 / CGHS (VC) / 1291 dated 20.9.2006.*

8) As per the provisions of CGHS, a government servant is entitled to receive CGHS facility in his allotted dispensary. Shri Manoj Kumar, in contravention of CGHS rules, ***took treatment and medical certificate from CGHS Dispensary, Sunder Vihar, New Delhi****. As per CGHS card no. 260341 of 113 Shri Manoj Kumar, his residential address is "Village Daulatabad, Gurgaon, Haryana" and his allotted CGHS dispensary for medical treatment is CGHS Dispensary No. 73, Gurgaon.*

The undersigned also finds from the records that the Inquiry Officer has followed the due process of inquiry before coming to the conclusion contained in her report."

12. Hence, taking into account the grave misconduct and lack of integrity by the Respondent, the penalty of *"Dismissal from service which shall ordinarily be a disqualification for future employment under the Government"* was imposed upon the Respondent, by the Disciplinary Authority. It was also held that the period of unauthorized absence i.e., 04.09.2000 to 29.04.2003 would be treated as *dies-non* and no pay and allowances would be admissible for the said period.

13. The above order on penalty dated 18.06.2010 was upheld by the Director General of Audit, Central Expenditure, New Delhi and the Appellate Authority *vide* order dated 01.12.2010.

14. The Revision Petition, filed by the Respondent against the penalty imposed, was dismissed *vide* Order dated 31.07.2014 with the observations that the penalty imposed is just and adequate.

15. Aggrieved, the Respondent approached the learned CAT by filing O.A. No. 1489/2015. By the impugned order, the learned CAT set-aside the disciplinary action primarily on two grounds that *firstly*, forgery could not have been established without obtaining any expert opinion and *secondly*, no criminal case has been initiated by the Petitioners with respect to the allegations of forgery. The relevant paragraph is reproduced as under: -

> *"14. Learned counsel for the respondents submitted that the applicant has submitted forged certificate and forgery has been proved by the respondents.*
>
> *We are aware of the facts and circumstances of the case. We are of the view that departmental proceedings where preponderance of probability has been taken into consideration and forgery is established, where expert opinion is required, various other factors are to*

> *be seen which normally is done in the judicial proceedings.* ***But respondents have not chosen to file a criminal case in the instant case for the forgery which cannot be proved in the quasi-judicial proceedings under the law.*** *We are not convinced with the stand taken by the respondents. We* ***hereby set aside the impugned orders dated 11.05.2006 and 05.03.2007*** *and* ***direct the disciplinary authority / appellate authority to re-consider and to award some other lesser punishment*** *in terms of the aforesaid Hon'ble Apex Court decisions in B. C. Chaturvedi vs. UOI & Others as well as Chairman-cum-Managing Director, Coal India Limited and Others, vs. Ananta Saha and Others (supra)."*
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> (emphasis supplied)

16. It is this order which is under challenge in the present writ petition.

17. Learned counsel for the Petitioners has submitted that the learned CAT has grossly exceeded the limits of judicial review by substituting its own conclusions for that of the disciplinary authority, without giving any cogent reasons for the same.

18. It is submitted that the Inquiry Officer returned a reasoned finding that the medical and fitness certificates relied upon by the Respondent were not issued by the CGHS Dispensary and Dr. T.P. Singh was on leave on the said dates and was not in service on the date of issuance of the confirmation certificate, and that the certificates lacked essential features such as serial numbers and OPD details. Further no other document in support of the medical illness has been furnished by the Respondent. These findings, also upheld by the Disciplinary Authority, clearly establish lack of integrity and misconduct.

19. It is further submitted that the learned CAT erred in holding that misconduct was not proved merely because no criminal prosecution was launched and that the standard of proof applicable to departmental proceedings has been overlooked.

20. It is further submitted that the act of projecting private certificates as CGHS certificates itself constituted serious misconduct under the CCS (Conduct) Rules, 1964.

21. On the aforesaid grounds, it is prayed that the impugned order of the learned CAT be set aside and the disciplinary penalty be restored.

22. *Per contra*, learned counsel for the Respondent supports the impugned order and submits that the entire disciplinary proceedings are vitiated as they are founded upon a statutory provision which was not applicable to the Respondent at the relevant time.

23. It is submitted that the Respondent rejoined duty on 30.04.2003 and the medical certificates in question were dated 29.04.2003 and 30.04.2003. On the said date, Rule 19 of the CCS (Leave) Rules, 1972, as it then stood, merely required a medical certificate from an Authorised Medical Attendant or a Registered Medical Practitioner in the case of a non-gazetted employee. There was no requirement that the certificate must be issued by a CGHS Dispensary.

24. It is contended that the inquiry proceeded entirely on the erroneous premise that the certificates were invalid solely because they were not issued by the CGHS Dispensary, when the same was never required as per the governing rule.

25. It is further submitted that there is no finding that the certificates were not issued by Dr. T.P. Singh, whose signatures are not disputed and who had, in fact, confirmed issuance of the certificates by issuing a confirmation certificate. At the highest, the dispute pertains to incorrect institutional attribution of the certificates, which cannot render them forged or fabricated.

26. It is thus, contended that the learned CAT has rightly set-aside the disciplinary action and no interference is warranted.

27. Submissions heard and the material placed on record has been perused.

Analysis

28. At the outset, it would be apposite to mention that the scope of judicial review in disciplinary matters is well settled. Court exercising power of judicial review does not sit as an appellate authority over the findings of the disciplinary authority and ordinarily does not re-appreciate evidence. Interference is warranted where the findings are perverse, based on no evidence, or where the inquiry is vitiated by violation of statutory provisions or principles of natural justice.

29. The decision of the Constitution Bench of the Hon'ble Supreme Court in ***B.C. Chaturvedi v. Union of India,*** **(1996) 6 SCC 749,** is a seminal authority delineating the limited scope of judicial review in disciplinary matters. The relevant extract is reproduced as under: -

> **"** *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.*

14. *In Union of India v. S.L. Abbas [(1993) 4 SCC 357 : 1994 SCC (L&S) 230 : (1993) 25 ATC 844]* ***when the order of transfer was interfered with by the Tribunal, this Court held that the Tribunal was not an***

appellate authority which could substitute its own judgment to that bona fide order of transfer. *The Tribunal could not, in such circumstances, interfere with orders of transfer of a government servant. In Administrator of Dadra & Nagar Haveli v. H.P. Vora [1993 Supp (1) SCC 551 : 1993 SCC (L&S) 281 : (1993) 23 ATC 672] it was held that the Administrative* ***Tribunal was not an appellate authority and it could not substitute the role of authorities to clear the efficiency bar of a public servant****. Recently, in State Bank of India v. Samarendra Kishore Endow [(1994) 2 SCC 537 : 1994 SCC (L&S) 687 : (1994) 27 ATC 149 : JT (1994) 1 SC 217] a Bench of this Court of which two of us (B.P. Jeevan Reddy and B.L. Hansaria, JJ.) were members, considered the order of the Tribunal, which quashed the charges as based on no evidence, went in detail into the question as to whether the Tribunal had power to appreciate the evidence while exercising power of judicial review and held that a tribunal could not appreciate the evidence and substitute its own conclusion to that of the disciplinary authority.* ***It would, therefore, be clear that the Tribunal cannot embark upon appreciation of evidence to substitute its own findings of fact to that of a disciplinary/appellate authority.***

Xxx xxx xxx

17. The next question is whether the Tribunal was justified in interfering with the punishment imposed by the disciplinary authority*. A Constitution Bench of this Court in State of Orissa v. Bidyabhushan Mohapatra [AIR 1963 SC 779 : (1963) 1 LLJ 239] held that having regard to the gravity of the established misconduct, the punishing authority had the power and jurisdiction to impose punishment.* ***The penalty was not open to review by the High Court under Article 226. If the High Court reached a finding that there was some evidence to reach the conclusion, it became unassessable.*** *The order of the Governor who had jurisdiction and unrestricted power to determine the appropriate punishment was final. The High Court had no jurisdiction to direct the Governor to review the penalty. It was further held that if the order was supported on any finding as to substantial misconduct for which punishment "can lawfully be imposed", it was not for the Court to consider whether that ground*

alone would have weighed with the authority in dismissing the public servant. ***The Court had no jurisdiction, if the findings prima facie made out a case of misconduct, to direct the Governor to reconsider the order of penalty.*** *This view was reiterated in Union of India v. Sardar Bahadur [(1972) 4 SCC 618 : (1972) 2 SCR 218] . It is true that in Bhagat Ram v. State of H.P. [(1983) 2 SCC 442 : 1983 SCC (L&S) 342 : AIR 1983 SC 454] a Bench of two Judges of this Court, while holding that the High Court did not function as a court of appeal, concluded that when the finding was utterly perverse, the High Court could always interfere with the same. In that case, the finding was that the appellant was to supervise felling of the trees which were not hammer marked. The Government had recovered from the contractor the loss caused to it by illicit felling of trees. Under those circumstances, this Court held that the finding of guilt was perverse and unsupported by evidence. The ratio, therefore, is not an authority to conclude that in every case the Court/Tribunal is empowered to interfere with the punishment imposed by the disciplinary authority. In Rangaswami v. State of T.N. [1989 Supp (1) SCC 686 : 1989 SCC (Cri) 617 : AIR 1989 SC 1137] a Bench of three Judges of this Court, while considering the power to interfere with the order of punishment, held that this Court, while exercising the jurisdiction under Article 136 of the Constitution, is empowered to alter or interfere with the penalty; and the Tribunal had no power to substitute its own discretion for that of the authority. It would be seen that this Court did not appear to have intended to lay down that in no case, the High Court/Tribunal has the power to alter the penalty imposed by the disciplinary or the appellate authority. The controversy was again canvassed in State Bank of India case [(1994) 2 SCC 537 : 1994 SCC (L&S) 687 : (1994) 27 ATC 149 : JT (1994) 1 SC 217] where the Court elaborately reviewed the case law on the scope of judicial review and powers of the Tribunal in disciplinary matters and nature of punishment. On the facts in that case, since the appellate authority had not adverted to the relevant facts, it was remitted to the appellate authority to impose appropriate punishment.*

18. ***A review of the above legal position would establish that the disciplinary authority, and on***

> ***appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct.*** *The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority* ***shocks the conscience of the High Court/Tribunal****, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."*
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> (emphasis supplied)

30. Thus, it is no more *res-integra* that judicial review in disciplinary proceedings is concerned not with the correctness of the decision, but with the decision-making process, and the imposition of penalty is solely the prerogative of the concerned Disciplinary Authority and interference is only permissible if the punishment imposed is so disproportionate or *shocks the conscience of the court*.

31. In the present case, the Disciplinary Authority's order dated 18.06.2010 demonstrates application of mind to every defence raised, appreciation of evidence, and clear reasons for arriving at the conclusion of guilt. On preponderance of probabilities, the Respondent was held guilty for attempting to regularize his unauthorized leave by furnishing false/fabricated certificates and false statements, essentially on the following grounds: -

a) The Respondent remained unauthorisedly absent for nearly three years. He had failed to submit any leave application

contemporaneously, either during the period of absence or at the time of rejoining.

b) The medical and fitness certificates dated 29.04.2003 and 30.04.2003 portrayed to be issued by Dr. T.P. Singh, then CMO, CGHS, Sunder Vihar, were not issued by CGHS Dispensary, Sunder Vihar, as confirmed by the Additional Director (HQ), CGHS and the CMO/Incharge of the said Dispensary.

c) Even Dr. T.P. Singh was admittedly absent and not on duty on 29.04.2003 and 30.04.2003, as verified by CMO/Incharge CMO/Incharge CGHS, Dispensary, Sunder Vihar, then the certificates could not have been issued by him in the first place either in his official capacity or on behalf of CGHS.

d) The Certificates relied upon by the respondent did not bear serial numbers or beneficiary token numbers, which were features of CGHS medical certificate books, as informed by CMO/Incharge CGHS, Dispensary, Sunder Vihar It was stated that while CGHS beneficiaries from other dispensaries are ordinarily issued referrals for only 1–2 days, tuberculosis treatment generally extends for 6–9 months and may be prolonged in cases of poor

compliance. The usual practice is that once TB is diagnosed, the patient is referred to a specialist at a referral hospital, who initiates the treatment, although there are no written guidelines expressly prohibiting a CGHS doctor from treating a TB patient.

e) The Respondent was an allotted beneficiary of CGHS Dispensary No. 73, Gurgaon, yet allegedly obtained certificates from CGHS Dispensary, Sunder Vihar, New Delhi, without referral, justification or emergency.

f) The respondent made a false statement asserting that Dr. T.P. Singh was the *sitting CMO of CGHS Sunder Vihar* in June 2006, despite his retirement in 2005, thereby demonstrating deliberate misrepresentation.

32. However, the learned CAT, while addressing the issue that whether the penalty imposed in the present case is harsher or disproportionate, has not only quashed the chargesheets/Orders dated 11.05.2006 and 05.03.2007, but also directed reconsideration and imposition of a lesser penalty than dismissal from service, without even addressing the cumulative effect of proved grave misconduct i.e. remaining absent for about 3 years without authorization and submitting false medical/fitness certificates and statements to

regularise unauthorised absence or noting how the punishment imposed is shockingly disproportionate so as to warrant interference.

33. Firstly, it is well-settled that in disciplinary proceedings, the charges against the employee have to be proved by applying the standard of "*preponderance of probabilities*". However, the learned CAT has erroneously applied the standards of criminal proceedings i.e. proving guilt "*beyond reasonable doubt*" and erred in proceeding on the assumption that in the absence of criminal prosecution or proof of "*forgery*" of documents beyond reasonable doubt, disciplinary action could not be sustained.

34. It has also been overlooked that the charge against the Respondent was not of "*forgery*" of a document as applied in criminal jurisprudence, but of *submitting false medical and fitness certificates and making false statements* to regularise prolonged unauthorised absence.

35. On verification, it stood established that the certificates were not issued by the CGHS dispensary, and that the doctor whose name appeared thereon was not on duty on the relevant dates. A doctor who is not on duty could not have examined a patient on the said dates or issued medical and fitness certificates on behalf of the CGHS. In the absence of any record indicating where, when, or in what capacity the Respondent was examined, the very basis of issuance of the certificates *(which also did not bear the serial number and token number)* remained unexplained, rendering them unreliable. Hence, on a cumulative consideration of these circumstances, the falsity of the medical documents stood proved on the touchstone of preponderance

of probabilities, rendering the question of seeking a second medical opinion wholly irrelevant.

36. Furthermore, though it has not been disputed that leave on medical grounds is required to be supported by a medical certificate, however it has been argued that there was no requirement to submit a certificate specifically issued by the CGHS or one from a particular dispensary. This argument would have been able to aid the case of the Respondent if he would have furnished any other genuine medical document issued by an authorized medical attendant to support his claim.

37. However, in the present case, the Respondent failed to establish that he was examined by the concerned doctor i.e. Dr. T.P. Singh or any other doctor or at any authorised medical facility and apart from the unreliable/false certificates, he has not produced any contemporaneous medical record whatsoever, including prescriptions, OPD slips, treatment papers or medical bills, to substantiate his claim of illness during the extended period of absence.

38. Further the falsity of his statement that Dr. T.P. Singh is still the sitting CMO of CGHS Sunder Vihar in the year 2006, when he had retired in 2005, was also proved upon verification.

39. Hence, when the Respondent had absented himself for an extraordinarily long period and submitted unreliable certificates to get his leave authorized and even made false statements that were, on due verification, found to be false, the Disciplinary Authority had rightly concluded that such conduct reflects deliberate dishonesty, abuse of

trust, and lack of integrity which are the core values expected of a government servant.

40. In the case of ***Indian Oil Corpn. Ltd. v. Rajendra D. Harmalkar,*** **(2022) 17 SCC 361** the charged official/employee was proceeded against in disciplinary proceedings for submitting forged/fabricated documents/Certificates to secure employment-related benefits. Upon verification, the documents/certificates produced were found to be not genuine, leading to a finding of serious misconduct involving lack of integrity by the Inquiry Officer as well as the Disciplinary Authority. The Disciplinary Authority imposed a major penalty of dismissal from service, which was interfered with by the High Court. The Hon'ble Apex Court, however, reversed such interference and restored the disciplinary action, holding that production of false documents constitutes grave misconduct undermining the employer's trust. It was observed as under: -

> ***" 22.*** *In the present case, the original writ petitioner was dismissed from service by the disciplinary authority for producing the fabricated/fake/forged SSLC. Producing the false/fake certificate is a grave misconduct.* ***The question is one of a TRUST. How can an employee who has produced a fake and forged marksheet/certificate, that too, at the initial stage of appointment be trusted by the employer? Whether such a certificate was material or not and/or had any bearing on the employment or not is immaterial. The question is not of having an intention or mens rea. The question is producing the fake/forged certificate. Therefore, in our view, the disciplinary authority was justified in imposing the punishment of dismissal from service.***
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> ***Xxx xxx xxx***
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> ***27.*** *Even from the impugned judgment and order passed by the High Court it does not appear that any specific reasoning was given by the High Court on how*

the punishment imposed by the disciplinary authority could be said to be shockingly disproportionate to the misconduct proved. ***As per the settled position of law, unless and until it is found that the punishment imposed by the disciplinary authority is shockingly disproportionate and/or there is procedural irregularity in conducting the inquiry,*** *the High Court would not be justified in interfering with the order of punishment imposed by the disciplinary authority which as such is a prerogative of the disciplinary authority as observed hereinabove.*

Xxx xxx xxx

29. *In any case in the facts and circumstances of the case and for the reasons stated above and considering the charge and misconduct of producing the fake and false SSLC Certificate proved,* ***when a conscious decision was taken by the disciplinary authority to dismiss him from service, the same could not have been interfered with by the High Court*** *in exercise of powers under Article 226 of the Constitution of India. The High Court has exceeded in its jurisdiction in interfering with the order of punishment imposed by the disciplinary authority while exercising its powers under Article 226 of the Constitution of India.*

30. *In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court in interfering with the order of punishment imposed by the disciplinary authority of dismissing the original writ petitioner from service and ordering reinstatement without back wages and other benefits is hereby quashed and set aside.* ***The order passed by the disciplinary authority dismissing the original writ petitioner from service on the misconduct proved is hereby restored.****"*

(emphasis supplied)

41. In the judgment of ***Devendra Kumar v. State of Uttaranchal,* (2013) 9 SCC 363**, it has also been categorically observed that *where an applicant employee gets an order by misrepresenting the facts or by playing fraud upon the competent authority, such an order cannot be sustained in the eye of the law. "Fraud avoids all judicial acts, ecclesiastical or temporal."* Dishonesty should not be permitted to

bear the fruit and benefit those persons who have defrauded or misrepresented themselves and, in such circumstances, the Court should not perpetuate the fraud by entertaining petitions on their behalf.

42. Relying on the above precedents, this Court, in the case of ***Kiran Thakur v. Resident Commr.*, 2023 SCC OnLine Del 2912,** observed that *"employees who are guilty of submitting forged documents to their employer, have to be dealt with in a strict manner. If a person submits forged and fabricated documents, then such a person is certainly unfit to be employed. No sympathy or compassion can be shown to such an employee. Thus, when the charge against the petitioner stands proved, the punishment of dismissal from service imposed by the respondent cannot be faulted with."*

43. In ***State of Odisha & Ors. v. Ganesh Chandra Sahoo*, Civil Appeal No. 9514 of 2019,** decided on 10 January 2020, the Hon'ble Supreme Court examined the permissibility of judicial interference in disciplinary action and imposition of penalty of discharge from service against a government employee who remained unauthorisedly absent for nearly seven years and sought to justify such absence on the strength of a belated and self-serving medical certificate. The Apex Court deprecated reliance on medical certificates unsupported by contemporaneous treatment records, particularly where the employee had deliberately avoided official medical examination and produced a certificate issued years later by a specialist who had not even treated him. Emphasising discipline in public service, it was held that such certificates of convenience cannot dilute the gravity of misconduct nor

warrant substitution of punishment on the ground of proportionality. The relevant extract is reproduced as under: -

> *19.* ***If the respondent had actually suffered from cerebral malaria since 3.06.1991*** *and was subjected to frequent cyclic attack of Maniac Depression Psychosis, as claimed,* ***necessary proof of such suffering from the concerned Doctor/Hospital who were providing him the treatment, ought to have been produced.*** *Moreover, he never allowed for cross verification of his pleaded medical condition by presenting himself before the CDMO in 1991 or thereafter.* ***Instead, the respondent only produced the 21.1.1998 certificate of the HoD, Psychiatry who may have had no role in the treatment of the respondent.*** *It therefore appears to be a case of certificate of convenience on the purported symptoms and mental ailment of the respondent from 1991 to 1998,* ***without support of any contemporaneous medical records****. Most curiously, the Doctor had issued the certificate on the basis of reference made by the local MLA but not on the basis of referral by Doctor/Hospital which might have been involved with the respondent's treatment during 1991 to 1998.*
>
> *20.* ***In the present case, we are inclined to think that the respondent by remaining away from duty since 1991 to 1998 without producing contemporaneous medical record has not only been irresponsible and indisciplined but tried to get away with it by producing the certificate of a specialist Doctor who may not have treated the respondent.*** *Significantly, although the respondent produced a certificate of a psychiatric specialist,* ***he never claimed that he received treatment from any psychiatric Doctor. In such backdrop, the High Court should not have invoked the self serving medical certificate.*** *The Court wrongfully relied on Rajinder Kumar (supra) where this Court's intervention was in entirely different circumstances. Besides the doctrine of proportionality is not attracted in the present facts.*
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> ***Xxx xxx xxx***
>
> *22. In the above circumstances,* ***the High Court should not have granted relief to the respondent solely on the basis of the medical certificate of the specialist Doctor who may not have personally treated the patient.*** *In the absence of relevant and contemporaneous medical*

> *records, the High Court should not have interfered with the disciplinary action and ordered for a lesser penalty.* ***The gravity of the misconduct of the respondent was overlooked and unmerited intervention was made with the Tribunal's rightful decision to decline relief in the O.A.1459(C)/2003 filed by the respondent."***
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> (emphasis supplied)

44. Keeping the above principles in mind, it emerges that Courts have consistently held that the production of false or fabricated medical certificates by a government employee amounts to serious misconduct, reflecting dishonesty and lack of integrity, and justifies dismissal from service.

45. Despite being aware of the requirement to submit authentic certificates, the Respondent had absented himself for an extended period and submitted certificates purportedly issued by a CGHS doctor who was on leave and could not have examined him. Even otherwise, no other supporting medical documents, prescriptions, or OPD records were provided to substantiate his claimed illness.

46. Thus, this Court finds that the Disciplinary Authority has reasonably concluded that the misconduct was extremely grave, involving not merely absence, but intentional misrepresentation and furnishing false information. Hence, the penalty of dismissal cannot be said to be disproportionate, nor does it shock the conscience of this Court.

47. The learned CAT has committed a manifest error in interfering with the penalty and even quashing the charge memos, by substituting its own assessment and applying the incorrect standard of proof, without recording cogent reasons for the same.

48. Accordingly, the impugned order dated 29.05.2023 is set aside and the order of dismissal dated 18.06.2010, as upheld by the Appellate/Revisionary Authority, is restored.

49. In view of the foregoing the present Petition is allowed.

50. The Pending application(s), if any, stand disposed.

AMIT MAHAJAN, J.

ANIL KSHETARPAL, J.

FEBRUARY 03, 2026
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