

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

.....

WP(C) No. 3037/2024

Pronounced on:- 05.03.2026.

Uploaded on:- 09.03.2026.

Ghulam Ahmad Ganie.

S/O Mohammad Ganie.

R/O Mulshulla Beerwah, District, Budgam.

..... Petitioner(s)

Through: Mr. Hakim Suhail Ishtiaq, Advocate.

Versus

- 1. Union Territory of J&K th. Pr. Secretary
to Govt. Housing and Urban Development Department
J&K, Civil Sectt. Srinagar/Jammu.***
- 2. Managing Director J&K, Housing Board, Srinagar/ Jammu.***
- 3. Director Finance J&K Housing Board, Srinagar/Jammu.***
- 4. Deputy General Manager 1st J&K Housing Board, Srinagar,
Kashmir.***

.....Respondent(s)

Through:- Mr. Bikramdeep Singh, Dy. AG.

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT

05.03.2026.

1. Petitioner in the instant petition filed under Article 226 of the Constitution

has prayed for the following reliefs:-

- a. By issuance of writ, order or direction one in the nature of certiorari, the order No. 124 of 2024 dated 24-10-2024 issued by Respondent No. 2 be quashed.*
- b. By issuance of writ, order or direction one in the nature of mandamus, the respondents be commanded to reinstate the petitioner and allow him to discharge his duties as Khilafwarzi Inspector.*
- c. By issuance of writ, order or direction, one in the nature of mandamus, the respondents be commanded to pay full salary to the petitioner w.e.f, 18-01-2021 till 24-10-2024.*

2. Facts emanating from the pleadings and the material on record reveal that

certain complaints were lodged before the Divisional Commissioner,

Kashmir with regard to illegal sale of migrant property being plot No. 57,

situated at Housing Colony Baghi-Mehtab, Srinagar, whereupon the Divisional Commissioner, Kashmir appointed one Dr. Bashir Ahmad Lone (KAS), the then Vice Chairman of Srinagar Development Authority as an Inquiry Officer for holding a preliminary enquiry not only with regard to the sale of said plot of land but also about the execution of a power of attorney as also with regard to plot No. 170 situated at Government Housing Colony, Sanat Nagar, Srinagar, as well as the involvement of land mafia and the officials of the Jammu and Kashmir Housing Board (For short “the Board”), including the role of the petitioner therein.

3. In the said enquiry, the Inquiry Officer collected records from the Board as well as contacted the original plot holder/allottee of plot No.57, namely *Shri A. K. Chakoo*, whereafter, it got revealed that plot No. 57 had been allotted to said *A. K. Chakoo*, by the Board vide allotment order dated 16th February, 1985 and that a purported irrevocable power of attorney, dated 10th March, 2016, had been registered before the Sub-Registrar, Jammu in favour of one *Abdul Latief Mir S/O Mohammad Abdullah Mir R/O Chewdara Tehsil Beerwah, Budgam*, authorizing him to deal with the said plot No. 57 and the said power of attorney had been a fraudulent document as the allottee of the plot namely *A. K. Chakoo*, had denied to have executed the said power of attorney and had alleged that someone else had impersonated on his behalf while executing the said power of attorney and that the marginal witnesses named in the said power of attorney were not known to him.

The Inquiry Officer in the said enquiry also recorded the statement of said *Abdul Latief Mir* (Attorney Holder), who had stated before the Inquiry Officer that he intended to purchase the said plot of land and had

approached the petitioner herein in this regard whom he knew and that it is the petitioner who showed him various plots of land including plot No. 57, and, that he agreed to purchase the said plot of land for an amount of Rs. 22.00 lacs and that he in furtherance of the said agreed sale deposited approximately an amount of Rs. 16.00 lacs in the bank account of petitioner herein and his son namely *Imtiyaz Ahmad Ganie*, on different dates and that one of his neighbour namely *Mohammad Yousuf* had shown interest in purchasing of said plot of land and that he got shocked upon receiving a notice from the court, issued in a suit filed by *Shri A. K. Chakoo*, against the power of attorney in question and, as such, felt cheated and demanded back the money paid to the petitioner and his son which was not returned back.

The Inquiry Officer had further during the course of the said enquiry recorded the statement of the petitioner who had denied to have any role in execution of the power of attorney in question or else the sale of plot of land in question. The petitioner however, had stated before the Inquiry Officer with respect to money, stated to have been paid by said *Abdul Latief Mir*, into his bank account that he had no connection with said *Abdul Latief Mir*.

During the course of the enquiry, the Inquiry Officer had also examined one Bashir Ahmad Mir, Corporator of the Ward, Baghi-Mehtab, Srinagar, who had stated that the petitioner had approached him and had offered to facilitate the sale of plot of land in question and that during this period he met one *Mohammad Yousuf Shah*, who resides in the adjacent plot No. 58 and had been entrusted the responsibility to look after the plot No. 57 by Mr. *A. K. Chakoo* and according to the said Bashir Ahmad Mir, the said

Mohammad Yousf Shah, had informed him that *Shri A. K. Chakoo*, had never authorized any person through any power of attorney to sell the plot of land in question.

With respect to plot No. 57, the Inquiry Officer after concluding and opined that the petitioner is prima-facie involved in attempting to transact with the said plot and had also been a facilitator in preparation and use of documents regarding the said plot of land and that substantial monetary transaction with respect to the said plot of land had been made by the petitioner and his son and based upon the said conclusion, the Inquiry Officer recommended that the matter be handed over to the Crime Branch, Srinagar, for thorough investigation as he had not been able to track the monetary transactions or else to determine genuineness or fakeness of power of attorney.

In the said enquiry, with respect to plot No. 170, situated at Housing Colony, Sanat Nagar, Srinagar, the Inquiry Officer observed that the said plot had been allotted to one *Shri J. N. Sathu S/O Ragu Ram Sathu R/o Pratab Park, Srinagar*, vide order dated 30th September, 1978, who however, had not completed the necessary formalities and that one *Salam-ud-din Bajar-retired Assistant Director, Doordarshan Kendra, Srinagar*, had sought allotment of the said plot of a land, being the member of scheduled tribe category and had obtained certain orders from the civil court in this connection and that the plot No. 170, claimed by the said *Salam-ud-din Bajar*, was subject matter of litigation.

4. The Divisional Commissioner, Kashmir on receipt of the said report forwarded the same to respondent 1 herein and recommended the

- suspension of the petitioner and also forwarded a copy of the said enquiry report to respondent 2 for registration of a case through the Crime Branch.
5. Thereafter the petitioner was placed under suspension vide order dated 18th January, 2021, and was attached in the office of Collector Land Acquisition of the respondent Board at Jammu and simultaneously, disciplinary proceedings were initiated against the petitioner and in furtherance thereof was served copies of charge sheet, statement of imputation of misconduct and a copy of the preliminary report, calling upon him to file reply thereto.
6. In the charge sheet served upon the petitioner, the first charge levelled against the petitioner was that while functioning as *Khalifwarzi* Officer in the Board, he, the petitioner misused his position in connection with plot No. 57, situated at Housing Coloney Baghi-Mehtab, Srinagar, and had financial dealings with respect to the said plot of land with one *Abdul Latief Mir*, who purportedly was holding a fake power of attorney in respect of the said plot of land allegedly executed by the allottee of the plot, *Shri A. K. Chakoo*. It had also been alleged in the said charge that certain money transactions had been entered into between the petitioner and his son in respect of the said plot of land and based upon the said charge(s), the petitioner was accused of having committed misconduct as well as abused his official position including to have failed to have absolute integrity.
7. Subsequently, respondent 1 vide order dated 29th March, 2021, appointed Mr. Tufail Mathoo, the then Vice Chairman Lakes and Waterways Development Authority (LAWDA) as the Inquiry Officer in the matter,

besides appointing one *Shri Rizwan Ahmad*, Collector LAWDA as the Presenting Officer.

8. Upon completion of the said enquiry by Mr. Mathoo, a report was submitted before the respondent 1 on 10th August, 2022, concluding therein that the petitioner had tried to justify the financial transactions between him and the above named *Abdul Latief Mir*, in a very vague and suspicious manner and that there no involvement of the petitioner in the preparation of the alleged power of attorney with respect to plot of land in question yet the Inquiry Officer concluded that the charges framed against the petitioner are established beyond doubt.
9. During the course of holding of the aforesaid enquiry with respect to plot No. 57, another complaint had been filed against the petitioner with respect to plot No. 170, situated at Housing Colony Sanat-Nagar, Srinagar and a charge sheet consequently, also served upon the petitioner along with statement of imputation of misconduct on 23rd March, 2022, which the petitioner denied in his reply dated 6th April, 2022, whereafter one *Shri Mushtaq Ahmad*-Collector of the Board came to be appointed as an Inquiry Officer by respondent 2 and one *Shri Yougash Sharma*, Senior Programmer of the Board as the Presenting Officer and in the said enquiry, the complainant-namely, *Syed Showkat Saleem Andrabi*, who had filed the complaint were summoned along with the petitioner for recording of their statements and though the petitioner appeared before the Inquiry Officer for recording of the statement, the said complainant did not appear before the Inquiry Officer, however, the said complainant got his statement virtually recorded and had stated therein the said statement that the

petitioner is known to him and that the petitioner facilitated the sale of the plot of land in question with one *Ghulam Mohi-ud-din Dar*.

Upon conclusion of the said enquiry, the Inquiry Officer concluded that the petitioner had violated the *Jammu and Kashmir Government Employees Conduct Rules of 1971*), as he had entered into financial transaction with respect to the plot of land in question bearing No. 170.

10. Based upon the reports of the aforesaid two enquiries conducted against the petitioner, pertaining to plot No. 57 and the plot No. 170, a show cause notice dated 11.08.2022, came to be issued to the petitioner by the respondent-Board, calling upon him as to why action be not taken against him.

11. The petitioner in the meantime, during the pendency of the aforesaid enquiries had approached this Court through WP(C) No. 1725/2021, challenging his suspension as also had prayed for the release of the subsistence allowances and this Court in the said petition in terms of order dated 6.05.2021, directed the respondents to consider his case for payment of subsistence allowances in accordance with the rules.

12. During the pendency of the aforesaid petition, the respondent-Board issued the impugned order dated 24th October, 2024, dismissing the petitioner from service.

13. Petitioner has challenged the impugned order on multiple grounds, fundamentally on the ground that the dismissal order owes its origin to two enquiries which were conducted in breach and violation of law as well the principles of nature justice, in that, the petitioner was never permitted to cross-examine the complainant's whose instances the enquiries had been initiated as also the witnesses examined during the course of the said

enquires and that in the said enquiries held against the petitioner, the record and findings of the preliminary enquiry earlier held came to be relied upon by the respondents with respect to plot No. 57, although in respect of plot No. 170, the petitioner had not been found involved therein.

14. Objections to the petition have been filed by the respondents wherein the petition is being opposed and the order of dismissal justified, *inter-alia* on the premise that the petitioner had been involved in serious irregularities in discharge of his duties in the Board, besides having committed blatant illegalities *qua* various properties of the Board, necessitating holding of departmental enquiries against the petitioner, while stating further that upon receipt of the complaints as also findings of the preliminary enquiry(s), the petitioner was placed under suspension and the matter was also placed before the Board of Directors which had directed that the matter be taken to its logical conclusion in accordance with law. It is further stated in the objections that the petitioner was served with a show cause notice, calling upon him to explain his position *viz-a-viz*, the findings of the Inquiry Officer and after considering the entire material, the Competent Authority ordered dismissal of the petitioner from the service in terms of the order under challenge and that the dismissal of the petitioner has been lawful, justified and ordered in the interest of maintaining the administrative discipline in the Board. The respondents have lastly in the objections filed to the petition pleaded for dismissal of the petition, being devoid of any merit.

Heard counsel for the parties and perused the record available on the file as also the record produced by counsel for the respondents in compliance to the previous directions of this Court.

15. According to Mr. Hakim Suhail, appearing counsel for the petitioner, the Board during its 48th Board of Directors meeting had been apprised about the status of the petitioner as well the proceedings initiated against him whereupon the Board of Directors in the said meeting advised the respondent-Board to take the matter to its logical conclusion. Mr. Hakim also invited the attention of this Court to 47th Board of Director's meeting, held on 22nd October, 2019, at Agenda 47.09 and would contend that the suspension matter of the petitioner had been considered for his alleged involvement in the encroachment of land by the Board of Directors and also a charge sheet came to be framed against the petitioner on 19th June, 2012. Attention of the Court was also invited to 42nd Board of Directors meeting by Mr. Hakim Suhail, pertaining to the proposed action to be taken against the petitioner as to whether the petitioner's services be terminated or any major penalty be imposed upon him, wherein the Board of Directors had resolved to terminate the services of the petitioner.

Mr. Hakim Suhail, would further contend that feeling aggrieved of the said decision, the petitioner preferred SWP No. 2306/2013, before this Court wherein this Court in terms of an interim order dated 27th November, 2013, stayed the suspension order of the petitioner with further directions to the respondents not to terminate the services of the petitioner, as a consequence whereof the respondents withdrew the suspension order in terms of order dated 20th October, 2014, and the case of the petitioner was placed before 43rd Board of Directors meeting for release of the grade in favour of the petitioner wherein the Board resolved that an Establishment Committee be constituted for scrutiny of recommendation of the establishment cases, whereafter in the 47th Board of Directors

meeting, respondent 2 came to be called upon to reject the case of the petitioner with regard to the promotion/release of grade.

Mr. Hakim also invited the attention of this Court to the 48th Board of Directors meeting having been referred in the impugned order at Agenda 47.09, which required the respondent 2 to take the matter to its logical conclusion and that the Agenda 48.02, required the respondent 2 to reject the case of the petitioner for promotion/release of grade.

Mr. Hakim Suhail, also referred to the minutes of the Review Committee held on 22nd of July, 2024, wherein the case of the petitioner had been recommended by the internal committee held in its meeting on 28th August, 2023, for compulsory retirement of the petitioner, however, the Review Committee observed that Board of Directors in its 42nd meeting had already resolved that the services of the petitioner be terminated and, therefore, called upon the Board to re-examine the case of the petitioner as to why the decision to terminate him from service had not been implemented.

According to Mr. Hakim, the respondent-Board did not withdraw the suspension order of the petitioner pursuant to the orders passed in SWP No. 2306/2013, on 27.11.2013, however, the same was withdrawn in view of recommendations of the Committee constituted by the Board on 12th August, 2014, which had recommended reviewing of the suspension case of the petitioner in light of the findings of the said Committee, as according to Mr. Hakim, had the respondents withdrawn the suspension of the petitioner pursuant to the orders of the Court, same would have been withdrawn immediately after passing of the order on 27th November, 2013.

Mr. Hakim, would lastly contend that prima-facie reading of the enquiry reports conducted in the matters against the petitioner would tend to show that the same had been conducted in perfunctory manner in breach and violation of norms settled for holding such enquiry in the departmental proceedings inasmuch as, in violation of principles of natural justice and that the petitioner had been held guilty for misconduct in respect of which no charge had been framed and also irrespective of the fact that the Inquiry Officer had observed and opined that there has been no evidence found against the petitioner, *qua* the allegations in respect of plot No. 57.

16. On the contrary Mr. Bikramdeep Singh, Dy. AG, while opposing the submissions and contentions made and urged by counsel for the petitioner would defend the order of dismissal passed against the petitioner and in this regard heavily relied upon the reply affidavit filed to the petition as well as record appended thereto, besides the record produced before the Court during the course of hearing of the case.

17. Before proceedings further in the matter, it is significant to mention here that the dismissal order issued against the petitioner essentially had been founded upon three enquiries, one conducted at the instance of the Divisional Commissioner, Kashmir and two others by the respondent-Board.

18. It is noteworthy here that in law the purpose of holding a preliminary enquiry is only to find out that there exists sufficient material to initiate a disciplinary enquiry against a delinquent employee and that the findings recorded in such preliminary enquiry cannot constitute an evidence unless such an evidence is produced and subjected to cross-examination during

the regular departmental enquiry. A reference in this regard to the judgment of the Apex Court, heavily relied upon by the counsel for the petitioner titled as “ **State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow vs. Ram Prakash Singh, reported in 2025 SCC online, SC 891**” would be appropriate and advantageous wherein, at paragraphs 12 to 14 and 17, following has been observed:-

12. Bareilly Electricity Supply Company Limited v. The Workmen and Others is a decision arising from an award under the [Industrial Disputes Act, 1947](#). Law has been laid down therein as follows:

“9. ... Innumerable statements, letters, balance-sheet, profit and loss account and other documents called for or otherwise were filed on behalf of the appellants. It cannot be denied that the mere filing of any of the aforementioned documents does not amount to proof of them and unless these are either admitted by the respondents or proved they do not become evidence in the case.

14. ... But the application of principle of natural justice does not imply that what is not evidence can be acted upon. On the other hand what it means is that no materials can be relied upon to (1971) 2 SCC 617 establish a contested fact which are not spoken to by persons who are competent to speak about them and are subjected to cross-examination by the party against whom they are sought to be used. When a document is produced in a Court or a Tribunal the questions that naturally arise is, is it a genuine document, what are its contents and are the statements contained therein true. When the appellant produced the balance-sheet and profit and loss account of the company, it does not by its mere production amount to a proof of it or of the truth of the entries therein. If these entries are challenged the appellant must prove each of such entries by producing the books and speaking from the entries made therein. If a letter or other document is produced to establish some fact which is relevant to the enquiry the writer must be produced or his affidavit in respect thereof be filed and opportunity afforded to the opposite party who challenges this fact. ...

(emphasis ours)

13. In Roop Singh Negi v. Punjab National Bank and Others, it was held that an officer conducting an enquiry has a duty to arrive at findings in respect of the charges upon taking into consideration the materials brought on record by the parties. It has also been held therein that any evidence collected during investigation by an investigating officer against the accused by itself could not be treated to be evidence in the disciplinary proceedings.

14. What follows from a conjoint reading of the above two decisions is and what applies here is that, 'materials brought on record by the parties' (to which consideration in the enquiry ought to be confined) mean only such materials can be considered which are brought on record in a manner known to law. Such materials can then be considered legal evidence, which can be acted upon. Though the Indian Evidence Act, 1872 is not strictly applicable to departmental enquiries, which are not judicial proceedings, nevertheless, the (2009) 2 SCC 570 principles flowing there from can be applied in specific cases. Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross-examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair play have their root in such Act. In such light, the documents referred to in the list of documents forming part of the annexures to the chargesheet, on which the department seeks to rely in the enquiry, cannot be treated as legal evidence worthy of forming the basis for a finding of guilt if the contents of such documents are not spoken to by persons competent to speak about them. A document does not prove itself. In the enquiry, therefore, the contents of the relied-on documents have to be proved by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity. In the present case, no such exercise was undertaken by producing any witness.

17. Next, the decision in *Nirmala J. Jhala v. State of Gujarat and Another*¹⁸ deserves consideration where the concept of preliminary enquiry being distinct from a regular enquiry was noticed and discussed. Paragraphs 45 and 51 from such decision read as follows:

"42. A Constitution Bench of this Court in *Amalendu Ghosh v. North Eastern Railway*, AIR 1960 SC 992, held that the purpose of holding a preliminary inquiry in respect of a particular alleged misconduct is only for the purpose of finding a particular fact and prima facie, to know as to whether the alleged misconduct has been committed and on the basis of the findings recorded in preliminary inquiry, no order of punishment can be passed. It may be used only to take a view as to whether a regular disciplinary proceeding against the delinquent is required to be held.

43. Similarly in *Champaklal Chimanlal Shah v. Union of India*, AIR 1964 SC 1854, a Constitution Bench of this Court while taking a similar view held that preliminary inquiry should not be confused with regular inquiry. The preliminary inquiry is not governed by the provisions of Article 311(2) of the Constitution of India. Preliminary inquiry may be held ex parte, for it is merely for the satisfaction of the Government though usually for the sake of fairness, an

explanation may be sought from the government servant even at such an inquiry. But at that stage, he has no right to be heard as the inquiry is merely for the satisfaction of the Government as to whether a regular inquiry must be held.

45. In view of the above, it is evident that the evidence recorded in preliminary inquiry cannot be used in regular inquiry as the delinquent is not associated with it, and opportunity to cross-examine the persons examined in such inquiry is not given. Using such evidence would be violative of the principles of natural justice.”

What emanates from the above principles and position of law laid down by the Apex Court in the judgment (supra), is in a departmental enquiry only that material can be considered which was brought on record in a manner known to law and such material in legal parlance can be said to be “Legal Evidence” which alone can be acted upon. Though it is equally settled law that the provisions of the Evidence Act 1872 are not applicable *mutatis mutandis* in the departmental enquiry which enquiry is not a judicial proceeding, nonetheless the principles flowing therefrom can be applied in specific cases and evidence tendered by a witness during such departmental enquiry must be recorded in presence of the delinquent employee who has to be given an opportunity to cross-examine or rebut such evidence/witnesses, thereby manifestly suggesting that if a documentary evidence is relied upon in a departmental enquiry against a delinquent official not only the contents of the said documentary evidence are to be proved by examining a witness thereof having knowledge of the contents of said documentary evidence but the delinquent employee also is to be provided opportunity to cross-examine such witness.

A further reference in regard to the ambit and scope of a preliminary enquiry laid down by the Apex Court in case titled as **“Nirmala J. Jhala v. State of Gujrat and Another, (2013) 4 SCC 301,** would also be relevant, wherein at paragraphs 42 to 45 following has been held:-

“42. A Constitution Bench of this Court in Amalendu Ghosh v. North Eastern Railway [AIR 1960 SC 992], held that the purpose of holding a preliminary inquiry in respect of a particular alleged misconduct is only for the purpose of finding a particular fact and prima facie, to know as to whether the alleged misconduct has been committed and on the basis of the findings recorded in preliminary inquiry, no order of punishment can be passed. It may be used only to take a view as to whether a regular disciplinary proceeding against the delinquent is required to be held.

43. Similarly in Champaklal Chimanlal Shah v. Union of India [AIR 1964 SC 1854] a Constitution Bench of this Court while taking a similar view held that preliminary inquiry should not be confused with regular inquiry. The preliminary inquiry is not governed by the provisions of Article 311(2) of the Constitution of India. Preliminary inquiry may be held ex parte, for it is merely for the satisfaction of the Government though usually for the sake of fairness, an explanation may be sought from the government servant even at such an inquiry. But at that stage, he has no right to be heard as the inquiry is merely for the satisfaction of the Government as to whether a regular inquiry must be held. The Court further held as under : (AIR p. 1862, para 12)

“12. ... There must therefore be no confusion between the two enquiries and it is only when the government proceeds to hold a departmental enquiry for the purpose of inflicting on the government servant one of the three major punishments indicated in Article 311 that the government servant is entitled to the protection of that article [, nor prior to that].”

44. In Narayan Dattatraya Ramteerthakhar v. State of Maharashtra [(1997) 1 SCC 299 : 1997 SCC (L&S) 152 : AIR 1997 SC 2148] this Court dealt with the issue and held as under:

“... a preliminary inquiry has nothing to do with the enquiry conducted after issue of charge-sheet. The preliminary enquiry is

only to find out whether disciplinary enquiry should be initiated against the delinquent. Once regular enquiry is held under the Rules, the preliminary enquiry loses its importance and, whether preliminary enquiry was held strictly in accordance with law or by observing principles of natural justice of (sic) nor, remains of no consequence.”

45. In view of the above, it is evident that the evidence recorded in preliminary inquiry cannot be used in regular inquiry as the delinquent is not associated with it, and opportunity to cross-examine the persons examined in such inquiry is not given. Using such evidence would be violative of the principles of natural justice.

19. Having regard to the aforesaid position of law and reverting back to the case in hand, examination of record of enquiry reveals that several statements of the witnesses have had been relied upon in the enquires reports by the Inquiry Officer in respect of which statements, the petitioner has not been given an opportunity to cross examine the said witness and admittedly the said statements had been examined during the holding of the preliminary enquiry against the petitioner and ironically relied upon in the regular departmental enquiry by the Inquiry Officer that too without providing an opportunity to the petitioner to rebut the same by cross examination.

20. It is significant to note here that even in respect of the enquiry held by the Inquiry Officer *qua* the plot No. 57, though the Inquiry Officer had opined that there is no evidence showing the involvement of the petitioner in the preparation of the alleged fake power of attorney, yet the Inquiry Officer has concluded that all the charges drawn and framed against the petitioner stand established beyond doubt. Such a finding by the Inquiry Officer *ex-facie* is inconsistent, raising serious doubts about the mode and manner in which the said enquiry had been conducted against the petitioner which

ultimately had resulted into issuance of the impugned order of dismissal against the petitioner. The Inquiry Officer seemingly has proceeded on surmises and conjectures without there being any legal evidence on record and has, recorded findings perverse to the evidence.

21. This Court is mindful of the position of law that the scope of judicial review in matters arising out of departmental proceedings is limited as the Court would not sit in appeal over the said proceedings however, it is equally beaten position of law that where a decision making process itself is vitiated by the breach of principles of natural justice or on the ground of perversity or non-availability of legal evidence, the court would be justified in displaying indulgence and interfering in such matters. A reference in this regard to the judgment of the Apex Court passed in case titled as “**Parvin Kumar vs. Union of India and others, reported in 2020 (9) SCC 471**”, would be relevant and advantageous wherein at paragraph 26, following has been laid down:-

“26.....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 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. 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.”

22. Viewed thus, for what has been observed, considered and analyzed hereinabove, the only inescapable conclusion that can be drawn is that the disciplinary proceedings initiated by the respondents against the petitioner having culminated into issuance of impugned order suffers from serious legal infirmities, as a result whereof, the instant petition deserves to be allowed.

23. Accordingly, the petition is allowed and the impugned order No. JKHB-124 of 2024 dated 24.10.2025, is quashed, however, the respondents shall be at liberty to hold a fresh enquiry against the petitioner *qua* the allegations in the matter which enquiry shall be held and conducted strictly in accordance with the applicable rules and principles of law, preferably within a period of two months from the date of passing of this judgment and order. In the event of failure of respondents to hold and conduct any such enquiry against the petitioner, the respondents shall be deemed to have forfeited the said liberty granted in this regard. Further the payment of salary and other emoluments payable to the petitioner shall remain subject to the holding of the enquiry if the respondents chose to conduct the same as provided above.

24. ***Disposed of*** along with connected CM(s).

(Javed Iqbal Wani)
Judge

Srinagar
05.03.2026.
“Ab. Rashid PS”

Whether the judgment/order is speaking; Yes/No
Whether the judgement/order is reportable; Yes/No