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Court : Delhi

Decided On : May-04-2012

Judge : Anil Kumar & Sudershan Kumar Misra

Appeal No. : W.P.(C) No.4906 of 2001

Appellant : Anoop Kumar

Respondent : Central Industrial Security Force and Another

Judgement :

ANIL KUMAR, J.

1. The petitioner has sought the quashing of the order of his termination dated 13th May, 1999 and has also sought his reinstatement in the service with all the consequential benefits.

2. The brief facts to comprehend the dispute are that the petitioner was employed as a Constable bearing No.912330390 and was posted in the Company of CISF Unit, BSL Bokaro, Bihar. On 13th January, 1999 the petitioner was issued a charge sheet imputing certain allegations against him. The misconduct imputed against the petitioner was that he was found under the influence of the liquor by Inspector/Exe. Rakesh Kapoor (RI) on 4th November, 1998 at 2345 hours while on „C?shift duty from 2100 hours on 4th November, 1998 to 0500 hours on 5th November, 1998. It was also alleged that he did not turn up for „C?shift duty on 17/18.11.1998, 28/29.11.1998, 29/30.11.1998 and 16/17.12.1998 without any

information/permission of the competent authority. The petitioner had been indisciplined and had also committed the gross misconduct of dereliction of duty, as he was found sleeping under the influence of liquor on 19/20.11.1998 and 21/22.11.1998. It was further imputed that the petitioner did not turn up for „C?shift duty again on 16/17.12.1998 and thereafter, deserted from the Unit Line without any leave and permission of the competent authority and reported back to the Unit only on 29.12.1998.

3. The charges framed against the petitioner by memorandum dated 13.01.1999 are as under:-

Article of charge-I

Gross misconduct indiscipline and dereliction of duty in that No. 912330390 Constable Anoop Kumar of HQ@ Coy CISF Unit BSL Bokaro was found under the influence of liquor by Insp./Exe Rakesh Kapoor (RI) at about 2345 hrs on 4.11.98 while on 'C' shift duty from 2100 hrs on 4.11.98 to 0500 hrs on 5.11.98 at unit line gate.

Article of charge-II

Gross misconduct ,indiscipline and dereliction of duty in that No. 912330390 Constable Anoop Kumar of 'HQ' Coy CIS F unit BSL Bokaro did not turn-up for 'C' shift duty on 17/18-11-98, 28/29-11-98, 29/30-11-98 and 16/17-12-98 without any information/permission of the competent authority.

Article of charge-III

Gross misconduct, indiscipline and dereliction of duty in that No 912330390 Constable Anoop Kumar of 'HQ Coy CISF Unit BSL Bokaro while detailed for 'C' shift duty on 19/20-11-98 and 21/22-11-98 was found in sound sleep under influence of liquor when checking Officer at about 2130 hrs on 19-11-98 and 2330 hrs on 21-11-98.

Article of charge-IV

Gross misconduct, and indiscipline in that No.912330390 Constable Anoop Kumar of „HQ' Coy CISF Unit BSL Bokaro did not turn up for 'C shift duty on 16/17-12-98 and thereafter deserted from Unit lines without any leave/permission of the competent authority and reported back to Unit on 29.12.98 at 1530 hrs.

Article of charge -V

Gross misconduct, indiscipline and disobedience of lawfully orders in that No.912330390 Constable Anoop Kumar of „HQ?Coy CISF -Unit BSL Bokaro is a habitual offender of coming various offences and incorrigible inspite of deterrent punishments awarded to him during his past service.

4. The petitioner had received the charge memo on 19th January, 1999, however, he did not file any reply to the charges made against him. An Inquiry Officer was, thereafter, appointed by order dated 11th February, 1999 at Bokaro. The Inquiry Officer conducted the inquiry as per the rules and laid down procedure by giving the petitioner reasonable opportunity to defend himself. During the inquiry, eight witnesses were examined and the petitioner was given due opportunity to cross-examine the said witnesses. Thereafter, on the basis of the statement of the witnesses and the documents produced and proved during the inquiry, the Inquiry Officer had held that the charges against the petitioner were established and he submitted the enquiry report on 24th April, 1999.

5. A copy of the inquiry report was also served on the petitioner and he was asked to file reply/representation within 15 days. The petitioner filed his representation dated 10th May, 1999. The Disciplinary Authority considered the inquiry report and the representation made by the petitioner and relying on the statement of PW-5, who had deposed that the petitioner was found under the influence of liquor and that the smell of alcohol was coming from his mouth, and also by referring to the statement of PW-2, Sub Inspector/Exe. K.C.Baliar Singh; PW 7 Constable S.A.Hafees and Exhibit P/20, the medical examination report indicating the level of Alcohol in his blood which was found to be 15 mg% it was held that the petitioner was in drunken condition while on duty and thus the misconduct in terms of Charge-I was proved. Relying on the Duty Deployment Chart dated 17th November, 1998, 28th November, 1998, 29th November, 1998 and 16th

December, 1998, it was also inferred by the Disciplinary Authority that Charge-II was also proved against him. The Disciplinary Authority further held that the petitioner was liable for the misconduct alleged under Charge-III and Charge-IV as well.

6. The Disciplinary Authority also considered the past record of the petitioner and inferred that he had indulged in gross misconduct, indiscipline and dereliction of duty leading to awarding of one major and four minor punishments for various misconducts. Reliance was also placed on the statement of PW4, ASI/CLK B.Ghosh Ray who had deposed that the petitioner was awarded as many as 5 punishments during his past service in the CISF, which was also established from his service record and thus, the Disciplinary Authority did not accept the plea of the petitioner that he was not given any documents during the course of the departmental inquiry, and that the petitioner did not know anything due to the mental disorder suffered by him during the stipulated period of the alleged misconducts. The Disciplinary Authority also observed that the charged official did not ask the Inquiry Officer for any documents during the course of the departmental inquiry. According to the Disciplinary Authority, the petitioner only indulged in resorting to dilatory tactics by taking the plea of his illness. Relying on the certificate dated 10th April, 1999, the Disciplinary Authority held that the petitioner had no Psychiatric disorder and in the circumstances, the Disciplinary Authority held that the absence of the petitioner from duty on 17th November, 1998, 28th November, 1998 and 29th November, 1998 for three days and period of AWL w.e.f. 16th December, 1998 to 29th December, 1998 for 14 days be treated as EOL without medical certificate and also awarded the punishment of removal of the petitioner from service with immediate effect by his order dated 13th May, 1999.

7. In respect of the other charge sheet dated 7th May, 1999 where the petitioner was charged with desertion from Unit on 15th January, 1999 and reporting only on 7th March, 1999 after remaining absent without any leave for 51 days, the Disciplinary Authority passed the order dated 15th May, 1999 holding that since by order dated 13th May, 1999 in the present case the petitioner had already been removed from the service, therefore, the departmental inquiry was ordered to be

kept in abeyance in case his order of removal dated 13th May, 1999 is set aside. In case the order of removal got set aside, the departmental proceeding pursuant to memorandum of charge sheet dated 7th May, 1999 was to be re-opened.

8. The order of termination dated 13th May, 1999 was challenged by the petitioner in an appeal. The appeal of the petitioner dated 28th September, 1999 to the DIG, CISF Unit, BSL, Bokaro was, however, dismissed by order dated 22nd/23rd January, 2000. The petitioner has challenged his order of removal and dismissal of his appeal by filing the present petition contending, *inter-alia*, that the respondents failed to give a proper look into the representation given by the father of the petitioner while imposing the penalty of removal; the respondents failed to consider that there was no specific nuisance created by the petitioner while on duty; the Commandant of the petitioner did not afford adequate opportunity to the petitioner to defend his case properly; the Commandant completed the enquiry without examination of any witnesses and did not allow the petitioner to cross examine the witnesses; the blood test of the petitioner was not done, which could be the evidence about the petitioner consuming liquor; that the petitioner had not taken liquor on earlier occasions; that no personal hearing was given to the petitioner; that the penalty of removal is disproportionate to the alleged guilt of the accused and that the order of punishment is not a speaking order.

9. The petitioner also produced the copies of some of the telegrams given on behalf of the petitioner after he was removed from service by order dated 13th May, 1999. In the telegram dated 24th May, 1999 given by the wife of the petitioner to the Commandant, CISF Unit it was alleged that his acts are highly irregular and unlawful and that she believes that her husband has been killed in conspiracy by the Commandant. In another telegram given to the Commandant by the father of the petitioner it was alleged that the petitioner was not mentally healthy and it was the responsibility of the Commandant to hand over the petitioner after his dismissal.

10. On behalf of the petitioner the discharge certificate dated 2nd June, 1997 has also been produced, showing that the petitioner was admitted to Dr.Damani's Nursing Home, Dibrugarh from 11th May, 1997 till 2nd June, 1997 on account of

Paranoid Disorder. Along with the said certificate, a copy of the medical prescription has also been produced advising him home rest for two months. Yet another certificate has been produced on behalf of the petitioner dated 18th November, 1997 from Dr.Hiranya Kumar Goswami, Dibrugarh stating that the petitioner suffered from adjustment disorder and he was under his treatment from 12th November, 1997 till 18th November, 1997 on which date he was discharged with the advice to continue his medication. The certificate also stipulated that the petitioner should be provided escort for to and fro journey and that he should be posted in and around his hometown.

11. Another certificate from Dr.Damani's Nursing Home details that the petitioner was admitted from 11th February, 1998 till 19th February, 1998 and he was diagnosed with **"Alcohol Dependence"** and he was advised a conservative treatment. The medical prescription stipulates that the petitioner should be accompanied with an escort. On behalf of the petitioner other medical prescriptions have also been produced which details the medicines prescribed to the petitioner from time to time.

12. The petitioner has also produced a medical certificate dated 5th December, 1998 about his admission from 29th November, 1998 to 5th December, 1998 on account of the petitioner suffering from Typhoid fever.

13. The petitioner has further produced the photocopy of an undated letter showing endorsement of receipt by someone dated 9th December 1998 seeking leave on medical ground. The petitioner has also produced a letter written by his wife dated 9th June, 1999 to the Director General (Admn.) complaining about the misbehavior with the petitioner who was allegedly innocent and his unfair removal from the service. Along with the writ petition, the copy of the appeal filed by the wife of the petitioner to the Deputy Inspector General, Central Industrial Security Force along with the treatment card of the petitioner of J.N.Medical College Hospital, Aligarh from 16th September, 1999 is also appended.

14. The writ petition is contested by the respondents who have filed a counter affidavit dated 21st August, 2002 of Sh.Vinod Kumar Gupta, Commandant, Central Industrial Security Force, Bokaro Steel Limited, Bokaro. The respondents have

revealed in the counter affidavit that the petitioner has not exhausted the departmental remedy available to him, as a revision petition is still maintainable to the next higher authority in terms of Section 9 of the Central Industrial Security Force, 1968. The respondents have further alleged that the petitioner is indulging in frivolous allegations and is abusing the judicial process.

15. The respondents have also contended that the petitioner has not approached the Court with clean hands and has not disclosed all the facts. According to the respondents, the petitioner is a habitual offender and during his short span of service he has been awarded 7 punishments in addition to the punishment of removal from service challenged by him in the present petition. Referring to the charges framed against the petitioner, it is contended that on 4th November, 1998 while on duty he was found under the influence of liquor at Unit Line Gate; he did not turn up for "C" Shift duty on 17th/18th November, 1998; 28th/29th November, 1998; 29th/30th November, 1998 and 16th/17th November, 1998 without any information and permission of the competent authority; on 19th/20th November, 1998 and 21st/22nd November, 1998 he was found sleeping under the influence of liquor when checked by checking officer at about 2130 hours on 19th November, 1998 and 2330 hours on 21st November, 1998 and the petitioner did not turn up for "C" shift duty on 16th/17th December, 1998 and thereafter, he deserted the unit lines without any leave/permission and reported back to unit on 29th December, 1998 at 1530 hours entailing issuance of chargesheet dated 13th January, 1999. The respondents have disclosed that the charge sheet was received by the petitioner on 19th January, 1999, however, he did not reply to the charges made against him leading to the conduct of departmental enquiry against him by order dated 11th February, 1999. An enquiry report dated 24th April, 1999 was given by the Enquiry Officer, a copy of which was also given to the petitioner and he was given adequate time to make a representation against the same. The petitioner had submitted his representation on 10th May, 1999 and pleaded innocence. However, the Disciplinary Authority after considering his representation and the enquiry report, had imposed the penalty of removal from service by order dated 13th May, 1999. The respondents have detailed earlier seven punishments awarded to the petitioner, which are as under:-

Sl.No.	Charge	Punishments Awarded
1.	Overstayed from leave for 17 days without prior permission of competent authority w.e.f 24-5-94 to 9-6-94	Awarded penalty of fine equal to his 03 days pay vide order dated 9-9-94.
2(i).	He manhandled a truck driver while on duty on 20.4.95 in presence of public without any provocation	Awarded penalty of reduction of pay by 02 stages for a period of one year with cumulative effect vide order dated 17.10.95
(ii)	He was found under influence of liquor while on duty on 20-4-95.	
3(i)	Overstayed from leave for 46 days wef. 24-5-96 to 8-7-96 without permission of competent authority	Awarded penalty of fine equal to 03 days pay vide order dated 18-9-96.
4(i)	He was found absent from duty at 1735 hrs on 6-5-97 and found at Sukhanpokhari at 2000 hrs in intoxicated condition	Awarded penalty of with holding of one increment for two years without cumulative effect vide order dated 30-4/2-5-98.
(ii)	Found absent from assigned duty on 09-05-97.	

(iii)	He was admitted in Sibsagar Hospital on 9-5-97 at 2230 hrs, but he left hospital and went to CWS gate at 1030 hrs on 10-5-97 in intoxicated condition.	
5.	He did not deposit trefoil copy of railway warrant No.036986	Awarded penalty of fine equal to his 03 days pay vide order dated 1/2-6-98.
6.	Deserted unit lines from 5-11-98 to 13-11-98 without any information and permission of competent authority	Awarded penalty of fine equal to his 07 days pay vide order dated 22-1-99.
7.	Overstayed from leave wef. 17-1-98 to 9-2-98 for 24 days and again deserted unit lines from 19.2.98 to 15-4-98 for 56 days without any permission or information of competent authority	Awarded penalty of withholding of one increment for one year without cumulative effect vide order dated 25.1.99.

16. The respondents have also disclosed that the petitioner has been issued charge sheets dated 7th May, 1999 and 8th May, 1999 under Rule 34 of CISF Rules, 1969. By chargesheet dated 7th May, 1999 the petitioner has been charged with deserting the unit line from 2350 hours on 15th January, 1999 and remaining absent upto 6th March, 1999. By charge memo dated 8th May, 1999 the petitioner

is charged of creating nuisance under the influence of liquor on 10th April, 1999 at about 2030 hours and misbehaving with Miss M.Minz, a staff nurse of Bokaro General Hospital and also remaining absent from unit lines with effect from 10th April, 1999 at 2230 hours to 11th April, 1999 at 0805 hours. The petitioner was also charged by the said chargesheet dated 8th May, 1999 for lifting three suitcases of the other CISF Personnel from the „J?Company Barrack on 4th May, 1999 and taking them away in a three wheeler. The allegation is that he was caught red handed while opening the said suitcases by making duplicate keys at Dundibagh market.

17. The departmental proceedings initiated pursuant to the charge memo dated 7th May, 1999 and 8th May, 1999 have not been finalized as the order of removal dated 13th May, 1999 has been passed and consequently, the disciplinary proceedings have been kept in abeyance by order dated 15th May, 1999 and 19th May, 1999.

18. The respondents have also disclosed that the petitioner had joined the CISF Unit, BSL, Bokaro on 28th July, 1998 on regular transfer from CISF Unit, ONGC Nazira and have denied that the petition dated 2nd March, 1998 was submitted to the respondents. The respondents have submitted that the petition dated 2nd March, 1998 had been addressed to the Deputy Commandant, ONGC Sibsagar, Assam, who has, in any case, not been cited as a respondent in the present matter. W.P(C) No.4906/2001 Page 14 of 22

19. Regarding the request of the petitioner for allotment of a formal quarter, the respondents have contended that the same was placed in the seniority list and the formal quarter could not be allotted to the petitioner immediately.

20. Regarding the treatment received by the petitioner after his removal from service, the respondents have averred that this is not relevant for determination of the penalty imposed on the petitioner pursuant to the proper enquiry conducted against him in accordance with the rules and the action taken by the Disciplinary Authority. The respondents have also placed reliance on the medical certificate dated 10th April, 1999 detailing that there was no psychiatric disorder in the petitioner and that the petitioner is “alcohol dependant” which was also established

from the pathological tests of his blood on 4th November, 1998, 20th November, 1998 and 22nd November, 1998. Regarding the absence of the petitioner from the duty, the respondents have relied on GD entries No.352 and 353 dated 17th November, 1998, No.603 dated 28th November, 1998, No.620 dated 29th November, 1998 and No.444 dated 16th December, 1998.

21. The respondents have further averred that no representation was received from the father of the petitioner; enquiry was conducted according to the rules and laid down procedure giving reasonable opportunity to the petitioner; and the petitioner was present throughout the departmental enquiry. The respondents have denied that no witnesses were examined by the Enquiry Officer. It has been categorically asserted that 8 witnesses were examined on behalf of the respondents and that the petitioner was given opportunity to cross examine the witnesses, however, he did not cross examine all the witnesses but did cross examine PW-2, PW-4 and PW-7. The allegation that the petitioner has not signed the relevant proceedings was also denied. The respondents disclosed that the copies of the transactions of the enquiry had been supplied to the petitioner by the Enquiry Officer. The respondents also disclosed that the record of the medical examination of the petitioner was produced before the Enquiry Officer and has been duly established.

22. The respondents categorically denied that the father of the petitioner had submitted any medical records pertaining to the petitioner to the respondents.

23. The petitioner filed a rejoinder dated 16th January, 2004 denying the specific pleas raised by the respondents, however, he did not produce anything new or disclosed any new fact except for reiterating whatsoever had been stated by the petitioner in his petition.

24. This Court has heard the counsel for the parties and perused the writ petition, the counter affidavit and the rejoinder and the documents produced by the parties. The respondents also have produced the original record pertaining to the disciplinary proceedings initiated against the petitioner pursuant to the charge memo dated 13th January, 1999. Perusal of the original record of the enquiry proceedings reveals that the petitioner had participated in the enquiry proceedings

and had received the relevant documents. The petitioner had also signed the proceedings. On 3rd March, 1999 he had pleaded “not guilty” by contending that he accepts whatsoever is alleged against him, but it was on account of minor causes. He admitted that he had not replied to the charge memo, and he also admitted that the Enquiry Officer could act as an Enquiry Officer. Perusal of the record reveals that the statements of various witnesses were recorded in his presence, as the statements were counter signed by the petitioner. The petitioner has cross examined some of the witnesses. Perusal of the record also reveals that the respondents have produced the record pertaining to the various DG entries to establish that the petitioner had been absent on the date and time as had been alleged by the respondents. The respondents have also established the reports given by the concerned personnel regarding the absence of the petitioner on different dates. The respondents have also produced, during the enquiry, the report of the petitioner from Bokaro General Hospital regarding alcohol dependancy. PW-5 also reveals that substantial alcohol was found in the blood of the petitioner, which is further substantiated by PW5/Ex.P21 which stipulates that 42 mg percent alcohol was found in the blood of the petitioner and PW5/Ex.P22 which reveals that 48 mg percent alcohol was found in his blood.

25. In the circumstances, the plea on behalf of the petitioner that the enquiry was not conducted in accordance with the rules and that the petitioner was not given adequate opportunity is not made out. The respondents have produced sufficient proof to establish the fact that the petitioner was found under the influence of alcohol and in an inebriated state on various dates and that he was absent from duty.

26. The medical record which has been produced on behalf of the petitioner along with the writ petition had not been produced during the enquiry proceedings. No sufficient reason has been disclosed by the petitioner for not producing the medical record prior to the period during which the enquiry was conducted. The perusal of the said record rather reveals that it is not material and does not absolve the petitioner of the charges made against him. Rather the medical certificate dated 19th February, 1998 diagnosing the petitioner as “alcohol dependence” substantiates the plea of the respondents. The medical record which

has been produced by the petitioner along with the writ petition after the enquiry was concluded also does not absolve the petitioner of the charges made against him in any manner. The representations and the appeals filed on behalf of the petitioner by his wife and father rather highlights the reckless and baseless allegations made against the respondents. The respondents have categorically denied the representations received from the father of the petitioner which fact cannot be disbelieved in the facts and circumstances as the representations and appeal received from the wife of the petitioner were duly dealt with and were rejected by passing reasoned orders. There was no reason for the respondents to have not considered and disposed off the representation received from the father of the petitioner had it been received by the respondents.

27. This Court does not have to go into the correctness of the truth of the charges. It cannot take over the functions of the disciplinary authority. It cannot sit in appeal on the findings of the disciplinary authority and assume the role of the appellate authority. It cannot interfere with the findings of fact arrived at in the disciplinary proceedings except in the case of mala-fides or perversity i.e where there is no evidence to support a finding or where the finding is such that no one acting reasonably or with objectivity could have arrived at or where a reasonable opportunity has not been given to the delinquent to defend himself or it is a case where there has been non application of mind on the part of the enquiry authority or if the charges are vague or if the punishment imposed is shocking to the conscience of the Court. Reliance for this can be placed on State of U.P and ors. Vs Raj Kishore Yadav and anr., (2006) 5 SCC 673; V.Ramana Vs A.P. SRTC and ors., (2005) 7 SCC 338; R.S.Saini Vs State of Punjab and ors., JT 1999 (6) SC 507; Kuldeep Singh Vs The Commissioner of Police, JT 1998 (8) SC 603; B.C.Chaturvedi Vs Union of India and ors, AIR 1996 SC 484; Transport Commissioner, Madras-5 Vs A.Radha Krishna Moorthy, (1995) 1 SCC 332; Government of Tamil Nadu and anr.Vs A. Rajapandia, AIR 1995 SC 561; Union of India and ors. Vs Upendra Singh, (1994) 3 SCC 357 and State of Orissa and anr. vs Murlidhar Jena, AIR 1963 sc 404.

28. It also cannot be disputed that the grounds on which administrative action is subject to control by judicial review are, "illegality"; "irrationality" and "procedural

impropriety". The Court will not interfere in such matters unless the decision is tainted by any vulnerability like illegality, irrationality and procedural impropriety. Whether action falls within any of the categories is to be established and mere assertion in that regard may not be sufficient. To be "irrational" it has to be held that on material, it is a decision "so outrageous" as to be in total defiance of logic or moral standards. If the power is exercised on the basis of facts which do not exist or reaching conclusions which are patently erroneous, such exercise of power shall be vitiated. Exercise of power will be set aside if there is manifest error in the exercise of such power or the exercise of power is manifestly arbitrary. To arrive at a decision on "reasonableness" the court has to find out if the respondents have left out a relevant factors or taken into account irrelevant factors. In (1995) 6 SCC 749, B.C.Chaturvedi v. Union of India and ors Supreme Court at page 759 has 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 reappraise 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.

29. The Supreme Court in (2006) 5 SCC 88, M.V.Bijlani Vs Union of India and ors. had also held that the Judicial review is of decision making process and not with re-appreciation of evidence. The Supreme Court in para 25 at page 96 had held as under:

25. It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidence to prove the charge. Although the charges in a departmental proceeding are not required to be proved like a criminal trial i.e. beyond all reasonable doubt, we cannot lose sight of the fact that the enquiry officer performs a quasi-judicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with.

30. In the circumstances, the petitioner has not been able to make out any illegality, irregularity or any perversity in the enquiry conducted by the respondents pursuant to which the punishment of removal from the service has been passed against the petitioner. The previous punishments imposed upon the petitioner and other chargesheets issued to him for various other lapses and misconduct on the part of the petitioner rather points out that the punishment of removal from the service passed by the respondents against the petitioner by order dated 13th May, 1999 is justified. The learned counsel for the petitioner, in the facts and circumstances, has not been successful in making out any ground or show any such facts which will show that the punishment imposed on the petitioner is disproportionate to the misconduct which has been established against him.

31. For the foregoing reasons and in the totality of the facts and circumstances, therefore, there are no grounds to interfere with the orders of the respondents and the action taken by the respondents against the petitioner. There are no ground to interfere by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition is without any merit, and it is, therefore, dismissed. Parties are however, left to bear their own costs.

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