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WA-445-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 15th OF MAY, 2026

WRIT APPEAL No. 445 of 2025

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

*GANESH RAM KIRAR (DEAD) THROUGH LRS SMT. RADHA BAI
KIRAR AND OTHERS*

.....
Appearance:

Smt. Janhavi Pandit - Additional Advcoate General for appellant/State.

Shri Ashok Kumar Jain - Advocate for respondent.
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ORDER

Heard on 11.05.2026

Pronounced on : 15.05.2026

Per. Justice Pradeep Mittal

The State of Madhya Pradesh and the Forest Department authorities have preferred this Writ Appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya Khandpith Ko Appeal Adhiniyam, 2005, challenging the judgment and order dated 19.02.2024 passed by the learned Single Judge in W.P. No.26927/2003 (Ganesh Ram Kirar vs. State of Madhya Pradesh and Others). By the impugned judgment, the writ petition was allowed, the order of dismissal dated 08.03.2002 passed by the Appellate Authority affirming the penalty of dismissal from service imposed upon the delinquent/original writ petitioner was set aside, and the respondents were directed to treat the



original writ petitioner in service from the date of his dismissal till the date of his superannuation with all consequential benefits payable to his legal heirs, as the original writ petitioner expired during the pendency of the writ petition.

2. The relevant facts, briefly stated, are that the original writ petitioner was posted as Forest Guard at Bamhori Range (Beat Siyalwada) during the period 14.10.1992 to 05.01.1993. A charge sheet dated 17.02.1993 was issued against him alleging that on the night intervening 02-03.01.1993, forest produce was being illegally transported on bullock carts in his beat, without any Transit Pass or permission of the Forest Officer, and that the delinquent not only permitted such illegal transportation in his presence but also received Rs.500/- per bullock cart as illegal gratification. A second charge alleged active cooperation with the persons involved in the unauthorized transportation of forest produce. After departmental enquiry, the Enquiry Officer found the charges proved and the Disciplinary Authority imposed the penalty of dismissal from service. The delinquent's appeal was rejected by the Appellate Authority vide order dated 08.03.2002, which came to be challenged before this Court.

3. The case before the learned Single Judge was contested solely on the ground that it was a case of no evidence. The learned Single Judge, after scrutiny of the enquiry report and the statements of witnesses, allowed the petition holding that (i) four out of five prosecution witnesses namely Har Prasad, Ram Babu Sharma, Manak Singh and Keshav Singh categorically denied having given any money to the delinquent and did not state that the



illicit transportation was done with the permission of the delinquent; (ii) the fifth witness, Sanjay Moharrir, Superintendent, merely relied upon an earlier report without producing any contemporaneous evidence of payment of money to the delinquent or seizure of money from him; (iii) the defence of the delinquent that he was going to meet his ailing wife, met the Superintendent on the way near village Hamirganj, accompanied the team and was present when 15 bullock carts were seized, but was falsely implicated by the persons who were compelled to make statements was not taken note of by either the Enquiry Officer or the Disciplinary Authority; and (iv) no evidence was produced to show that any illicit felling or removal of forest wood was done in the delinquent's beat with his consent. The learned Single Judge, placing reliance upon *B.C. Chaturvedi vs. Union of India and Others*, (1995) 6 SCC 749; *M.V. Bijlani vs. Union of India and Others*, AIR 2006 SC 3475; and *State Bank of Bikaner and Jaipur vs. Nemi Chand Nalwaya*, (2011) 4 SCC 584, held that interference was permissible as the finding of guilt was based on no evidence, and accordingly allowed the writ petition.

We have heard learned counsel for the parties and perused the record.

4. The primary contention of the appellants is that the findings of the Enquiry Officer and the Disciplinary Authority are based on sufficient evidence, that the statement of Sanjay Moharrir, Superintendent, was sufficient to bring home the charge, that the witnesses who resiled from their earlier statements only proved that their initial statements were true, and that the learned Single Judge, in allowing the petition, in effect acted as an



appellate court over the departmental enquiry, which is impermissible.

6. We have bestowed careful consideration to the submissions advanced. It is well settled that the scope of judicial review in matters of departmental enquiry is limited, and the Court/High Court cannot act as an appellate authority to re-appreciate evidence or to substitute its own findings. The question, however, before the Court in such a case is whether there is any evidence at all even a minimum to support the charge, and whether the finding of guilt is based on no evidence whatsoever. It is equally settled that if the finding of the disciplinary authority is based on no evidence, or is perverse, judicial review is permissible.

6. The law on the subject has been lucidly laid down by the Hon'ble Supreme Court in *B.C. Chaturvedi vs. Union of India and Others*, (1995) 6 SCC 749, wherein it was held 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."

7. Similarly, in *State Bank of Bikaner and Jaipur vs. Nemi Chand Nalwaya*, (2011) 4 SCC 584, the Hon'ble Supreme Court reiterated the position as under:

"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded



in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations."

8. Applying the above principles, we proceed to examine the material on record. The Enquiry Officer himself has recorded in the enquiry report that the four prosecution witnesses Har Prasad, Ram Babu Sharma, Manak Singh and Keshav Singh each denied giving any money to the delinquent and did not attribute the illicit transportation of forest wood to the consent or connivance of the delinquent. These witnesses specifically stated in the course of enquiry that whatever statements they had earlier given were not correct and that their enquiry statements be treated as true. This retraction by all four material prosecution witnesses is not a minor inconsistency, it goes to the root of the charge and destroys the evidentiary basis of the same.

9. The appellants place considerable reliance on the statement of the fifth witness, Sanjay Moharrir, Superintendent, who reported that the delinquent had permitted the illicit transportation and accepted illegal gratification. However, on a careful perusal of the enquiry report, it is apparent that this witness in the course of enquiry only reaffirmed his earlier report to the DFO, he did not produce any independent evidence of payment of money to the delinquent, nor was any money seized from the delinquent,



nor was any witness examined from the team that accompanied the Superintendent on the night of the incident who could have corroborated the claim. No evidence was produced to establish that any illicit felling of forest wood was done in the delinquent's beat. In this background, the statement of Sanjay Moharrir, standing alone and unsupported by any corroborating circumstance, cannot constitute the sole basis for proving the charge of receipt of illegal gratification of Rs.500/- per bullock cart.

10. Furthermore, the enquiry report discloses that the delinquent's own statement was recorded as defence evidence wherein he explained the entire sequence of events, that he was proceeding to Bareilly to meet his ailing wife, that he met the Superintendent and the team near village Hamirganj on the way, that he accompanied the team on the Superintendent's instruction, that 15 bullock carts were seized in front of him on the return journey, and that the persons involved were compelled to make false statements against him on the next day. Neither the Enquiry Officer nor the Disciplinary Authority took note of this defence statement or attempted to controvert it by examining other team members who were present during the seizure. The complete non-consideration of the defence of the delinquent and the absence of any corroborative material renders the finding of guilt unsustainable.

11. It is no doubt settled that in a departmental enquiry, strict rules of evidence do not apply and the degree of proof required is not the same as in criminal proceedings. However, the fundamental requirement is that there must be some evidence some cogent and relevant material to support the charge. Where all prosecution witnesses resile from the charge, where no



money was seized from the delinquent, where the allegation of illicit felling was not proved by any evidence, and where the delinquent's own version was not considered at all, it cannot be said that the charge has been proved even on a preponderance of probabilities applicable to departmental proceedings. This is, therefore, squarely a case of no evidence warranting judicial interference.

12. This Court had called for and perused the original record of the departmental enquiry. On such perusal, we find no reason to disbelieve the defence version put forth by the respondent/delinquent. The enquiry report itself records that the prosecution witnesses did not support the charges during enquiry and were declared hostile. The material witnesses categorically denied payment of any illegal gratification to the delinquent and also denied that the alleged transportation of forest produce was being carried out with his consent or connivance. The enquiry report further reflects that another Beat Guard, namely Rambharose, was stated to be accompanying or moving behind the bullock carts loaded with Sagwan wood. In such circumstances, the possibility that the alleged illicit felling or transportation pertained to another beat or involved some other official could not have been ruled out. Despite this, no further enquiry appears to have been conducted in that regard. This aspect lends additional support to the defence of the respondent that he has been falsely implicated without there being any cogent material connecting him with the alleged misconduct.

13. We, accordingly, find no infirmity or perversity in the reasoning and conclusion of the learned Single Judge. The finding that this was a case



of no evidence is well founded on the material on record. The learned Single Judge did not re-appreciate the evidence as an appellate authority, rather, the learned Single Judge correctly identified that no reasonable person acting on the available material could have found the charge proved against the delinquent. The impugned judgment therefore warrants no interference.

14. The appellants have also urged that the direction to treat the delinquent in service till the date of superannuation is erroneous as he had expired on 30.03.2014 before the date of superannuation. The said submission is misconceived. The learned Single Judge has directed payment of consequential benefits to the legal heirs of the deceased delinquent treating him in service from the date of dismissal till the date of superannuation. Since the dismissal itself is set aside, the legal heirs are entitled to all retiral and service benefits computed as if the delinquent had continued in service and retired on superannuation. There is no legal infirmity in such a direction.

15. In view of the foregoing, the Writ Appeal is dismissed. The judgment and order dated 19.02.2024 passed by the learned Single Judge in W.P. No.26927/2003 is hereby confirmed. The respondents/appellants are directed to comply with the directions of the learned Single Judge within the period stipulated therein. There shall be no order as to costs.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE