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

Reserved on:18.11.2025
Pronounced on: 22.01.2026

\+ **W.P.(C) 6562/2011**

SC VOHRA .....Petitioner

Through: Mr. A.K. Srivastava and Mr. Sanjay Verma, Advs.

versus

COMPTROLLER AND AUDITOR GENERAL OF INDIA AND ORS .....Respondents

Through: Dr. Surender Singh Hooda and Mr. Shaurya Pratap Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. The present writ petition has been filed challenging the order dated 29.07.2008, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal'), in O.A. No. 499/2008, titled ***Sh. S.C. Vohra v. the Controller And Auditor General of India, And Ors.,*** whereby the learned Tribunal dismissed the O.A. filed by the petitioner herein.

BRIEF FACTS:

2. The brief facts leading to the filing of the present petition are that the petitioner was initially appointed as an Upper Division Clerk in the office of the Accountant General, Jammu & Kashmir, Jammu on 11.07.1969. In September 1974, he was transferred on mutual transfer to the office of the Accountant General, Central Revenue, I.P.

Estate, New Delhi, where he continued to serve till the date of his dismissal from service on 20.05.2005.

3. During the course of service, the cadre of Upper Division Clerk was redesignated as Auditor, and the petitioner was promoted as Senior Auditor in the year 1984. He was posted in Audit Management Group–IV (AMG-IV) of the office of the Director General of Audit, Central Revenues, and remained posted there from the year 1992 to 2002.

4. Allegations came to be levelled against the petitioner that during the period between November 1996 and May 1999, he had unauthorisedly visited certain industrial units in the Okhla Industrial Area, conducted audit of those units, issued audit memos and audit completion certificates without authority, and impersonated as a superior officer by using the seal of an Assistant Audit Officer. A complaint dated 25.05.1999 was received from the President of the Delhi Textile Processors Association alleging unauthorised audit of certain units.

5. A fact-finding inquiry conducted thereafter found the allegations to be true. Explanations were sought from the petitioner, and the matter was also referred for investigation, including examination by the Central Forensic Science Laboratory *(hereinafter 'CFSL').*

6. After a considerable lapse of time, the petitioner was served with a Memorandum dated 26.03.2004 along with a statement of Articles of Charge, Statement of Imputation of misconduct, list of documents, and list of witnesses, proposing initiation of departmental

proceedings under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('CCS(CCA) Rules') and the Inquiry Officer was also appointed.

7. The petitioner submitted his defence statement dated 05.04.2004 denying the charges. The inquiry proceedings commenced on 15.04.2004 and concluded on 28.12.2004.

8. After completion of the inquiry, the petitioner submitted his written brief and reply to the written submissions of the Presenting Officer.

9. The Inquiry Officer submitted the report holding the charges proved. A copy of the inquiry report was furnished to the petitioner, pursuant to which he submitted a detailed representation dated 12.04.2005. The Disciplinary Authority, however, imposed the penalty of 'dismissal from service which shall ordinarily be a disqualification for future employment under the Government' *vide* order dated 20.05.2005.

10. Aggrieved by the said order, the petitioner preferred a statutory appeal dated 06.06.2005.

11. Though a personal hearing was granted, the Appellate Authority rejected the appeal and affirmed the order of dismissal *vide* order dated 20.07.2005.

12. The petitioner challenged these orders before the learned Tribunal by way of O.A. No. 1513/2006. The same was disposed of by the learned Tribunal by its order dated 14.12.2006. As one of the controversies in the present petition relates to the scope of the said order and whether the same can act as *res judicata* against the further

challenge of the petitioner, we reproduce the said order in some detail:

> *"4. We have carefully considered the pleadings made in OA. Rule 27 of CCS (CCA) Rules. 1965 obligates upon the disciplinary authority to examine the proportionality of punishment and to record a specific finding. As the applicant has raised a specific contention as to completion of 36 years of service and a clean service record, the aforesaid aspect of proportionality of punishment has not at all been considered by the appellate authority and no finding has been recorded along with reasons thereof in the appellate order. This is not a valid compliance of Rule 27 of the Rules ibid.*
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> *5. In the matter of proportionality of punishment or its quantum, we, as a tribunal, are precluded from recording any finding, which is to be left to the administrative authorities to be recorded in accordance with the rules. If the discretion vested in quasi-judicial authority has not been exercised in an effective manner, the only way out is to remit the matter back to the appellate authority for reconsideration of penalty and its quantum in accordance with rules.*
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> ***6. In the result, leaving other grounds open, OA is partly allowed.*** *Appellate order is quashed. Matter is remitted back to the appellate authority to be considered on proportionality of punishment, which would culminate into a reasoned order to be passed within a period of two months from the date of receipt of a copy of this order. No costs*."
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> ***(emphasis supplied)***

13. Pursuant thereto, the respondents filed a Review Application seeking review of the above order, being R.A. No. 14/2007, which was dismissed by the learned Tribunal *vide* its order dated 25.01.2007, finding no error apparent on the face of law.

14. On such remand, the respondent, *vide* order dated 20.02.2007, reiterated the penalty of dismissal from service on the petitioner.

15. Aggrieved thereby, the petitioner filed the O.A. No. 499/2008, which as noted hereinabove has been dismissed by the learned Tribunal *inter alia* stating that the challenge of the petitioner on merit to the disciplinary proceedings and the findings was barred by principles of *res judicata*. We quote from the Impugned Order as under:

> *"6. At the outset, we would like to address ourselves to the plea of res judicata raised on behalf of the respondents. Looking at the history of litigation in this case we find that in the earlier OA-1513/2006 the basic prayer was for quashing the orders dated 20.5.2005 and 20.7.2005 by the disciplinary authority and the appellate authority respectively. It is true that the final order passed was limited to the quantum of proportionality of punishment only. However, as the prayers raised were the same as in the present case the principle of res judicata will come into play. In The Workmen of Cochin Port Trust Vs. The Board of Trustees of the Cochin Port Trust and Anr. (AIR 1978 SC 1283) the Hon'ble Supreme Court passed the following dictum:-*
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> > *"If by any judgment or order any matter in issue has been directly and explicitly decided, the decision operates as res-judicata and bars the trial of an identical issue in a subsequent proceeding between the same parties. principle of res-judicata also comes into play when by the judgment and order a decision of a particular issue is implicit in it, that is, it must be deemed to have been necessarily decided by implication; then also the principle of res-judicata, on that issue is directly applicable."*

16. Additionally, the learned Tribunal also looked into the merits of the matter and gave a final finding as under:

> *"11. To conclude, the present OA is hit by res judicata as the issues raised are virtually the same as were agitated before this Tribunal in the earlier OA No. 1513/2006. By way of indulgence, however, on examination on merits it is found that neither on the point of 'inordinate and unexplained delay' nor on 'vagueness of charges' a convincing case is built. In the matter of alleged procedural infirmities, a careful perusal of the records before us leaves us with the impression that the injury has been conducted in a fair, transparent and elaborate manner observing due procedure and the delinquent official has been given adequate opportunity for self-defence. We also gather the impression that the objections on this score on behalf of the applicant stem from treating the entire process in strict terms of a judicial inquiry, which a disciplinary proceeding is not meant to be. In any case, most of them alleged procedural lacunae are not borne out by factual scrutiny of the records. On the point of quantum of punishment, we recognise the gravity of the charges. However, going by the guidelines laid down by the Hon'ble High Court in a catena of judgments, we would refrain from substituting our judgement for that of the administrative authorities. We would also find that the order dated 20.02.2007 passed in compliance to the Tribunal's direction vide order dated 14.12.2006 does contain specific findings in terms of the proportionality of punishment. For the foregoing reasons, we do not find any merit m the OA to justify any interference on our part in the impugned orders. The OA is disallowed. No cost"*

17. Aggrieved of the same, the petitioner has filed the present petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

18. The learned counsel for the petitioner submits that the learned Tribunal erred in holding the O.A. to be barred by the principles of *res judicata*. He submits, the earlier order dated 14.12.2006 had expressly left all other grounds open while remitting the matter to the Appellate Authority for reconsideration on the issue of proportionality of punishment. The cause of action for the second O.A. arose only upon the failure of the Appellate Authority to comply with the directions issued by the learned Tribunal, and therefore, the bar of *res judicata* was wholly inapplicable.

19. The learned counsel further submits that the order dated 20.02.2007 passed by the Appellate Authority is a non-speaking and mechanical order, passed in complete disregard of the mandate of the learned Tribunal.

20. The learned counsel further submits that the inquiry was conducted in a biased manner by selectively proceeding only against the petitioner despite allegations being directed against an audit team comprising several individuals. He contends that no motive has been attributed to the petitioner and no benefit on account of the alleged unauthorised audits has been identified to have been accrued by the petitioner. He highlights that no loss was caused to the respondents on account of the alleged acts of the petitioner.

21. The learned counsel further contends that the expert opinion of the Central Forensic Science Laboratory (CFSL), does not constitute reliable or cogent evidence as the specimen signatures of the petitioner

were not directly obtained from him but were photocopies from the record of the Office.

22. The learned counsel for petitioner submits that the delay of several years in issuance of the charge-sheet remained unexplained and was occasioned by alleged afterthoughts and improvements made by the department, thereby causing serious prejudice to the petitioner defence. To this effect he places reliance on judgements of Supreme Court in ***State of M.P. v. Bani Singh,*** 1990 Supp SCC 738, ***Ashok Kumar v. Punjab State Civil Supplies Corp. Ltd. And Anr.,*** 2025:PHHC:134651.

23. The learned counsel contends that irrespective, even if the charges against the petitioner are assumed to be true, the punishment of dismissal from service is disproportionate to the alleged misconduct, especially considering the petitioner long and otherwise unblemished service record. The learned Tribunal, according to the petitioner, failed to exercise its jurisdiction to judicially review the punishment on the touchstone of proportionality. He places reliance on the judgment of the Supreme Court in ***Dr. Sunil Kumar Singh v. Bihar Legislative Council and Ors***., 2025 INSC 264, to buttress his argument.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

24. The learned counsel for the respondents submits that during the course of investigation, original records of the concerned industrial units were obtained and sent to the CFSL, CBI, New Delhi, for expert opinion. After seeking clarifications and original documents, the

CFSL, *vide* its report dated 30.01.2003, opined that the signatures appearing on the audit documents matched the specimen signatures of the petitioner. On the basis of this material, a *prima facie* case having been established, a charge-sheet dated 26.03.2004 was issued to the petitioner.

25. The learned counsel further submits that the delay in issuance of the charge-sheet was *bona fide* and fully explained, as it was occasioned by the time taken in collecting records, obtaining expert opinion from CFSL, and due to the petitioner own belated responses. Given the gravity of the allegations, involving breach of integrity by an employee of a constitutional body like the Comptroller and Auditor General of India, the matter required careful and thorough examination. The delay, therefore, does not vitiate the disciplinary proceedings.

26. The learned counsel submits that two Articles of Charge were framed against the petitioner, namely: (i) conducting unauthorised Central Excise audits and recording audit completion certificates by misusing official position, and (ii) impersonating an Assistant Audit Officer by misusing the official seal and signing in such capacity, thereby violating Rule 3(1) of the CCS (Conduct) Rules, 1964.

27. The learned counsel submits that the Inquiry Officer examined multiple witnesses, including witnesses from the concerned industrial units, one expert witness from CFSL, and official witnesses from the respondents organisation. Several witnesses specifically identified the petitioner as the person who had conducted the unauthorised audits.

28. The learned counsel submits that the petitioner preferred a

statutory appeal, which was duly considered by the Appellate Authority in accordance with law, and the same was dismissed on merits *vide* order dated 20.07.2005. It is further submitted that the petitioner had an additional statutory remedy of revision, which he chose not to avail.

29. The learned counsel further contended that in O.A. No. 1513/2006, the learned Tribunal examined the matter on merits and did not interfere with the findings of guilt. The matter was remitted only on the limited aspect of proportionality of punishment. The Review Application filed by the petitioner was also dismissed, and the findings on conviction thus attained finality.

30. The learned counsel submits that it is settled law that courts and tribunals do not ordinarily interfere with the quantum of punishment imposed in disciplinary proceedings unless the same is shockingly disproportionate or perverse. In the present case, the misconduct proved against the petitioner impersonation and unauthorised audit by an officer of a constitutional authority is of grave nature. He submits that the punishment of dismissal, is in fact lenient.

ANALYSIS AND FINDINGS:

31. We have considered the submissions made by the learned counsel on behalf of the respective parties and have perused the record.

32. At the outset, it is necessary to recapitulate the settled law governing the scope of Judicial Review in matters of disciplinary proceedings. The power of this Court under Article 226 of the

Constitution of India is not that of an Appellate Forum to re-appreciate the evidence. The jurisdiction is limited to examining whether the Enquiry was conducted by a competent authority in accordance with the prescribed procedure, whether there was adherence to the principles of natural justice, and whether the conclusions reached are based on some relevant evidence. The ambit of judicial review is, therefore, confined to examining the correctness of the decision-making process and the fairness of the procedure adopted. This principle has been reiterated by the Supreme Court in ***B.C. Chaturvedi v. Union of India & Ors***., (1995) 6 SCC 749, the relevant portion of which reads 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****."*
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> ***(Emphasis supplied)***

33. Having noted the limited jurisdiction of this Court under Article 226 of the Constitution of India while dealing with the disciplinary proceedings, we may now turn to the merits of the submissions advanced on behalf of the parties.

34. The learned Tribunal, while dismissing O.A. No. 499/2008, held that the challenge to the disciplinary proceedings and findings of guilt was barred by the principles of *res judicata*, in view of the earlier order passed in O.A. No. 1513/2006. The petitioner has assailed this conclusion.

35. This Court is of the view that the learned Tribunal was not entirely correct in invoking the bar of *res judicata* in the strict sense. The order dated 14.12.2006 passed in O.A. No. 1513/2006 had expressly left all other grounds open and had remitted the matter only for reconsideration of proportionality of punishment by the Appellate Authority. The cause of action for filing the subsequent O.A. arose

upon the passing of the fresh appellate order dated 20.02.2007. Therefore, the challenge to the disciplinary proceedings and findings cannot be held to be barred by *res judicata* in its technical application. However, as shall be demonstrated hereinafter, this conclusion does not advance the case of the petitioner, as the challenge fails on merits.

36. The petitioner has contended that the delay of nearly five years in issuance of the charge memorandum dated 26.03.2004 vitiates the disciplinary proceedings. The record reveals that the allegations pertained to unauthorised audits conducted between 1996 and 1999, which came to light upon receipt of a complaint dated 25.05.1999 from the Delhi Textile Processors Association. Thereafter, a fact-finding inquiry was conducted, records were collected from several industrial units, and forensic examination of documents was undertaken by the CFSL. The delay in issuance of the charge sheet, therefore, stands satisfactorily explained by the respondents. The nature of allegations of impersonation, misuse of official seal, and unauthorised exercise of statutory functions, necessitated a detailed and cautious investigation. Mere passage of time, without demonstrable prejudice, does not vitiate disciplinary proceedings. The petitioner has failed to establish any real prejudice caused to his defence due to the delay. To this extent the judgments of the Supreme Court in ***Bani Sharma*** (supra) and of the High Court of Punjab and Haryana at Chandigarh in ***Ashok Kumar*** (supra) cannot come to the aid of the petitioner.

37. As far as the requirement to prove motive or benefit accrued to the petitioner, we are of the opinion that mere absence of proof of the

same cannot come to the aid of the petitioner. Once it is proved that the petitioner had conducted the Audit unauthorisedly and misused the official seal, mere absence of proof of actual benefit derived by the petitioner from such acts is of no relevance to the charge against the petitioner, which we quote herein under:

> *"Article I: The said Shri S.C. Vohra,* ***irregularly conducted Central Excise Audit of various industrial units during the period from November 1996 to May, 1999 and recorded the Audit Completion Certificate in RG-I registers unauthorisedly by misusing his official position*** *Shri S.C. Vohra thus failed to maintain absolute integrity and acted in a manner unbecoming of a government servant violating Rule 3 (i) (iii) of CCS (Conduct) Rules, 1964.*
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> *Article II: That the* ***said Shri S.C. Vohra misused the official seal of Assistant Audit officer. He not only put the official seal in RG-I registers but he himself signed as Assistant Audit officer also.*** *Shri S.C. Vohra by impersonating the Assistant Audit Officer failed to maintain absolute integrity thereby violating Rule 3 (I) (i) of COS (Conduct) Rules, 1964."*
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> ***(emphasis supplied)***

38. The petitioner has argued that all members of the alleged audit team were not proceeded against and that certain complainants were not examined. This submission also cannot come to the aid of the petitioner. There cannot be a claim of equality maintained in an illegality. Once it is found that the petitioner had acted illegally, mere fact that the respondents did not proceed against the others, cannot come to the aid of the petitioner. Merely because other individuals

were not proceeded against, does not exonerate the petitioner, nor does it render the proceedings discriminatory. Furthermore, the second charge against the petitioner pertained to him impersonating an Assistant Audit Officer, hence the inclusion of the names of other persons was of no relevance to the same.

39. The department is also not required to examine every conceivable witness. The evidence adduced was sufficient to establish the charges against the petitioner. It is well settled that a departmental enquiry is not governed by strict rules of evidence.

40. The petitioner has urged that the punishment of dismissal from service is disproportionate, considering his long service. The Appellate Authority, pursuant to the remand by the learned Tribunal, has reconsidered the question of proportionality and has recorded reasons for affirming the penalty. The misconduct proved involves impersonation and misuse of official position, which goes to the root of the employer-employee relationship. In matters involving loss of integrity, length of service cannot be a mitigating factor. The punishment imposed cannot be said to be shockingly disproportionate or such as would shock the conscience of this Court. To this effect, the judgment of the Supreme Court in ***Sunil Kumar*** (supra) cannot come to the aid of the petitioner.

41. This Court reiterates that it cannot re-appreciate evidence or substitute its own views on punishment. The disciplinary proceedings were conducted in accordance with law, and the conclusions arrived at do not disclose any illegality warranting interference.

42. In view of the foregoing discussion, although the learned

Tribunal may not have been entirely correct in invoking the principle of *res judicata* as an absolute bar, the ultimate conclusion arrived at by it in dismissing O.A. No. 499/2008 does not call for interference.

43. Accordingly, this Court does not deem this to be a fit case to interfere with the Impugned Order dated 29.07.2008 passed by the learned Tribunal in exercise of our powers under Article 226 of the Constitution of India. The writ petition is accordingly dismissed.

44. No order as to costs.

MADHU JAIN, J.

NAVIN CHAWLA, J.

JANUARY 22, 2026/*P*