



2025:CGHC:25555-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 372 of 2025**

Chhatrapal Sahu S/o Shri Khilawan Ram Sahu Aged About 48 Years R/o
Near Radheshyam Rice Mill, Police Station Lormi, District : Mungeli,
Chhattisgarh.

... Appellant(s)**versus**

1. State of Chhattisgarh Through The Secretary, Department of Home, Affairs, D.K.S. Bhawan, District : Raipur, Chhattisgarh.
2. The Director General of Police Police Headquarter, District : Raipur, Chhattisgarh.
3. The Dy. Inspector General of Police Rajnandgaon, District : Rajnandgaon, Chhattisgarh.
4. The Superintendent of Police Rajnandgaon, District : Rajnandgaon, Chhattisgarh.

...Respondent(s)

For Appellant	:	Mr. Sunil Pillai, Advocate.
For Respondents/State	:	Mr. Sangharsh Pandey, Government Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

19.06.2025

1. Heard Mr. Sunil Pillai, learned counsel for the appellant as well as Mr. Sangharsh Pandey, learned Government Advocate, appearing for the State on I.A. No. 1 of 2025, which is an application for condonation of delay.
2. After hearing the learned counsel for the parties and considering the reasons mentioned in the application, we are of the considered opinion that sufficient cause has been shown in the application and accordingly, I.A. No. 1 of 2025 is **allowed** and delay of 375 days in filing the appeal is condoned.
3. The present intra Court appeal has been filed by the appellant against the order dated **14.02.2024** passed by the learned Single Judge in **WPS No. 285 of 2012 (*Chhatrapal Sahu vs. State of Chhattisgarh & Others*)**, whereby the learned Single Judge has dismissed the writ petition filed by the appellant/writ petitioner herein.
4. Learned counsel for the appellant submits that the appellant who was a constable is out of service since year 2010 because by an order dated 30.01.2010 he was removed from service by respondent No. 4, the Disciplinary Authority, the Superintendent of Police, Rajnandgaon. He further submits that against the appellant, disciplinary proceeding was

initiated by issuance of charge-sheet dated 12.05.2009 containing the following 02 imputations:

“I. On 06.02.2009 unauthorizedly, the appellant went to village Khoratola locked the applicant in a room abused and intimidated applicant that he would be sent to jail for keeping wood and for not taking action illegally demanded Rs. 5,000 (Five thousand) bribe thus demonstrated corrupt conduct.

II. By remaining absent in stant-2 on 06.02.2009 at Police Station Gaindatola demonstrated negligence to duty.”

5. It is further contended by the learned counsel for the appellant that Inquiry Officer was appointed by the Disciplinary Authority and enquiry report was prepared and sent to the Disciplinary Authority after the departmental enquiry on 30.12.2009. On perusal of the enquiry report, it would be evident that the enquiry has been conducted with the sole motive to hold the appellant guilty of charges and establish the charges levelled against the appellant. The Inquiry Officer performed the role of prosecutor as well since though Presenting Officer was appointed, the Inquiry Officer cross examined the appellant as well as the witness and thereby vitiated the enquiry. In the case of **Anita Thakur vs. State Government of Chhattisgarh & Others**, reported in **2019 LAB.I.C. (NOC) 106 (CHH)**, and paragraphs 12 and 13 were referred. He also contended that even the superior officer, while acting as Appellate Authority or Revisional Authority, has not assigned any reason for

agreeing or confirming the impugned order passed by the Disciplinary Authority. He submits that the Enquiry Officer and the Superior Officer while acting as Appellate Authority or Revisional Authority, performs a *quasi judicial* function. He would submit it is clear from the aforesaid view taken in many cases that non-appointing a Presenting Officer by itself would not vitiate the enquiry, but if Inquiry Officer acts as prosecutor, the enquiry would be vitiated. In the present case the Inquiry Officer acted as a prosecutor also, and therefore, the enquiry was vitiated.

6. It is further submitted by the learned counsel for the appellant that Rule 14(8) of the C.G. Civil Services (Classification, Control and Appeal) Rule 1966 (for short, 'Rules of 1966') has not been complied with in the departmental enquiry held against the appellant inasmuch that the right of the delinquent employee stood curtailed in the matter of taking assistance of defense assistant for the reason that the right available to him was not communicated to the appellant. In the case of ***Bhagat Ram vs. State of Himanchal Pradesh & Others***, reported in ***(1983) 2 SCC 442*** held that justice and fair play demand that where in a disciplinary proceeding, the department is represented by a Presenting Officer, it would be incumbent upon the disciplinary authority while making appointment of a Presenting Officer to appear on his behalf simultaneously to inform the delinquent his right to seek assistance of defense assistant. In the facts of the case, no such information was given to the appellant and the enquiry was conducted against appellant without there being a defense assistant for his assistance. He also submits that Rule 14(23) of the Rules of 1966 particularly sub-Rule (c) provides for assessment of the evidence in respect of each article of charge. Sub-Rule (d) requires the finding on

each article of charge and reasons thereof. This requirement of law had been given a go-bye, thus, causing prejudice to the appellant. He further submits that Rule 14(18) of the Rules of 1966 mandates examination of the delinquent employee so as to enable him to explain the circumstances appearing against him and after conclusion of the enquiry, according to 14(19) of the Rule of 1966 opportunity for submission of written brief is mandatory. The Inquiry Officer proceeded to finalize the enquiry report ignoring the mandate of law.

7. It is further stated by the learned counsel for the appellant that the Disciplinary Authority without proper application of mind accepted the enquiry report and acted upon it. On a perusal of the order of dismissal from service passed by the Disciplinary Authority, it would be clear from page 2 of the order at the bottom of which it is contained that the Inquiry Officer cross examined the appellant. There is no discussion or reasoning for accepting the enquiry report that held the charges proved against the appellant. The Inquiry Officer as well as Disciplinary Authority are *quasi-judicial* authorities who are required to give reasoning on their finding and the order should speak so that the higher forums/Courts would be able to scrutinize the orders. In the case of ***Kranti Associates Pvt. Ltd. & Another vs. Masood Ahmed Khan & Others***, reported in **(2010) 9 SCC 496**, it is submitted that it is mandatory for the said authority to assign reason and assess the evidence in exercise of their powers and such recording of reasons is required as the Courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review, as the reason is the soul of justice. He would refer to paragraphs 46 and 47 of the said judgment. He also stated that

against the order dated 30.01.2010, appellant preferred appeal before the respondent No. 3, which was rejected by order dated 17.05.2010. After rejection of the appeal preferred by the appellant, appellant preferred mercy appeal before the Director General of Police, respondent No. 2, the mercy appeal was also rejected vide order dated 05.10.2011. Thereafter, the appellant preferred writ petition bearing WPS No. 285 of 2012 before the Hon'ble High Court for quashment of order dated 05.10.2011 passed in mercy appeal, order dated 17.05.2010 passed in appeal preferred by the appellant disciplinary authorities order of dismissal from service dated 13.01.2010 as well as the enquiry report dated 30.12.2009 and for direction to reinstate the appellant into service with all consequential benefits. The learned Single Judge dismissed the writ petition by an order dated 14.02.2024 against which the present writ appeal is being filed.

8. Learned counsel for the appellant would submit that the consideration required to be made by the Appellate Authority under clause (a), (b) & (c) of sub-Rule 2 of Rule 27 of the Rule of 1966 is absent in the present case on perusal of the order of Appellate Authority. Similar is the position with the mercy appeal rejection order that showed no mercy. Before the learned Single Judge, reliance was placed in the matter of **Anita Thakur** (supra), which is a decision rendered by the Coordinate Bench of this Hon'ble High Court where the entire departmental enquiry was held to be vitiated and consequently penalty order was also quashed, but the learned Single Judge without distinguishing the case and also did not refer the matter to a larger Bench, but went ahead to pass the impugned order dated 14.02.2024 by which the writ petition filed by the appellant was dismissed against the law laid down by the Hon'ble Apex

Court in the case of ***Marry Pushpam vs. Telvi Curusumary & Others***, reported in **(2024) 3 SCC 224**. The impugned order of the learned Single Judge is erroneous and against the law laid down by the Hon'ble Apex Court in more than one occasion. The facts of the case required the learned Single Judge to scrutinize the enquiry report based on which infliction & major penalty was made upon the appellant, but the learned Single Judge, without entering into such exercise, ignoring the facts that the enquiry had been conducted against the principles of natural justice and ignoring the mandate of Rule of 1966, upheld the orders impugned in the writ Petition. Hence, the order passed by the learned Single Judge dated 14.02.2024 is untenable in the eyes of law and deserves to be quashed.

9. On the other hand, learned State counsel submits that the learned Single Judge after considering all the aspects of the matter has rightly dismissed the writ petition filed by the appellant/writ petitioner, in which no interference is called for.

10. We have heard learned counsel for the parties and perused the impugned judgment and materials available on record.

11. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. The essence of a judicial approach is objectivity, exclusion of

extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached. It is also well settled that whenever infraction of any statutory provision, rule and regulation is highlighted and the same is not fundamental in nature, the applicability of test of prejudice can be applied. The learned Single Judge relied upon the judgment of the Hon'ble Supreme Court in the matter of ***State of U.P. vs. Harendra Arora and Another***, reported in ***(2001) 6 SCC 392***, the Hon'ble Supreme Court has examined the said issue and relevant paragraph 13 is reproduced hereunder:-

“13. The matter may be examined from another view point. There may be cases where there are infractions of statutory provisions, rules and regulations. Can it be said that every such infraction would make the consequent action void and/or invalid? The statute may contain certain substantive provisions, e.g., who is the competent authority to impose a particular punishment on a particular employee. Such provision must be strictly complied with as in these cases the theory of substantial compliance may not be available. For example, where a rule specifically provides that the delinquent officer shall be given an opportunity to produce evidence in support of his case after the close of the evidence of the other side and if no such opportunity is given, it would not be possible to say that the inquiry was not vitiated. But in respect of many procedural provisions, it would be possible to apply the theory of substantial compliance or the test of prejudice, as the case may be. Even amongst procedural provisions, there may be some provisions of

a fundamental nature which have to be complied with and in whose case the theory of substantial compliance may not be available, but the question of prejudice may be material. In respect of procedural provisions other than of a fundamental nature, the theory of substantial compliance would be available and in such cases objections on this score have to be judged on the touchstone of prejudice. The test would be, whether the delinquent officer had or did not have a fair hearing. In the case of Russel vs. Duke of Norfolk & Ors., 1949 (1) All E.R. 109, it was laid down by the Court of Appeal that the principle of natural justice cannot be reduced to any hard and fast formulae and the same cannot be put in a straitjacket as its applicability depends upon the context and the facts and circumstances of each case.”

12. It is also well settled that in the enquiry proceeding, the Enquiry Officer can put questions to the witnesses for clarification whenever necessary. The learned Single Judge also relied of the Hon’ble Supreme Court in the matter of ***Mulchandani Electricial and Radio Industries Ltd. vs. Workmen***, reported in ***(1975) 4 SCC 731 (3 Judges)***, the following observation was made at paragraph 5:

“5.....It was reasonable and also necessary to look for some explanation for the contradictory statements. If, therefore, the Enquiry Officer had put certain questions to these two witnesses by way of clarification, it could not be said that he had done something that was not fair or proper. The witnesses were allowed to be cross- examined on behalf of the union after they had answered the questions asked by the Enquiry Officer. In our opinion the note made by the Enquiry Officer stating that the witnesses had turned hostile meant only that they had

stated before him something that was inconsistent with what appeared in the memorandum signed by them. We do not think that the enquiry was vitiated because the Enquiry Officer put some questions to the said witnesses by way of clarification in the circumstances stated above. This Court in Workmen v. Buckingham and Carnatic Mills, Madras¹ held that the Enquiry Officer in a domestic enquiry can put questions to the witnesses for clarification wherever necessary and if he allows the witnesses to be cross-examined thereafter, the enquiry proceedings cannot be impeached as unfair. We are therefore unable to accept that the enquiry in this case had not been conducted in a fair and proper manner.”

13. In the matter of ***Pravin Kumar vs. Union of India***, reported in ***(2020) 9 SCC 471***, same argument was canvassed before a Three Judge Bench that the Enquiry Officer could not have put his own questions to the prosecution witnesses and could also not have cross-examined the witnesses. In the said case, it was argued that the same would amount to making the prosecutor the Judge. The said argument was negated by the Court by observing in paragraph 31 as under:

“31. Significant emphasis has been placed by the appellant on the fact that the enquiry officer put his own questions to the prosecution witness and that he cross-examined the witnesses brought forth by the defence. This, it is claimed, amounts to making the prosecutor the Judge, in violation of the natural justice principle of “nemo judex in sua causa”. However, such a plea is misplaced. It must be recognised that, under Section 165, Evidence Act, Judges have the power to ask any question to any witness or party about any fact, in order to discover or to obtain proper proof of relevant facts.

While strict rules of evidence are inapplicable to disciplinary proceedings, enquiry officers often put questions to witnesses in such proceedings in order to discover the truth. Indeed, it may be necessary to do such direct questioning in certain circumstances. Further, the learned counsel for the appellant, except for making a bald allegation that the enquiry officer has questioned the witnesses, did not point to any specific question put by the officer that would indicate that he had exceeded his jurisdiction. No specific malice or bias has been alleged against the enquiry officer, and even during the enquiry no request had been made to seek a replacement, thus, evidencing how these objections are nothing but an afterthought.”

14. In the present matter, during the enquiry proceeding, the Enquiry Officer or the disciplinary authority has not informed the rights of the delinquent about engaging the defence assistant, though in the Police Regulations, there is no specific provision and specific proceeding has been prescribed under the Regulation 228, though the said provision specifically does not prohibit for providing the defence assistant, however, when the delinquent officer makes such demand and the Enquiry Officer refuses such demand, then certainly Rule 14 (8) of the Rules of 1966 comes into operation in this behalf and the Enquiry Officer is duty bound to make available the defence assistant to delinquent. But looking to the manner in which the appellant, who is a trained police officer, cross-examined the witnesses at length and also exhibited 3 documents in his defence, and the appellant has also not sought any defence assistant from the Department in his defence in terms of Rule 14 (8) of the Rules, 1966, neither any such prayer was made before the Enquiry Officer nor

the appellate authority nor during mercy petition, and for the first time, the said ground was raised before this Court, it can safely be held that the said ground was raised only to search the lacuane to find fault in the enquiry proceeding. Though this Court has already observed in the preceding paragraph that normally such right should be informed to the delinquent officer prior to the commencement of the departmental enquiry, but considering the fact that in the present case, the petitioner is a trained police personnel and further considering the facts and circumstances of the case and the record of the proceeding, this Court is of the view that no prejudice has been caused to the petitioner on such aspect.

15. Learned Single Judge has also examined the questions put forth by the Enquiry Officer during the course of enquiry to the witnesses as well as the petitioner, though learned counsel for the petitioner specifically points out the Question Nos. 11, 12 & 13 put by the Enquiry Officer to the delinquent employee, and the said examination is in terms of Rule 14 (18) of the Rules, 1966 inasmuch as after examination of the witnesses, an opportunity was afforded to the delinquent officer to explain the circumstances against him, wherein he has categorically stated that he did not want to adduce any defence evidence and only exhibited 3 documents. Only because the said examination was titled as cross-examination, it has no significance, as the said examination squarely in compliance of Rule 14 (18) of the Rules, 1966.

16. Learned Single Judge has also gone through the evidence of the complainant – Deolal (PW-1), which is duly corroborated by the evidence of other witness namely, Dayaram and the petitioner has been identified as a person who raised demand of bribe and also threatened the

complainant to implicate in a false case, and this Court is of the opinion that it is not a case of no evidence and this Court is not entitled to re-assess as to the adequacy or reliability of the evidence, which is not permissible while exercising power under Article 226 of the Constitution of India. The principle of no evidence in service jurisprudence has recently been enunciated in the matter of ***Union of India v. Dilip Paul***, reported in ***2023 SCC Online SC 1423 (3 Judges)***, wherein the true meaning of 'no evidence' has been explained. The Rule has been adopted in India from England and at paragraph 86, observation of Diplock was referred, which is reproduced hereunder:

“86. Diplock L.J. made the following pertinent observations reproduced below:

“Where, as in the present case, a personal bias or mala fides on the part of the deputy commissioner is not in question, the rules of natural justice which he must observe can, in my view, be reduced to two. First, he must base decision on evidence, whether a hearing is requested or not. Secondly, if a hearing is requested, he must fairly listen to the contentions of all persons who are entitled to be represented at the hearing.

“In the context of the first rule, “evidence” is not restricted to evidence which would be admissible in a court of law....

“... The requirement that a person exercising quasi-judicial functions must base his decision on evidence means no more than it must be based upon material which tends logically to show the existence or none-existence of facts relevant to the issue to be determined, or to show the likelihood

or unlikelihood of the occurrence of some future event the occurrence of which would be relevant. It means that he must not spin a coin or consult an astrologer, but he may take into account any material which, as a matter of reason, has some probative value in the sense mentioned above. If it is capable of having any probative value, the weight to be attached to it is a matter for the person to whom Parliament has entrusted the responsibility of deciding the issue. The supervisory jurisdiction of the High Court does not entitle it to usurp this responsibility and to substitute its own view for his.””

17. At paragraph 88 of the said judgment, it was further observed that the English Courts have not construed the words “no evidence” narrowly. The rule of “no evidence” is there attracted not only in cases where there is complete lack of evidence, that is to say, where there is not a shred of evidence, but also in cases where the evidence, if any, is not capable of having any probative value, or on the basis of which no Tribunal could reasonably and logically come to the conclusion about the existence or nonexistence of facts relevant to the determination. According to the English decisions, although a domestic tribunal may act on evidence not admissible according to the legal rules in a court of law, yet unless such evidence has some probative value in the sense mentioned above, it would be a breach of natural justice and/or an error of law to base any adverse decision thereon.

18. In the aforesaid judgment, the scope of judicial review in matters involving challenge to the disciplinary action taken by the employers was discussed at paras-89 to 92 which read thus:

“89. In State of Andhra Pradesh v. S. Sree Rama Rao, AIR 1963 SC 1723, it was held at page 1726 that in considering whether a public officer is guilty of the misconduct charged against him the rule followed in criminal trials with regard to the establishment of charge by evidence beyond reasonable doubt was not applicable. In a proceeding under Art. 226, the High Court, not being a court of appeal over the decision of the domestic tribunal, was concerned to determine whether the inquiry was held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice were not violated. Then follow the following important observations:—

“Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, 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... if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.” (Emphasis supplied)

90. This decision was approvingly referred to and relied upon in State of Andhra Pradesh v. Chitra Venkata Rao, (1975) 2 SCC 557.

91. In Union of India v. H.C. Goel, AIR 1964 SC364, the question as to the amplitude and width of the judicial review under Art. 226, fell for consideration in

the context of the disciplinary proceedings against Government servants. It was observed that “the High Court under Art. 226 has jurisdiction to enquire whether the conclusion of the Government on which the impugned order of dismissal rests is not supported by any evidence at all” and that there was little doubt that a writ of Certiorari can be claimed by a public servant if he is able to satisfy the High Court that the ultimate conclusion of the Government in the said proceeding is based on no evidence. A conclusion on a question of fact, it was held, would be assailable if it is manifest that there is no evidence to support it even assuming bona fides of the disciplinary authority. The following observations made at page 369 are material from the point of view of the aspect under consideration:

“... In exercising its jurisdiction under Art. 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence illegally the impugned conclusion follows or not. ...” (Emphasis supplied)

92. In R. Mahalingam v. Chairman, Tamil Nadu Public Service Commission, (2013) 14 SCC 379, this Court laid down the scope of judicial review as regards the

findings of the disciplinary proceedings with the following relevant observations being reproduced below:—

“11. ... The scope of judicial review in matters involving challenge to the disciplinary action taken by the employers is very limited. The courts are primarily concerned with the question whether the enquiry has been held by the competent authority in accordance with the prescribed procedure and whether the rules of natural justice have been followed. The court can also consider whether there was some tangible evidence for proving the charge against the delinquent and such evidence reasonably supports the conclusions recorded by the competent authority. If the court comes to the conclusion that the enquiry was held in consonance with the prescribed procedure and the rules of natural justice and the conclusion recorded by the disciplinary authority is supported by some tangible evidence, then there is no scope for interference with the discretion exercised by the disciplinary authority to impose the particular punishment except when the same is found to be wholly disproportionate to the misconduct found proved or shocks the conscience of the court.”
(Emphasis supplied)

19. In view of the aforesaid settled principles, learned Single Judge is of the view that the procedure has been substantially complied with in the present case and no prejudice was caused to the delinquent officer. The appellate authority while dismissing the mercy appeal has rightly recorded a finding that there is some evidence to prove the said charges, the charges were rightly proved and the punishment awarded is just and

proper. Thus, the learned Single Judge is rightly not inclined to disturb the finding recorded by the Enquiry Officer and the appellate authority.

20. Considering the pleadings made in writ appeal, submissions advanced by the learned counsel appearing for the parties and also considering the findings recorded by the learned Single Judge while dismissing the writ petition filed by the respondent/writ petitioner, we are of the considered opinion that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error warranting interference by this Court.

21. Accordingly, the present writ appeal being devoid of merit is liable to be and is hereby **dismissed**.

**Sd/-
(Bibhu Datta Guru)
Judge**

**Sd/-
(Ramesh Sinha)
Chief Justice**