IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 604 OF 2025

Writ Appeal under clause 15 of the Letters Patent preferred against the Order Dated 05.03.2025 in W.P.No.15340 of 2014 on the file of the High Court.

Between:

N.Perumallu S/o. N. Krishnaiah Chetty, Aged about 57 years, Presently working as Senior Commandant, CISF Unit, South Zone-1, Chennai, Tamilnadu.

...APPELLANT/WRIT PETITIONER

AND

1. Union of India, Rep. by its Secretary, Ministry of Home Affairs, Central Secretariat, New Delhi.
2. Central Industrial Security Force, Block-13, CGO Complex, Lodhi Road, New Delhi, Rep. by its Director - General

...RESPONDENTS/RESPONDENTS 1 & 2
IN W.P.No.15340/2014

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned judgment dated 05/03/2025, in W.P.No.15340/2014 passed by the learned single judge, pending disposal of the Writ Appeal.

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant permission for filing the additional material papers in the above writ appeal.

Counsel for the Appellant: SRI P.G. NAIDU, SENIOR COUNSEL
REPRESENTING Ms. G. BHANU PRIYA

Counsel for the Respondents: Ms. L. PRANATHI REDDY,
SENIOR S.C. FOR CENTRAL GOVERNMENT

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL No. 604 of 2025

JUDGMENT:

Heard Sri P.G.Naidu, learned Senior Counsel representing Ms.G.Bhanu Priya, learned counsel for the appellant, Ms. L.Pranathi Reddy, learned Senior Standing Counsel for Central Government appearing for the respondents.

2. This Intra-Court Appeal under Clause 15 of the Letters Patent is filed by the appellant/writ petitioner challenging the order dated 05.03.2025 in W.P.No.15340 of 2014 passed by the learned Single Judge, whereby the order dated 26.03.2014 passed by respondent No.2-Central Industrial Security Force (CISF) is confirmed by dismissing the writ petition.

Brief facts of the case

3. The present dispute arises on 20.11.2008, wherein the appellant/writ petitioner on the pretext of repair of defective delivery valve, alleged to have cover up the incident of pilferage of 4000 liters of diesel by *mala fide* intention by help of some employees of National Mineral Development Corporation (NMDC) Limited and tanker drivers, who were at the relevant

time serving as Deputy Commandant at the NMDC unit in Kirandul. The primary issue for determination pertains to the appellant's authorization of the release of the diesel tanker, which, upon interception and subsequent inspection by Head Constable V.R.S. Reddy, was discovered to exhibit a discrepancy between the quantity purportedly decanted from the tank and the quantity remaining therein.

4. The appellant, after consultation with officials of NMDC, accepted the explanation tendered by the driver attributing the discrepancy to a defective valve and consequently directed that the tanker be repaired and the diesel re-decanted. Subsequently, NMDC instituted action against its officials through a vigilance enquiry about the un-decanted vehicle in connection with an alleged attempt to pilfer diesel, wherein the appellant appeared as a witness. However, only in July 2011, i.e. after three years of the alleged incident, the appellant was served with a charge memo dated 01.07.2011. The Central Industrial Security Force (CISF) initiated disciplinary proceedings against the appellant based on a report from NMDC, accusing him of a *mala fide* attempt to conceal the incident. Following a departmental enquiry, the charge against the appellant was held to be established.

5. Further, the Union Public Service Commission (UPSC) upon reference by the respondents recommended the imposition of the prescribed penalty, which was effected by the Disciplinary Authority on 26.03.2014; that the challenge to the impugned order before the learned Single Judge was dismissed, giving rise to the present appeal.

Contentions of the appellant

6. Learned counsel for the appellant contends that the non-disclosure and non-supply of the preliminary enquiry reports by DIG Nayeem and Commandant Zhophoneye has violated Article 14 of the Constitution of India and principles of natural justice. Further, the issuance of charge memo after a period exceeding three years from the date of the incident was not only unwarranted but also actuated by *mala fide* intentions, which is clearly intended to adversely affect the career of the appellant at the behest of vested interests.

It is further contended that the departmental enquiry was fundamentally flawed due to procedural impropriety. This is demonstrated by the arbitrary change of the Enquiry Officer during the course of the enquiry, the denial of the appellant's request to summon material witnesses who are essential for adjudication and the holding of a hearing after the Enquiry

Officer had already submitted his report, all of which are clear violations of established enquiry procedures.

The appellant asserts that the finding of the learned Single Judge that it shall not interfere with the findings of the enquiry officer is perverse and as such, it is contended that the enquiry officer failed to afford the reasonable opportunity. However, it is contended that the observations of the commissions are exclusively based on the hostile testimony of an unreliable witness identified as P.W.3 and failed to consider the appellant's *bona fide* exercise of discretion and judgment in the matter which cannot sustain the departmental penalties.

Further, learned counsel for the appellant placed reliance in ***Ayaaubkhan Noorkhan Pathan v. State of Maharashtra and others***[1], wherein the Hon'ble Supreme Court has emphasized in respect of the opportunity made available during the cross-examination as one of the facets of the principles of natural justice.

Therefore, the appellant contends that the learned Single Judge erred by declining to interfere with the disciplinary order despite the presence of the above mentioned glaring procedural irregularities. The failure to exercise judicial review in such

[1] (2013) 4 SCC 465

circumstances constitutes a grave error warranting appellate intervention.

Contentions of the respondents

7. Learned counsel for the respondents submit that the preliminary enquiry reports in question were internal, fact-finding documents prepared solely for the purpose of investigation and fact ascertainment. These documents were not relied upon as substantive evidence during the departmental enquiry. Consequently, there was no legal obligation to furnish such reports to the appellant in light of the settled legal proposition enunciated in ***State of Uttar Pradesh v. Shatrughan Lal***[2], which exempts disclosure of internal preliminary reports.

The respondents contend that the delay of over three years in initiating disciplinary proceedings is sufficiently explained by the protracted internal processes of NMDC and the subsequent necessary verifications required before formal action could be taken. It is further asserted that the appellant has failed to demonstrate any specific or actual prejudice caused by this delay which would warrant the quashing of the proceedings on the grounds of undue or *mala fide* delay.

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[2] AIR 1998 SCC 3038

It is submitted that the departmental enquiry was conducted in a fair and proper manner, fully compliant with procedural requirements. The change of the Enquiry Officer during the enquiry was a routine administrative decision and did not introduce any element of bias or mala fide intent. The Enquiry Officer's discretion in deciding whether to summon certain witnesses was lawful and based on relevant considerations, not motivated by any improper purpose.

Regarding the findings, the respondents maintain that the conclusions of guilt of the appellant are founded on evidence and represent a plausible and reasonable approach considering facts and circumstances as established during the enquiry. The standard of preponderance of probability is sufficient to shield the findings from interference by the Court, which would not ordinarily substitute its own assessment for that of the competent disciplinary authority.

The respondents further states that the penalty imposed on the appellant was minimal and commensurate with the nature of the misconduct established. The recommendation of the Union Public Service Commission (UPSC), an expert body, lends further legitimacy and proportionality to the punishment, which has been rightly upheld.

Consideration by this Court

8. The Hon'ble Supreme Court in ***State of Andhra Pradesh v. S.Sree Rama Rao***[3] has observed that the scope of judicial review in disciplinary proceedings is inherently limited and constricted. Further, the Court exercising jurisdiction under Article 226 of the Constitution of India does not sit as a Court of appeal over the decision of the authority holding departmental enquiry. Further, when there is some evidence which the authority has accepted and which evidence may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Article 226 of the Constitution of India to review the evidence and to arrive at an independent finding on the evidence.

9. It is pertinent to note that the judicial interference is warranted only under specific circumstances, namely: where there has been a breach of the principles of natural justice; where the findings are based on no evidence; or where the conclusion is arbitrary that no reasonable person could have reached such a decision.

10. These principles have been firmly established in the decisions of this Court in ***S. Sree Rama Rao****'s case* (supra 3)

[3] AIR 1963 SC 1732

and ***B.C. Chaturvedi v. Union of India***[4], which underline that judicial review does not extend to substitute the Court's own opinion on the merits to arrive at an independent finding on the evidence. Therefore, unless a finding reached by the disciplinary authority is perverse or suffers from patent error on the face of the record, it is to be upheld.

11. In regard to the appellant's contention in respect of the non-supply of documents and examination of witnesses sought to be called to be without substance, it is to be noted that it is settled law that a delinquent officer is entitled only to receive copies of those documents which the department specifically relies upon to substantiate the charges framed against him. Conversely, documents forming part of the preliminary investigation or those that merely facilitate the initiation of disciplinary proceedings often referred to as enabling or background documents are not required to be furnished.

12. In the present case, it is to be noted that the reports prepared by DIG Nayeem and Commandant Zhophoneye fall within the category of preliminary investigative report. However, the Presenting Officer did not depend on these reports as evidence to establish the charge of *mala fides* against the

[4] (1995) 6 SCC 749

appellant, instead, the respondent's premised upon the evidence adduced during the course of the formal enquiry. Therefore, the refusal to supply the preliminary enquiry reports did not result in any infringement of the appellant's right to a fair hearing.

13. It is pertinent to note that the procedural safeguards and principles of natural justice remain intact when the charges are supported by admissible and relevant evidence, and mere non-disclosure of documents that are not relied upon does not constitute a violation of the appellant's rights.

14. Further, the Apex Court in ***Secretary, Ministry of Defence and others v. Prabhash Chandra Mirdha***[5] has observed that a delay of three years in initiating disciplinary proceedings is considerable. However, for such delay to vitiate or invalidate the proceedings, it is upon the delinquent officer to establish that the delay has caused prejudice to the delinquent employee.

15. In the present case, the appellant has failed to tender concrete evidence or particulars in order to demonstrate that any material witness has become unavailable, or that any crucial document has been lost or rendered unusable due to the passage of time. On the contrary, the incident underlying the

[5] (2012) 11 SCC 565

disciplinary enquiry was comprehensively and contemporaneously documented. Further, the explanation tendered by the respondents that the delay was attributable to the internal procedural requirements and verification processes of NMDC is neither inherently unreasonable nor indicative of *mala fide* intent and in the absence of tangible proof demonstrating prejudice caused to the appellant, this Court is unable to conclude that the delay has operated to vitiate the disciplinary proceedings.

16. It is to be noted that the reassignment or change of the Enquiry Officer is a matter falling within the administrative discretion of the disciplinary authority. The Hon'ble Supreme Court in ***Kumaon Mandal Vikas Nigam Limited v. Girija Shankar Pant and others***[6], has held as under:

> *34. The Court of Appeal judgment in Locabail [2000 QB 451] though apparently as noticed above sounded a different note but in fact, in more occasions than one in the judgment itself, it has been clarified that conceptually the issue of bias ought to be decided on the facts and circumstances of the individual case — a slight shift undoubtedly from the original thinking pertaining to the concept of bias to the effect that a mere apprehension of bias could otherwise be sufficient.*

[6] (2001) 1 SCC 182

> *35. The test, therefore, is as to whether a mere apprehension of bias or there being a real danger of bias and it is on this score that the surrounding circumstances must and ought to be collated and necessary conclusion drawn therefrom — in the event however the conclusion is otherwise inescapable that there is existing a real danger of bias, the administrative action cannot be sustained: If on the other hand, the allegations pertaining to bias is rather fanciful and otherwise to avoid a particular court, Tribunal or authority, question of declaring them to be unsustainable would not arise. The requirement is availability of positive and cogent evidence and it is in this context that we do record our concurrence with the view expressed by the Court of Appeal in Locabail case [2000 QB 451] .*

17. It is to be noted that the decision of the Enquiry Officer to refrain from summoning the authors of the preliminary enquiry reports was a *bona fide* exercise of discretion as those reports were not part of the evidentiary record. Thus, we are of the opinion that rendering the irregularity which is a mere technical defect does not vitiate the entire enquiry process. In regard to the alleged perversity of the findings, it is to be noted that the charge against the appellant did not pertain to active collusion but was premised on a failure to exercise reasonable diligence, culminating in a cover-up of an attempted pilferage. The testimony of witness P.W.3 coupled with the attendant circumstances, furnished a rational and legal foundation for the

Enquiry Officer to conclude that the appellant's conduct amounted to dereliction of duty/negligence, rather than a *bona fide* error of judgment.

18. Learned counsel for the appellant has filed a letter dated 15.02.2012 under which the delinquent (appellant) requested the Enquiry Officer to call Sri Zhophoneye and Sri S.A.Nayeem for cross-examination wherein it was stated as under:

> *"Kindly refer to your enquiry notice No.V-15014/TS/AIG-TS/DE-N.P/EN-7/2011-12/854 Dated 14th February 2012 and my letter Dated 01.02.2012, whereby I have raised certain legal infirmities and technical lacunae with regard to conducting of enquiry. The undersigned has not been permitted by the enquiry officer to cross examine Shri. S Venkatesan Director, (Production) NMDC Ltd., and Shri. Nishant Shankale, AIG/Int on their complaints/reports which are listed documents on the basis of which charges have been framed against me. The said complaints/reports contains all presumptive and assumptive allegations by the PWS to frame charge against me, during the cross examination of these two PWS enquiry officer asked me to confine cross examination specific to the charge and statement made by the PW during the enquiry which is against principles of natural justice, because I could not extract truth of the presumptive and assumptive allegations."*

By the aforesaid letter dated 15.04.2012, it is clear that the appellant was in fact afforded an opportunity to cross-

examine the witness, which however was restricted to the charge and statement. The contention raised by the appellant in respect of the denial of granting him an opportunity of cross-examination stands negated from his own admission in the said letter, which clearly demonstrates the fact that the delinquent had in fact sought further cross-examination as he could not extract admissions favourable to him in the previous round of cross-examination. Therefore, it cannot be said that the authorities have not followed the principles of natural justice.

19. Though learned counsel for the appellant placed reliance on ***Ayaaubkhan Noorkhan Pathan***'s case (supra 1), it is to be noted that it is not disputed by this Court with regard to the settled position of law as reiterated by the Apex Court in the said precedent wherein the Court has observed as under:

> *30. The aforesaid discussion makes it evident that, not only should the opportunity of cross-examination be made available, but it should be one of effective cross-examination, so as to meet the requirement of the principles of natural justice. In the absence of such an opportunity, it cannot be held that the matter has been decided in accordance with law, as cross-examination is an integral part and parcel of the principles of natural justice.*

The aforesaid observation does not advance the case of the appellant in any manner in view of having completely different facts and circumstances.

20. Since the conclusion reached by the Enquiry Officer represents one plausible and tenable interpretation of the facts, it is neither the purpose nor within the jurisdiction of this Court to reappraise evidence or substitute its own evaluation in lieu of the findings of the competent authority. The threshold for judicial interference on grounds of perversity is stringent, requiring that the conclusion be one that no reasonable person could have arrived at which in the instant case, remains unmet, thereby affirming the validity of the disciplinary findings.

21. It is observed that the penalty imposed namely, withholding of two increments without cumulative effect constitutes one of the mildest forms of punishment available for charges implicating an officer's integrity and devotion to duty. Further, the Hon'ble Supreme Court in ***Om Kumar and others v. Union of India***[7] by reiterating a similar view taken in ***Ranjit Thakur v. Union of India***[8] has held as under:

[7] (2001) 2 SCC 386
[8] (1987) 4 SCC 611

> *70. In this context, we shall only refer to these cases. In Ranjit Thakur v. Union of India [(1987) 4 SCC 611 : 1988 SCC (L&S) 1] this Court referred to "proportionality" in the quantum of punishment but the Court observed that the punishment was "shockingly" disproportionate to the misconduct proved. In B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44] this Court stated that the court will not interfere unless the punishment awarded was one which shocked the conscience of the court. Even then, the court would remit the matter back to the authority and would not normally substitute one punishment for the other. However, in rare situations, the court could award an alternative penalty. It was also so stated in Ganayutham [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806].*

22. Further, the recommendation of the Union Public Service Commission (UPSC) emphasises the reasonableness and appropriateness of the penalty imposed and UPSC's role in advising on disciplinary matters lends credibility and balance to the disciplinary process, minimizing arbitrariness.

23. The appellant's grievance relating to denial of promotions raises a distinct issue that does not undermine the validity of the disciplinary proceedings themselves. It is established that the suspension of a penalty order during the pendency of appeal does not expunge the existence or effect of the said disciplinary proceedings from the officer's record and the Departmental Promotion Committee (DPC) being vested with the responsibility

of assessing suitability for elevation, is entitled to consider an officer's complete service record, including any pending charges or disciplinary proceedings, while passing a reasoned opinion on fitness for promotion. Therefore, the grievance in relation to denial of promotion on such grounds does not constitute a ground to invalidate the disciplinary findings.

Conclusion

24. This Court is of the considered view that the impugned departmental enquiry was conducted in conformity with the principles of natural justice and the applicable rules governing disciplinary proceedings. The findings of the learned Single Judge in regard to upholding the disciplinary proceedings are supported by valid and relevant evidence and are not perverse or arbitrary. Therefore, the learned Single Judge rightly applied the principle of limited scope of the judicial review in disciplinary matters and appropriately refused to interfere with the impugned disciplinary order.

25. For the foregoing reasons, the appeal fails, being devoid of merits and is liable to be dismissed.

26. Accordingly, the Writ Appeal is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

SD/-MOHD. ISMAIL
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. One CC to Ms. G. BHANU PRIYA, Advocate [OPUC]
2. One CC to Ms. L. PRANATHI REDDY, Senior S.C. for Central Government [OPUC]
3. Two CD Copies

MP
BS

HIGH COURT

DATED:22/09/2025



JUDGMENT

WA.No.604 of 2025

DISMISSING THE WRIT APPEAL
WITHOUT COSTS

(5)

kpr
27/10/25