RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 2063/2002
CNR: RJHC020215872002 | URN: CW / 3237U / 2002

Makhan Lal Mishra, aged about 40 years, son of Shri Jamna Lal Mishra, resident of Mukam Post Dholi, Teh. Virat Nagar, Distt. Jaipur.

----Petitioner

Versus

1. State of Rajasthan through the Secretary, Ayurved Department, Government of Rajasthan, Govt. Secretariat, Jaipur.
2. The Secretary to Government, Department of Personnel, Government of Rajasthan, Govt. Secretariat, Jaipur.

----Respondent

Rajasthan High Court
सत्यमेव जयते
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For Petitioner(s)	:	Mr. Rajendra Yadav, Adv. Ms. Anisha Yadav, Adv.
For Respondent(s)	:	Mr. Archit Bohra, AGC Mr. Vinod Kumar Gupta, AGC

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

01/09/2026

1. By way of filing this writ petition, the petitioner has challenged charge-sheet dated 06.06.1994, penalty order dated 26.02.1997 as well as order passed by Reviewing Authority dated 11.06.1998.

2. Case set up by the petitioner is that petitioner was holding the post of Ayurved Chikitsak Grade-II and In-charge of Government Ayurved Dispensary, Kishanpur, Berath. One charge-sheet dated 06.06.1994 under Rule 16 of Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short 'the Rules of 1958') was issued to the petitioner containing charge against the petitioner that he had allegedly issued irregular 24 sickness/fitness certificates to one Shri Dwarka Das, Assistant Grade-II for a period commencing from 05.10.1989 to 05.09.1991 and thus, by issuing proposed certificates, the petitioner had

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attempted to save the above employee Shri Dwarka Das. The petitioner filed reply to the charge-sheet denying all the allegations, however, being not satisfied with reply to the charge-sheet, Enquiry Officer was appointed by the Disciplinary Authority to conduct an enquiry against the petitioner. During enquiry, as many as three witnesses were produced by the prosecution and after conducting enquiry, enquiry report dated 22.01.1996 was submitted by the Enquiry Officer to the Disciplinary Authority. Disciplinary Authority thereafter served copy of enquiry report upon the petitioner requiring him to file a representation/explanation in respect of findings given by the Enquiry Officer. Accordingly, the petitioner filed his representation dated 23.04.1996 against the enquiry report. As per petitioner, without properly considering the reply to the charge-sheet as well as explanation/representation submitted by the petitioner in respect of findings of the Enquiry Officer, in quite arbitrary and whimsical manner, penalty of compulsory retirement on proportionate pension has been imposed upon the petitioner vide order dated 26.02.1997. Thereafter, the petitioner filed review petition under Rule 34 of the Rules of 1958, however, the review petition has also been dismissed vide order dated 11.06.1998. Thereafter, the petitioner filed the present writ petition in the year 2002.

3. Learned counsel for the petitioner submits that the charges against the petitioner were not in respect of questioning his competence to issue the medical certificates but are in relation to the fact that such certificates were not entered in the register duly maintained in the Government Dispensary. Learned counsel

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submits that the Enquiry Officer and further the Disciplinary Authority had utterly failed to consider that the petitioner was In-charge of the dispensary and was not supposed to make entry of such certificates in the register, and such work was assigned to the compounder posted in the dispensary.

4. Learned counsel submits that the Enquiry Officer while arriving at the finding against the petitioner has come to the conclusion only on the ground that the concerned Government employee in whose favour the alleged certificates were issued, never submitted his bills for medical reimbursement, which allegedly raised doubts over the veracity of the certificates. Learned counsel submits that such findings are apparently based upon surmises and conjectures.

5. Learned counsel submits that although, original medical certificates were not there before the Enquiry Officer, yet only on the basis of fake presumption, it was assumed by the Enquiry Officer that all the 24 certificates were written by the petitioner on one single day with one pen having similar writing. Learned counsel submits that without analysing the original certificates, such finding could not have been given by the Enquiry Officer.

6. Learned counsel submits that even the statements of one of the witness were recorded behind the back of the petitioner and as such, he was not given any opportunity to cross-examine the witness/complainant, which has materially affected the defence of the petitioner.

7. Learned counsel for the petitioner further submits that the explanation given by the petitioner in respect of findings of Enquiry Officer have not been duly considered by the Disciplinary

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Authority and penalty order has been passed with preoccupied mind, without proper application of judicious mind. He submits that prior to passing of the impugned penalty order, the petitioner had rendered services of 17 years and there was no complaint with regard to work and conduct of the petitioner during such years. Hence, as such, the impugned order was shockingly disproportionate to the guilt attributable to the petitioner.

8. It is also submitted by learned counsel for the petitioner that the enquiry in question was also not preceded by any preliminary enquiry, which was otherwise mandatory before passing any order with regard to imposing major penalty.

9. Learned counsel for the petitioner also submitted that Reviewing Authority has also decided the review petition in quite mechanical and cursory manner without examining the grounds raised by the petitioner in his petition.

10. Learned Government Counsel opposed the writ petition and submitted that in the present matter, the enquiry was conducted by the respondents strictly in accordance with the procedure contemplated under the Rules of 1958 and the petitioner has utterly failed to point out any manifest or patent illegality or perversity in the entire process. It is submitted that the respondents are well within their rights to conduct disciplinary enquiry, so as to enforce discipline amongst the employee and in the instant case, on receiving complaint it came out that the petitioner, who was responsible In-charge of a Government Dispensary, misused his powers and issued as many as 24 certificates in favour of an employee to prove his sickness/fitness and such certificates were covering period of almost two years, for

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which the petitioner was not entitled. It is submitted that the record would reveal that such certificates were issued by the petitioner also for the dates during which the petitioner was himself on leave. Learned counsel submits that at no point of time, the petitioner has ever disputed that he had not issued the certificates in question and rather, he has been extended lame excuses to justify his action. Learned counsel submits that after issuing charge-sheet containing specific charges against the petitioner, opportunity of filing reply to the charge-sheet was given to the petitioner. Thereafter, Enquiry Officer was appointed, who also conducted enquiry after affording due opportunity of hearing to the petitioner. He submitted that statements of witnesses were recorded by the Enquiry Officer on the day so fixed and the petitioner himself abstained from appearing before the Enquiry Officer on the date already fixed for recording of statements of PW3. Even thereafter, at no point of time any application was submitted by the petitioner for granting him further opportunity to cross-examine PW3.

11. It is submitted that after conducting enquiry, on the basis of record as well as statements of witnesses, the Enquiry Officer has arrived at right conclusion that the charges levelled against the petitioner have been proved and accordingly, the enquiry report was submitted before the Disciplinary Authority. The Disciplinary Authority after granting opportunity to the petitioner to submit representation against the findings of Enquiry Officer, considered the entire record including objections raised by the petitioner in his representation and after analysing the entire material, penalty of compulsory retirement has been imposed,

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which in the facts and circumstances is totally justified and commensurate with the guilt of the petitioner.

12. The Reviewing Authority has also meticulously considered all the grounds raised by the petitioner in his memo of writ petition and, therefore, there is no scope of interference in the instant writ petition, which has been filed by the petitioner after delay of more than 4 years from the date of passing of order in review petition.

13. Heard learned counsel for the parties and perused the record.

14. It is settled proposition of law that this Court while exercising the writ jurisdiction under Article 226 of the Constitution of India this Court can not re-appreciate the evidence, nor can sit as an Appellate Authority against the findings of Enquiry Officer or Disciplinary Authority. While exercising the writ jurisdiction, this Court is required to examine the decision making process. In the instant case, this Court finds that the procedure contemplated under the Rules of 1958 has been duly followed by the respondents, where after issuing charge-sheet, opportunity of filing reply to the charge-sheet was given to the petitioner. After appointment of Enquiry Officer, the enquiry was conducted in detailed manner by affording equal opportunity to both the sides. Statements of witnesses were recorded and thereafter, copy of enquiry report was also served upon the petitioner so as to invite his representation against the findings of the Enquiry Officer. The entire record has duly been considered by the Disciplinary Authority prior to passing of impugned penalty order.

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15. So far as the objections raised by the petitioner that it was not his duty to enter the details of medical certificates in the register, suffice is to observe that admittedly, the petitioner was holding the charge of the Government Dispensary and was responsible for each and every entry in the record of the Dispensary, which was required to be made in accordance with the rules and guidelines. The petitioner cannot raise a plea that since, his subordinate failed to carry out his duties, therefore, petitioner is required to be absolved of all his responsibility. Even otherwise, nothing has been placed on record by the petitioner to demonstrate that any point of time, he ever served any show cause notice to his subordinate for not carrying out his duties properly.

16. As regards, the objections raised by the petitioner that photocopies of the certificates were placed before the Enquiry Officer and since, charges were based upon such certificates, original documents ought to have been considered by the Enquiry Officer, this Court finds that at no point of time, the petitioner has ever disputed his own signature over the certificates, nor has ever taken a plea that such certificates were never issued by the petitioner. Hence, at this stage, raising such plea is nothing but an after thought on the part of the petitioner. Since, the petitioner has never disputed issuance of the said certificates, therefore, merely the fact that the certificates in original and not the photocopies should have been produced before the Enquiry Officer would not make any difference.

17. So far as a ground of non application of mind and non consideration of pleas by the petitioner is concerned, this Court

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finds that the Disciplinary Authority as well as Reviewing Authority have duly considered all the grounds and the objections raised by the petitioner and there is no infirmity either in the penalty order or in the order passed by the Reviewing Authority. While examining the scope of interference in enquiry matters, this Court in the case of **Dr. Smt. Hemlata Tetwal Vs. State of Rajasthan & Ors.** decided on 06.01.2026 has observed as under:-

> *"8. At the outset, it is necessary to reiterate the settled position of law that disciplinary proceedings are conducted by the employer in exercise of its administrative authority to maintain discipline, integrity, and efficiency in service. The scope of judicial review under Articles 226 is confined to examining the decision-making process and not the decision itself. Courts exercising writ jurisdiction do not sit as appellate authorities over departmental enquiries and cannot re-appreciate evidence or substitute their own conclusions for those of the disciplinary authority.*
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> *9. It is significant to note that Hon'ble Supreme Court in **Union of India & Others v. P. Gunasekaran, (2015) 2 SCC 610**, after relying upon its earlier judgments in the cases of B.C. Chaturvedi v. Union of India & Others, (1995) 6 SCC 749; Union of India & Another v. G. Ganayutham, (1997) 7 SCC 463, Om Kumar & Others v. Union of India, (2001) 2 SCC 386; Coimbatore District Central Cooperative Bank v. Coimbatore District Central Cooperative Bank Employees Assn. & Another, (2007) 4 SCC 669, and Chairman-cum-Managing Director, Coal India Limited & Another. v. Mukul Kumar Choudhuri & Others, (2009) 15 SCC 620, has authoritatively delineated the contours of judicial review in disciplinary matters. It has been categorically held that High Courts cannot re-appreciate evidence, cannot interfere with findings of fact if they are based on some evidence, and cannot interfere with the quantum of punishment unless the same is shockingly disproportionate or vitiated by perversity, illegality, or procedural impropriety. The Apex Court emphasized that adequacy or sufficiency of evidence is beyond the scope of judicial review. Para 12 and 13 of the above judgment are relevant as under:*
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> > *"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:*
> > *(a) the enquiry is held by a competent authority;*
> > *(b) the enquiry is held according to the procedure prescribed in that behalf;*

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(c) there is violation of the principles of natural justice in conducting the proceedings;
(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;
(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
(i) the finding of fact is based on no evidence."
13. Under Articles 226/227 of the Constitution of India, the High Court shall not:
(i) reappreciate the evidence;
(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
(iii) go into the adequacy of the evidence;
(iv) go into the reliability of the evidence;
(v) interfere, if there be some legal evidence on which findings can be based.
(vi) correct the error of fact however grave it may appear to be;
(vii) go into the proportionality of punishment unless it shocks its conscience."

10. Similarly, in so many judgments, Hon'ble Supreme Court has reiterated that the question of what punishment should be imposed upon a delinquent employee is primarily within the domain of the disciplinary authority. Courts must exercise restraint and refrain from interfering with the quantum of punishment unless it is grossly disproportionate to the gravity of the misconduct proved. In ***Union of India & Others v. Constable Sunil Kumar (2023) 3 SCC 622****, while following the earlier judgments in the cases of Union of India & Others v. Ex. Constable Ram Karan, (2022) 1 SCC 373, Commandant 22nd Battalion, Central Reserve Police Force Srinagar, c/o 56/APO & Others v. Surinder Kumar, (2011) 10 SCC 244 and Union of India & Others v. R.K. Sharma, (2001) 9 SCC 592, the Hon'ble Supreme Court explicitly clarified that interference with punishment is permissible only when the penalty is "strikingly disproportionate" to the misconduct. Even in such cases, the proper course for the Court is to remit the matter to the disciplinary authority for reconsideration, rather than substituting its own opinion or imposing a lesser penalty. This principle preserves the administrative autonomy of the employer in service matters. Para 11 to 13 of the above judgment have significance on this point and are being reproduced as under:*

> *"11. Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In Surinder Kumar [CRPF v. Surinder Kumar, (2011) 10 SCC 244 : (2012) 1 SCC (L&S) 398] while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in Union of India*

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v. R.K. Sharma [Union of India v. R.K. Sharma, (2001) 9 SCC 592 : 2002 SCC (Cri) 767] that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under Articles 226 or 227 or under Article 32 of the Constitution.

12. Applying the law laid down by this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under Article 226 of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent.

13. At this stage, it is required to be observed that even while holding that the punishment/penalty of dismissal disproportionate to the gravity of the wrong, thereafter, no further punishment/penalty is imposed by the Division Bench of the High Court except denial of back wages. As per the settled position of law, even in a case where the punishment is found to be disproportionate to the misconduct committed and proved, the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority. On this ground also, the impugned judgment and order [Sunil Kumar v. Union of India, 2017 SCC OnLine Raj 3970] passed by the Division Bench of the High Court is unsustainable."

11. Similarly, in a recent judgment delivered by the Hon'ble Supreme Court in ***Union of India & Others vs Pranab Kumar Nath 2025 SCC OnLine SC 2893****, it has been observed, as under:*

> *"8. None of the parties to this lis are alleging that the enquiry and subsequent proceedings till the High Court have transgressed the law or its duly laid down procedure. We need not, therefore, look into that aspect. The crux of this appeal lies in appreciating the contours of the power of the High Court vis-a-vis disciplinary proceedings. It has long been held that under Article 226 jurisdiction, the court is not akin to an appellate Court, its powers are limited to the extent of judicial review. They cannot set aside punishment or impose a different punishment unless they find that there is substantial non-compliance of the rules....."*

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12. Applying the aforesaid principles to the facts of the present case, this Court finds that the departmental enquiry was conducted in accordance with the prescribed procedure and in compliance with the principles of natural justice. The petitioner was afforded adequate opportunity at every stage. The findings recorded by the Enquiry Officer are supported by evidence on record and cannot be characterized as perverse or based on no evidence. The petitioner's attempt to invite this Court to reassess the evidence or to arrive at a different factual conclusion is wholly impermissible in writ jurisdiction.

13. As regards the contention that the punishment is disproportionate, this Court is unable to accept the same. The nature of the misconduct proved against the petitioner, viewed in the context of the duties and responsibilities attached to the post held, cannot be said to be trivial or inconsequential. The disciplinary authority has exercised its discretion after due consideration of the gravity of the charges, the service record of the petitioner, and the impact of the misconduct on the discipline of the organization. The penalty imposed does not shock the conscience of this Court, nor can it be termed outrageously disproportionate.

14. It is well settled that mere harshness of punishment is not a ground for judicial interference. Unless the penalty is such that no reasonable employer would have imposed it in the given facts, the Court must refrain from substituting its own sense of proportionality. To do otherwise would amount to converting judicial review into an appellate exercise, which is expressly forbidden by law.

15. This Court also finds no procedural impropriety, violation of statutory rules, or breach of natural justice in the conduct of the enquiry or in the decision-making process of the disciplinary authority. The impugned orders, therefore, do not suffer from illegality, irrationality, or perversity so as to warrant interference under Articles 226 of the Constitution."

18. Aforesaid observations and reasonings given in the case of **Dr. Smt. Hemlata Tetwal (supra)** are equally applicable in the present case also. For the reasons mentioned hereinabove and after analysing the entire record, this Court does not find any scope to interfere with the impugned orders, therefore, the writ petition filed by the petitioner is hereby dismissed.

19. Pending application(s), if any, stand(s) dismissed.

(ANAND SHARMA),J

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