

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL
SEAT AT JABALPUR**

Case No. Parties Name	W.P. No.4985/2019 <i>Suraj Pal Singh Rathor</i> vs. <i>M.P. High Court and another</i>
Date of Order	25/08/2021
Bench Constituted	Division Bench: Justice Prakash Shrivastava Justice Virender Singh
Order passed by	Justice Prakash Shrivastava
Whether approved for reporting	Yes
Name of counsels for parties	For petitioner: Shri Sanjay Kumar Patel, Advocate. For respondents: Ms. Smita Arora, Advocate.
Law laid down	The scope of interference in a writ petition against the order of punishment passed in the departmental inquiry is limited. The Court does not sit in appeal against the order passed in the departmental inquiry. Unless it is shown by the petitioner that the inquiry was not conducted in accordance with the prescribed procedure or there was any violation of the principles of natural justice, no interference in the inquiry proceeding is required. Interference in the departmental inquiry can be done by the Court if it is found that statutory rules relating to enquiry have been violated or the findings are based on no evidence or conclusions have

	been drawn extraneous to evidence. The power of judicial review is not directed against the decision but confined to the decision making process.
Significant paragraph numbers	8 to 20
List of citations	<ol style="list-style-type: none"> 1. 1991 Supp (1) SCC 574 (Subhash Sharma and others Vs. Union of India). 2. 1975 (2) SCC 557 (<i>State of Andhra Pradesh and others Vs. Chitra Venkata Rao</i>). 3. 1999 (3) SCC 372 (<i>U.P. State Road Transport Corporation and others Vs. Musai Ram and others</i>). 4. 1964 (3) SCR 25 (<i>State of Andhra Pradesh Vs. S. Sree Rama Rao</i>). 5. 2009 (8) SCC 310 (<i>State of U.P. and another Vs. Man Mohan Nath Sinha and another</i>). 6. 2009 (15) SCC 620 (<i>Chairman-cum-Managing Director, Coal India Ltd. and another Vs. Mukul Kumar Choudhuri and others</i>). 7. 2006 (7) SCC 212 (<i>State Bank of India and others Vs. Ramesh Dinkar Punde</i>). 8. 2005 (3) SCC 254 (<i>Divisional Controller, KSRTC (NWKRTC) Vs. A.T. Mane</i>). 9. 1999 (1) SCC 759 (<i>Apparel Export Promotion Council Vs. A.K. Chopra</i>). 10. 2006 (4) SCC 713 (<i>Narinder Mohan Arya Vs. United India Insurance Co. Ltd.</i>

	<p><i>and others).</i></p> <p>11. 2001 (9) SCC 575 (<i>Syed Rahimuddin Vs. Director General, CSIR and others).</i></p> <p>12. 2012 (6) SCC 357 (<i>Registrar General, High Court of Patna Vs. Pandey Gajendra Prasad and others).</i></p> <p>13. 2006 (2) SCC 255 (<i>T.N.C.S. Corpn. Ltd. and others Vs. K.Meerabai).</i></p> <p>14. 2013 (6) SCC 602 (<i>S.R. Tewari Vs. Union of India and another).</i></p>
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ORDER
(25.08.2021)

Per : Prakash Shrivastava, J.

By this petition, the petitioner has challenged the order dated 20.06.2016 by which major punishment of dismissal from service has been imposed. He has also challenged the order dated 17.01.2019 whereby the appeal against the order of punishment has been dismissed.

2. The brief facts are that during the relevant time, the petitioner was working as “*Aadesh Wahak*” under the respondent No.2 - District & Sessions Judge, Dindori. A complaint was received against the petitioner on which initially in the preliminary inquiry, no material was found but again the complaint was received and the preliminary inquiry was conducted. Thereafter, the charge-sheet dated 26.11.2015 was issued to the petitioner. The petitioner had filed the reply to the charge-sheet and a regular

departmental inquiry was conducted and in the inquiry report dated 25.05.2016, the charge was found to be proved and thereafter the petitioner was given the show-cause notice dated 14.06.2016 along with the inquiry report proposing the major penalty. The petitioner had submitted the reply and thereafter the impugned order of dismissal from the service has been passed which has been affirmed in appeal.

3. Learned counsel appearing for the petitioner submits that the inquiry has not been conducted and no evidence has been recorded, therefore, in view of the judgment of Supreme Court in the matter of ***Subhash Sharma and others Vs. Union of India*** reported in **1991 Supp (1) SCC 574**, major punishment cannot be imposed. Referring to the report dated 03.04.2013, he has submitted that earlier a departmental inquiry was conducted in which the petitioner was exonerated, therefore, the second inquiry could not have been conducted. He has also submitted that since the petitioner had made a complaint against the Principal Judge of the Family Court on 20.01.2014 (Annexure-P/6), therefore, he has been victimized.

4. Opposing the prayer, learned counsel for the respondents has submitted that the regular departmental inquiry has been conducted wherein the evidence has been recorded and on the basis of the inquiry report, the petitioner has been punished. He submits that the report dated 03.04.2013 which the petitioner is referring to, is a

preliminary inquiry report. He has also submitted that the charge against the petitioner was serious in nature and on completion of inquiry, appropriate punishment has been imposed and that the inquiry was not on account of any complaint made by the petitioner.

5. Having heard learned counsel for the parties and on perusal of record, it is noticed that in the departmental inquiry, the charge against the petitioner was that he had accepted the illegal gratification of Rs.50,000/- from one Girja Bai by visiting her house on the plea that he would get pending complaint dismissed. The charge-sheet dated 26.11.2015 was issued to the petitioner containing the said charge. Along with the charge-sheet, the petitioner was supplied with the list of witnesses and list of documents. The petitioner had filed the reply dated 15.12.2015. Thereafter, the regular departmental inquiry was conducted in which the statements of the witnesses were recorded and the petitioner was given an opportunity to cross-examine those witnesses. During the inquiry, the statement of Girja Bai was also recorded in support of the charge. The Inquiry Officer had submitted the report dated 25.05.2016 recording a finding that the charge against the petitioner about demanding and receiving the illegal gratification of Rs.50,000/- was duly proved. Thereafter, the show-cause notice dated 14.06.2016 was issued to the petitioner along with the charge-sheet proposing the major penalty. The petitioner was also given opportunity to file the reply before

passing the impugned order of dismissal from service. The above facts clearly reveal that the due procedure has been followed while passing the order of punishment.

6. So far as the report dated 03.04.2013 on which the petitioner is placing reliance upon, the said report was a preliminary inquiry report and the submission of counsel for the petitioner based on the said report that in the earlier departmental inquiry the petitioner was exonerated, is found to be meritless.

7. The above facts also clearly reveal that since a detailed inquiry has been conducted, therefore, the contention of counsel for the petitioner that no departmental inquiry was conducted is found to be incorrect and is not entitled to the benefit of the judgment in the matter of ***Subhash Sharma (supra)***.

8. The scope of interference in a writ petition against the order of punishment passed in the departmental inquiry is limited. The Court does not sit in appeal against the order passed in the departmental inquiry. Unless it is shown by the petitioner that the inquiry was not conducted in accordance with the prescribed procedure or there was any violation of the principles of natural justice, no interference in the inquiry proceeding is required. Interference in the departmental inquiry can be done by the Court if it is found that statutory rules relating to enquiry have been violated or the findings are based on no evidence or conclusions have been drawn extraneous to evidence. The power of judicial

review is not directed against the decision but confined to the decision making process.

9. It is not the function of the Court to review the evidence and to arrive at an independent finding on the evidence. The Court may interfere if the departmental proceedings are held by violating the rules of natural justice or ignoring the statutory rules prescribing the mode of inquiry. The findings recorded in the inquiry report are generally not reopened or questioned in the writ proceedings unless it is shown that the Inquiry Officer had erroneously refused to admit the admissible and material evidence or had erroneously admitted inadmissible evidence which has influenced the impugned finding. [See: 1975 (2) SCC 557 (*State of Andhra Pradesh and others Vs. Chitra Venkata Rao*)].

10. In the matter of *U.P. State Road Transport Corporation and others Vs. Musai Ram and others*, reported in 1999 (3) SCC 372, considering the case of a Bus Conductor facing the charge of accepting money in excess of fare, the Hon'ble Supreme Court reiterated that if the findings are based on uncontroverted material placed before the Inquiry Officer, the findings cannot be said to be perverse and the Court cannot sit in appeal over the findings of the Inquiry Officer.

11. Reiterating the position in the matter of *State of Andhra Pradesh Vs. S. Sree Rama Rao*, 1964 (3) SCR 25, the Hon'ble Supreme Court has held that the High Court

exercising the power under Article 226 is required to consider whether the inquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice are not violated. It is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. In the matter of *State of U.P. and another Vs. Man Mohan Nath Sinha and another*, 2009 (8) SCC 310, it is held that the judicial review cannot be directed against the decision but has to be confined to the decision making process and the Court does not sit in judgment on merits of the decision.

12. In the matter of *Chairman-cum-Managing Director, Coal India Ltd. and another Vs. Mukul Kumar Choudhuri and others*, 2009 (15) SCC 620, it is held that it is not open to the High Court to examine the findings recorded by the Inquiry Officer as a Court of appeal and reach to its own conclusion as the power of judicial review is not directed against the decision but is confined to decision making process.

13. The same is the view taken by the Hon'ble Supreme Court in the matter of *State Bank of India and others Vs. Ramesh Dinkar Punde* reported in 2006 (7) SCC 212 and in the matter of *Divisional Controller, KSRTC (NWKRTC) Vs. A.T. Mane* reported in 2005 (3) SCC 254.

14. In the matter of *Apparel Export Promotion Council*

Vs. A.K. Chopra reported in **1999 (1) SCC 759**, it is held that the question of adequacy of evidence is outside the purview of the High Court.

15. In the matter of *Narinder Mohan Arya Vs. United India Insurance Co. Ltd. and others* reported in **2006 (4) SCC 713**, it has been held that the High Court while exercising its writ jurisdiction can examine as to whether the evidence adduced before the Inquiry Officer had nexus with the charge and could or could not lead to the guilt of the employee and that mere *ipse dixit* of the Inquiry Officer would not suffice.

16. In the matter of *Syed Rahimuddin Vs. Director General, CSIR and others* reported in **2001 (9) SCC 575**, it is held that in a writ petition, the findings can be interfered with by the Court only when there are no material for the conclusion or when on the materials, the conclusion could not be that of a reasonable man.

17. In the matter of *Registrar General, High Court of Patna Vs. Pandey Gajendra Prasad and others*, **2012 (6) SCC 357**, it is held that Court may interfere only when there is violation of natural justice/statutory regulations prescribing the mode of departmental inquiry or where decision of authority is vitiated by consideration extraneous to the evidence on merits of the case, or if the conclusion reached by the authority on the face of it, is wholly arbitrary and capricious that no reasonable person could have arrived at such a conclusion.

18. In the matter of *T.N.C.S. Corpn. Ltd. and others Vs. K.Meerabai*, 2006 (2) SCC 255, reiterating the legal position, the Hon'ble Supreme Court has held that interference is not permissible unless the orders passed by the *quasi judicial* authorities are clearly unreasonable or perverse or manifestly illegal or grossly unjust.

19. The Supreme Court in the matter of *S.R. Tewari Vs. Union of India and another*, 2013 (6) SCC 602 has reiterated that the Court can exercise the power of judicial review if there is manifest error in exercise of power or exercise of power is manifestly arbitrary or if the power is exercised on the basis of facts which do not exist or there is illegality, irrationality, procedural impropriety or there are mala fides or dishonest or corrupt practices.

20. The counsel for the petitioner has placed reliance upon the judgment of Supreme Court in the matter of *Subhash Sharma and others Vs. Union of India* reported in 1991 Supp (1) SCC 574 (*supra*) but the said judgment has no relevance so far as the present controversy is concerned because that judgment relates to the manner of appointment of Judges of Hon'ble Supreme Court and High Courts.

21. In the present case, none of the grounds which are mentioned in above pronouncements for interference in the departmental proceedings exist, hence, we are of the opinion that there is no scope of interference in the inquiry proceedings resulting into the impugned order of penalty of dismissal from service.

22. So far as the allegations of the petitioner that the appellate order dated 17.01.2019 is not a speaking order, it is found that by the impugned communication, the petitioner was informed about the decision of the Appellate Authority to dismiss the appeal. The detailed reasons on the basis of which Appellate Authority has dismissed the appeal have been placed on record as Annexure-R/1 with the reply. Hence, the Appellate Authority has passed the impugned order after due application of mind.

23. Having regard to the aforesaid, we are of the opinion that no case for interference in the present writ petition is made out and the same is accordingly **dismissed**.

(PRAKASH SHRIVASTAVA)
JUDGE

(VIRENDER SINGH)
JUDGE

