IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

ON THE 25th OF AUGUST, 2026

WRIT PETITION No.10161 of 2009

Satya Narayan Soni

Versus

State of M.P. and Others

Appearance:

Shri D. K. Tripathi- Advocate for the petitioner.

Shri Hitendra Singh- Government Advocate for the respondents.

Reserved on : 05.08.2026

Delivered on : 25.08.2026

ORDER

The petitioner has filed the instant petition challenging the legality, validity and propriety of the punishment order dated 10.4.2006 passed by the Divisional Forest Officer (DFO), Burhanpur (respondent No. 3). By the said order, the major penalty of removal from service was imposed upon the petitioner. The petitioner further assails the appellate order dated 21.9.2006 passed by the Chief Conservator of Forest, Khandwa (respondent No. 2),

whereby, the appeal preferred by petitioner was partially allowed, modifying the penalty of removal to a reduction to the minimum of the pay scale for a period of five years.

2. The factual matrix of the present case is that the petitioner was engaged as a Forest Guard and at the relevant time was posted at the Bori Beat, Asir Range, under the Burhanpur Forest Division from 23.9.1994 to 30.12.2002. He was placed under suspension on 30.12.2002 and a charge sheet was issued to him on 10.2.2003 outlining two primary charges:-

(i) **Charge No. 1:** During his posting, an encroachment spanning 1047 hectares took place in compartments 138, 139, and 140 of the Bori Beat. It was alleged that the petitioner made no solid effort to prevent this encroachment and failed to inform his superior officers, thereby showing negligence toward his duties.

(ii) **Charge No. 2:** During the same tenure, nationalized forest produce ('Salai Goand' or gum) was illegally collected and stored in Bori village. It was alleged that the petitioner failed to seize the contraband, register a case or inform his superiors, violating the *M.P. Civil Services (Conduct) Rules, 1965*.

3. A departmental enquiry was instituted. The Enquiry Officer after recording the statements of prosecution witnesses and examining the record,

submitted a report explicitly concluding that both Charge No. 1 and Charge No. 2 were not proved against the petitioner.

4. Disagreeing with the Enquiry Officer's findings, the Disciplinary Authority issued a show-cause notice dated 23.8.2005 (Annexure P-8) proposing the penalty of removal. The petitioner submitted a detailed representation (Annexure P-9), appending a list of over 40 Preliminary Offence Reports (PORs) he had registered. Disregarding this defense, the Disciplinary Authority passed the impugned order dated 10.4.2006, holding the petitioner guilty.

5. On appeal, the Appellate Authority while upholding the finding of guilt, observed that the punishment of removal was excessively harsh considering the petitioner's 23 years of service, his "Very Good" Annual Confidential Reports (ACRs) and a commendation letter awarded in 2005-06. Consequently, the punishment was modified to a reduction in pay scale for five years.

6. Ld. counsel for the petitioner submitted that the present case is a case of no evidence and it is perverse based on non-application of mind. It was argued that the Disciplinary Authority completely ignored voluminous documentary evidence specifically the PORs and Panchnamas filed by the petitioner between 1996 and 2002 which conclusively proved that he had actively reported the encroachments to the Range Officer and the Police. It was further

submitted that the area was surrounded by organized mobs making it physically impossible for a lone guard to halt the mass encroachment, a fact admitted by the prosecution witnesses.

7. *Per contra*, the Ld. government advocate appearing for the respondent/State strongly relied upon the Return and argued that the Disciplinary Authority was well within its jurisdiction to disagree with the Enquiry Officer. It was contended that the petitioner's failure to prevent the encroachment of 1047 hectares and his failure to detect the illegal storage of 50 kg of gum amounted to grave dereliction of duty. The State urged that the High Court, exercising jurisdiction under Article 226, cannot act as an appellate authority to re-appreciate evidence and since procedural propriety was maintained, the petition ought to be dismissed.

8. Heard the respective counsel and perused the record.

9. This Court is aware of the settled legal position regarding judicial review in disciplinary matters. The jurisdiction under Article 226 is supervisory, not appellate. The Court shall not re-weigh evidence or substitute its own conclusion for that of the Disciplinary Authority. However, this restraint is subject to a well-recognized exception, i.e., the *doctrine of perversity*. If the findings of the Disciplinary Authority are based on no evidence or if the authority actively ignores material documentary evidence available on record

that runs contrary to the charge, such findings are rendered perverse, arbitrary and legally unsustainable.

10. The Hon'ble Supreme Court in the case of ***Union of India* v. *H.C. Goel*, AIR 1964 SC 364,** observed that where a public servant is punished for misconduct after a departmental enquiry is conducted, a clear case where interference under Article 226 of the Constitution is warranted is when there is no evidence to establish the official's guilt:

> ***"22.*** *We are not prepared to accept this contention. Mala fide exercise of power can be attacked independently on the ground that it is malafide. Such an exercise of power is always liable to be quashed on the main ground that it is not a bona fide exercise of power. But we are not prepared to hold that if mala fide are not alleged and bona fides are assumed in favour of the appellant, its conclusion on a question of fact cannot be successfully challenged even if it is manifest that there is no evidence to support it. The two infirmities are separate and distinct though, conceivably, in some cases both may be present. There may be cases of no evidence even where the Government is acting bona fide; the said infirmity may also exist where the Government is acting mala fide and in that case, the conclusion of the Government not supported by any evidence may be the result of mala fides but that does not mean that if it is proved that there is no evidence to support the conclusion of the Government, a writ of certiorari will not issue without further proof of mala fides. That is why we are prepared to accept the learned Attorney-General's argument that since no mala fides are alleged against the appellant in the present case, no writ of certiorari can be issued in favour of the respondent.*
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> ***23.*** *That takes us to the merits of the respondent's contention that the conclusion of the appellant that the third charge framed against the respondent had been proved, is based on no evidence. The learned Attorney-General has stressed before us that in dealing with this question, we ought to bear in mind the*

> *fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by the appellant is a reasonably possible view this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondent's case is, is there any evidence on which a finding can be made against the respondent that Charge No. 3 was proved against him? In exercising its jurisdiction under Article 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence illegally the impugned conclusion follows or not. Applying this test, we are inclined to hold that the respondent's grievance in well founded, because, in our opinion, the finding which is implicit is the appellant's order dismissing the respondent that charge number 3 is proved against him is based on no evidence."*
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> ***[Emphasis supplied]***

11. In ***B.C. Chaturvedi* v. *Union of India*, (1995) 6 SCC 749**, the Hon'ble Supreme Court indicated the scope of judicial review. It was ruled that judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It 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 eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority; it does not reappreciate the evidence.

"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 enquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the enquiry 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 enquiry 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 the 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 enquiry 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.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel [Union of India v. H.C. Goel, 1963 SCC OnLine SC 16 : (1964) 4 SCR 718 : AIR 1964 SC 364] , this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from

patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

[Emphasis Supplied]

12. Reiterating these principles in ***United Bank of India v. Biswanath Bhattacharjee*****, (2022) 13 SCC 329**, the Hon'ble Supreme Court dismissed an employer's appeal because the termination was based on no evidence. The Court emphasized that while Article 226 does not confer appellate powers to re-appreciate evidence, a basic scrutiny of the disciplinary materials is strictly necessary to ascertain if findings are perverse, ignore material facts or rely on extraneous factors. Thus, the Court's margin of appreciation allows for this fundamental review while maintaining its non-appellate character.

"21. *The Bank is correct, when it contends that an appellate review of the materials and findings cannot ordinarily be undertaken, in proceedings under Article 226 of the Constitution. Yet, from H.C. Goel [Union of India v. H.C. Goel, 1963 SCC OnLine SC 16 : (1964) 4 SCR 718 : AIR 1964 SC 364] onwards, this Court has consistently ruled that where the findings of the disciplinary authority are not based on evidence, or based on a consideration of irrelevant material, or ignoring relevant material, are mala fide, or where the findings are perverse or such that they could not have been rendered by any reasonable person placed in like circumstances, the remedies under Article 226 of the Constitution are available, and intervention, warranted. For any court to ascertain if any findings were beyond the record (i.e. no evidence) or based on any irrelevant or extraneous factors, or by ignoring material evidence, necessarily some amount of scrutiny is necessary. A finding of "no evidence" or perversity, cannot be rendered sans such basic scrutiny of the materials, and the findings of the disciplinary authority. However, the margin of appreciation of*

> *the court under Article 226 of the Constitution would be different; it is not the appellate in character.*
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> ***30.*** *In view of the foregoing discussion, and having regard to the record, the impugned judgment [Biswanath Bhattacharjee v. United Bank of India, 2008 SCC OnLine Cal 766] cannot be faulted with. The appeal is unmerited. The appellant Bank is directed to ensure that the respondent's services are deemed to be reinstated, and calculate all his benefits, including arrears of salary, pay increase (as applicable), increments, and all consequential benefits, and calculate his terminal benefits, and fix his pension, if admissible to him under the Bank's regulations. The determination of these benefits shall be undertaken, and the payment of all amounts be made, within three months from date of this judgment. The appeal is dismissed without order on costs."*
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> ***[Emphasis Supplied]***

13. When charge no. 1 is analysed, the core of the Disciplinary Authority's reasoning to overturn the Enquiry Officer's exoneration was the assumption that the petitioner did not disclose the issue with respect to the encroachment to his superiors and only began filing POR cases in the year 2001. This finding is fundamentally flawed and contradicted by the official record. A perusal of Annexure P-9 reveals a detailed tabular chart of over 40 PORs registered by the petitioner dating back to 1996, 1997, 1998 and 2000. Furthermore, the panchnamas and police complaints placed on record (Annexure P-12) demonstrate that as early as 1996 and 1998, the petitioner actively patrolled the beat, documented the presence of mobs comprising 50 to 150 individuals armed with plows, and continuously dispatched reports to the Range Officer

and the local Station House Officer (SHO). The legal maxim *lex non cogit ad impossibilia* (the law does not compel a man to do that which he cannot possibly perform) is highly relevant here. A Class-IV Forest Guard cannot be expected to single handedly physically resist an organized mob of over 100 people. His statutory duty was to report the crime, register the offence and inform his superiors. The documentary evidence establishes that the petitioner discharged this duty. The Disciplinary Authority's conclusion that the petitioner took no action and did not disclose the information regarding encroachment is not just an error of judgment; it is a perverse finding arrived at by turning a blind eye to the very records maintained by the department.

14. Regarding the illegal storage of 50 kg of Salai gum, the Enquiry Officer correctly noted that there was no evidence linking the petitioner to this act, as the seizure was conducted directly by the Range Officer on a specific tip-off. The Disciplinary Authority, however, held the petitioner guilty purely on the presumption that since the gum was found in October/November (outside the collection season), it was suspicious that the Beat Guard did not know about it. In service jurisprudence, suspicion, no matter how strong, cannot take the place of legal proof. There was absolutely no witness statement or documentary evidence produced during the enquiry to prove that the petitioner had knowledge of this stored gum or was complicit with the agent. Punishing

an employee based on an assumption of constructive knowledge amounts to a finding based on no evidence.

15. At this juncture, it is imperative to examine the statutory framework governing the Disciplinary Authority's power to disagree with the Enquiry Officer's report as exercised in the present case. This power is specifically drawn from Rule 15 of the *Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966*. Sub-rule (2) of Rule 15 explicitly stipulates that:

> *"**15. Action on the inquiry report:***
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> ……
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> ***(2)*** *The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidence on record is sufficient for the purpose."*

16. The legislative intent behind the qualifying phrase *"if the evidence on record is sufficient for the purpose"* is unambiguous. While it is a settled proposition of service jurisprudence that the Disciplinary Authority is not strictly bound by the findings of the Enquiry Officer and may arrive at its own conclusion, this statutory power is conditional. The Disciplinary Authority cannot act on mere surmises, conjectures or suspicions. Its independent finding of guilt upon disagreement must necessarily be sustained by sufficient, cogent and legally acceptable evidence already existing on the record of the enquiry. If the evidence on record points to the innocence of the delinquent or

if there is a lack of evidence supporting the charge, the Disciplinary Authority lacks the jurisdiction under Rule 15(2) to arbitrarily manufacture a finding of guilt.

17. In the present case, the Disciplinary Authority's exercise of power under Rule 15(2) to overturn the Enquiry Officer's exoneration fails to meet this statutory threshold. When the Disciplinary Authority chose to differ, it was mandated by law to base its disagreement on sufficient evidence from the record. However, the record contained over 40 registered PORs and contemporaneous panchnamas proving the petitioner's active reporting of the encroachments, which the Disciplinary Authority actively ignored. Similarly, regarding the illegal storage of gum, the disagreement was based entirely on suspicion regarding the collection season rather than any evidentiary proof of the petitioner's complicity. By recording findings of guilt where the evidence on record was absolutely insufficient, the Disciplinary Authority violated the explicit statutory mandate of Rule 15(2) of the Rules of 1966, rendering its order legally unsustainable. The Disciplinary Authority's findings are vitiated by a total non-application of mind to the PORs and Panchnamas that conclusively disproved the charges. The Disciplinary Authority did not base any disagreement on a logical appreciation of the evidence on record. The findings are perverse, arbitrary and violative of Article 14 of the Constitution.

18. The Appellate Authority recognized the petitioner's unblemished service record of 23 years and modified the punishment on sympathetic grounds. However, it failed to adjudicate the core illegality which is the perversity of the Disciplinary Authority's factual findings. A reduced punishment based on a fundamentally flawed and unproven charge cannot be sustained in the eyes of the law.

19. Resultantly, the impugned punishment order dated 10.4.2006 passed by respondent No. 3 and the appellate order dated 21.9.2006 passed by respondent No. 2 are hereby quashed and set aside. The respondents are directed to restore the pay scale of the petitioner as he was drawing prior to the imposition of the impugned penalty. The petitioner shall be entitled to all consequential benefits, including arrears of salary resulting from the restoration of his pay scale, pay increase (as applicable) and increments. The respondents are directed to calculate and release these arrears within a period of 90 days from the date of receipt of a certified copy of this order.

20. Accordingly, writ petition is **allowed**.

21. There shall be no order as to costs.

(VIVEK KUMAR SINGH)
JUDGE

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