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Judicial Review Of Disciplinary Proceedings

Authored By - Udit Mishra

ABSTRACT

‘Judicial review of disciplinary proceedings’ can be undertaken by a competent court when it is satisfied that basic principles of natural justice or procedure as per relevant service rules, is not adhered to. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The power of judicial review is meant to ensure that individual receives fair treatment and not to ensure that the conclusion which authority reaches is necessarily correct in the eye of court. The judicial review is not an appeal from a decision but a review of the manner in which the decision is made. The Court is to examine as to whether the enquiry was held by a competent officer or whether rules of natural justice are complied with. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the Judge to be more appropriate. Limited judicial review is available to interfere with the punishment imposed by disciplinary authority, only in cases where such penalty is found to be shocking to conscience of the court.

I. INTRODUCTION

A. Judicial Review

‘Judicial Review’ is the power of the courts of a country to examine the actions of the legislative, executive, and administrative arms of the government and to determine whether such actions are consistent with the constitution. Actions judged inconsistent are declared unconstitutional and, therefore, null and void.¹

The extent and depth of judicial review will depend upon and vary with reference to the matter under review. As observed by Lord Steyn in *Daly*², in law, context is everything, and intensity of review will depend on the subject-matter of review. For example, judicial review is permissible in regard to administrative action, legislations and constitutional amendments. But the extent or scope of judicial review for one will be different from the scope of judicial review for the other. Mala fides may be a ground for judicial review of administrative action but is not a ground for judicial review of legislations or constitutional amendments.³

B. Departmental Enquiry

‘Departmental Enquiry’ means an enquiry held into allegations or charges levelled against an employee.

As per sub-section (a) of Section 3 of the Departmental Inquiries (Enforcement of Witnesses and Production of Documents) Act, 1972, “departmental inquiry” means an inquiry held under and in accordance with—

- (i) any law made by Parliament or any rule made thereunder, or
- (ii) any rule made under the proviso to article 309, or continued under article 313, of the Constitution of India, into any allegation of lack of integrity against any person to whom this Act applies;

The procedure to be followed in disciplinary proceedings is generally laid down in Service Rules and Standing Orders made there under. However, the procedure, so laid down, is subordinated to the provisions of the Constitution of India i.e. any rule cannot be ultra-vires the provisions of the Constitution, e.g. Article 310, 311 etc. Although the provisions of the Indian Evidence Act, 1872, do not apply to the departmental proceedings but the principal of natural justice has to be followed. Thus, reasonable opportunity to defend him-self must be given to the person against whom departmental proceedings have been initiated. It is also to note that

¹ <https://www.britannica.com/topic/judicial-review>

² *R. Daly v. Secy. of State for the Home Department*, (2001) 2 AC 532; (2001) 2 WLR 1622; (2001) 3 All ER 433 (HL)]

³ *B.P. Singhal v. Union of India*, (2010) 6 SCC 331

acquittal in criminal proceedings on the same set of charges, per se, does not entitle the delinquent to claim immunity from disciplinary proceedings.⁴

II. JUDICIAL REVIEW OF DISCIPLINARY PROCEEDINGS

Judicial review is not akin to adjudication of the case on merits, and adequacy or inadequacy of evidence, unless the court finds that the findings recorded are based on no evidence, perverse or are legally untenable in the sense that it fails to pass the muster of the *Wednesbury* principles.⁵ Power of the High Court under Articles 226 and 227 of the Constitution of India enables exercise of judicial review to correct errors of law, including procedural law, leading to manifest injustice or violation of principles of fairness, without normally venturing into re-appreciation of evidence. The writ court, when disciplinary action is challenged, is primarily concerned with examination of the decision making process, which requires satisfaction that the competent authorities have held inquiry as per the prescribed procedure, and have duly applied their mind to the evidence and material placed on record, without extraneous matters being given undue consideration, and the relevant factors have been cogitated. The conclusions of fact, which are based upon evaluation and appreciation of evidence, when meticulously reached by the authorities, should not be interfered with merely because the court may have reached at a different conclusion.

The Supreme Court in the case of *Union of India and Others v. Dalbir Singh*,⁶ has dealt with the issue of the extent to which a Court can interfere in the findings of disciplinary proceedings. The relevant paragraphs thereof are reproduced hereinafter:

“21. This Court in Union of India v. P. Gunasekaran⁷ had laid down the broad parameters for the exercise of jurisdiction of judicial review. The Court held as under : (SCC pp. 616-17, paras 12-13)

“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

⁴ <https://www.legalservicesindia.com/article/1927/Disciplinary-Proceedings-against-a-Govt.-Servant.html>

⁵ [1948] 1 K.B. 223

⁶ *Union of India and Others v. Dalbir Singh*, (2021) 11 SCC 321

⁷ *Union of India v. P. Gunasekaran*, (2015) 2 SCC 610 : (2015) 1 SCC (L&S) 554

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 reappraisal 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;*
- (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) reappraise 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.”*

22. *In another judgment reported as B.C. Chaturvedi v. Union of India⁸, it was held that the 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. The judicial review is not an appeal from a*

⁸ B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80

decision but a review of the manner in which the decision is made. The Court is to examine as to whether the enquiry was held by a competent officer or whether rules of natural justice are complied with. This Court held as under : (SCC pp. 759-60, paras 12-13)

“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 coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, 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. Goel⁹ 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.”

23. This Court in T.N. State Transport Corpn. (Coimbatore) Ltd. v. M. Chandrasekaran¹⁰ held that in exercise of power of judicial review, the Labour Commissioner exceeded his jurisdiction in reappreciating the evidence adduced before the enquiry officer and in substituting his own judgment to that of the disciplinary authority. It was not a case of no legal evidence. The question as to decision of the disciplinary authority of dismissing the respondent is just and proper could be assailed by the respondent in appropriate proceedings. Considering the fact that there was adequate material produced in the departmental enquiry evidencing that fatal accident was caused by the respondent while driving the vehicle on duty, the burden to prove that the accident happened due to some other cause than his own negligence was on the respondent. The doctrine of res ipsa loquitur squarely applies to the fact situation. The Court held as under : (SCC p. 21, para 11)

“11. The respondent on the other hand contends that the Commissioner has applied the well-settled legal position that there can be no presumption of misconduct by the employees. That, charge must be proved by the Department during the enquiry. Non-examination of the material witnesses such as eyewitnesses present on the spot, conductor and passengers, travelling on the same bus was fatal. For, it entails in not substantiating the charges against the respondent and failure to discharge the initial onus resting on the Department to prove the charge as framed. According to the respondent, no fault can be found with the tangible reasons recorded by the Commissioner as noticed by the Single Judge (reproduced above); and resultantly, the conclusion of the Commissioner of not according approval to the order of dismissal is just and proper. It is submitted that the Single Judge was justified in allowing the writ petition preferred by the respondent and issuing direction to the appellant to reinstate him with back wages and continuity of service and all attendant benefits accrued to him.”

⁹ *Union of India v. H.C. Goel*, (1964) 4 SCR 718 : AIR 1964 SC 364

¹⁰ *T.N. State Transport Corpn. (Coimbatore) Ltd. v. M. Chandrasekaran*, (2016) 16 SCC 16 : (2017) 4 SCC (Civ) 190 : (2016) 4 SCC (Cri) 793 : (2018) 1 SCC (L&S) 514

24. This Court in *Ajit Kumar Nag v. Indian Oil Corpn. Ltd.*¹¹ held that the degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused “beyond reasonable doubt”, he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of “preponderance of probability”. It was held as under : (SCC p. 776, para 11)

“11. As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible. In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused “beyond reasonable doubt”, he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of “preponderance of probability”. Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal court, the impugned order dismissing him from service deserves to be quashed and set aside.”

¹¹ *Ajit Kumar Nag v. Indian Oil Corpn. Ltd.*, (2005) 7 SCC 764 : 2005 SCC (L&S) 1020

III. STANDARD OF PROOF IN DISCIPLINARY PROCEEDINGS

The purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a departmental enquiry penalty can be imposed on the delinquent officer on a finding recorded on the basis of “preponderance of probabilities”. The Supreme Court in the case of *State of Rajasthan and Others v. Heem Singh*,¹² has dealt with the issue of standard of proof as required in case of disciplinary proceedings and explained the concept of ‘preponderance of probabilities’. The relevant paragraphs thereof are reproduced hereinafter:

“32. In *M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das*,¹³ a Constitution Bench of this Court has described the standard of “preponderance of probabilities” in the following terms : (SCC pp. 540-41, paras 720-21)

“720. The court in a civil trial applies a standard of proof governed by a preponderance of probabilities. This standard is also described sometimes as a balance of probability or the preponderance of the evidence. Phipson on Evidence formulates the standard succinctly : If therefore, the evidence is such that the court can say ‘we think it more probable than not’, the burden is discharged, but if the probabilities are equal, it is not. [Phipson on Evidence] In *Miller v. Minister of Pensions*¹⁴, Lord Denning, J. (as the Master of Rolls then was) defined the doctrine of the balance or preponderance of probabilities in the following terms : (All ER p. 373 H)

‘(1) ... It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence, “of course it is possible, but not in the least probable” the case is proved beyond reasonable doubt, but nothing short of that will suffice.’

721. The law recognises that within the standard of preponderance of probabilities, there could be different degrees of probability. This was succinctly

¹² *State of Rajasthan and Others v. Heem Singh*, (2021) 12 SCC 569

¹³ *M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das*, (2020) 1 SCC 1

¹⁴ *Miller v. Minister of Pensions*, (1947) 2 All ER 372

summarised by Denning, L.J. in *Bater v. Bater*,¹⁵ where he formulated the principle thus : (p. 37)

“... So also in civil cases, the case must be proved by a preponderance of probability, but there may be degrees of probability within that standard. The degree depends on the subject-matter.” ”

34. We have to now assess as to whether in arriving at its findings the High Court has transgressed the limitations on its power of judicial review. In *Moni Shankar v. Union of India*¹⁶, a two-Judge Bench of this Court had to assess whether the Central Administrative Tribunal had exceeded its power of judicial review by overturning the findings of a departmental enquiry by reappreciating the evidence. In regard to the scope of judicial review, the Court held thus : (SCC p. 492, para 17)

“17. The departmental proceeding is a quasi-judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The courts exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the Department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely, preponderance of probability. If on such evidence, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere. We must place on record that the doctrine of unreasonableness is giving way to the doctrine of proportionality. (See *State of U.P. v. Sheo Shanker Lal Srivastava*¹⁷ and *Coimbatore District Central Coop. Bank v. Employees Assn*¹⁸.)”

37. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The Judge

¹⁵ *Bater v. Bater*, 1951 P 35 (CA)

¹⁶ *Moni Shankar v. Union of India*, (2008) 3 SCC 484 : (2008) 1 SCC (L&S) 819

¹⁷ *State of U.P. v. Sheo Shanker Lal Srivastava*, (2006) 3 SCC 276 : 2006 SCC (L&S) 521

¹⁸ *Coimbatore District Central Coop. Bank v. Employees Assn.*, (2007) 4 SCC 669 : (2007) 2 SCC (L&S) 68

does not assume the mantle of the disciplinary authority. Nor does the Judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy — deference to the position of the disciplinary authority as a fact-finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognised it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the Judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the Judges' craft is in vain.”

IV. COURT'S INTERFERENCE IN QUANTUM OF PUNISHMENT

If it is found that all the procedural requirements have been complied with, the courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. The superior courts only in some cases may invoke the doctrine of proportionality. If the decision of an employer is found to be within the legal parameters, the jurisdiction would

ordinarily not be invoked when the misconduct stands proved.

Once the Court set aside an order of punishment on the ground that the enquiry was not properly conducted, the Court should not preclude the employer from holding the inquiry in accordance with law. It must remit the case concerned to the disciplinary authority to conduct the enquiry from the point that it stood vitiated, and to conclude the same in accordance with law.

The Supreme Court in case of *Anil Kumar Upadhyay v. The Director General, SSB and Others*,¹⁹ has dealt with the issue of interference by court in quantum of punishment in case of disciplinary proceedings. The relevant paragraphs thereof reproduced hereinafter:

“22. On the judicial review and interference of the courts in the matter of disciplinary proceedings and on the test of proportionality, few decisions of this Court are required to be referred to:

i) In the case of *Om Kumar* (supra),²⁰ this Court, after considering the *Wednesbury principles and the doctrine of proportionality*, has observed and held that the question of quantum of punishment in disciplinary matters is primarily for the disciplinary authority and the jurisdiction of the High Courts under Article 226 of the Constitution or of the Administrative Tribunals is limited and is confined to the applicability of one or other of the well-known principles known as ‘*Wednesbury principles*’.

In the *Wednesbury case*,²¹ it was observed that when a statute gave discretion to an administrator to take a decision, the scope of judicial review would remain limited. Lord Greene further said that interference was not permissible unless one or the other of the following conditions was satisfied, namely, the order was contrary to law, or relevant factors were not considered, or irrelevant factors were considered, or the decision was one which no reasonable person could have taken.

ii) In the case of *B.C. Chaturvedi* (supra),²² in paragraph 18, this Court observed and held as under:

“18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-

¹⁹ *Anil Kumar Upadhyay v. The Director General, SSB and Others*, 2022 SCC OnLine SC 478

²⁰ *Om Kumar v. Union of India*, (2001) 2 SCC 386;

²¹ [1948] 1 K.B. 223

²² *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749

finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.”

iii) In the case of *Lucknow Kshetriya Gramin Bank* (supra),²³ in paragraph 19, it is observed and held as under:

“19. The principles discussed above can be summed up and summarised as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

²³ *Lucknow Kshetriya Gramin Bank (Now Allahabd, Uttar Pradesh Gramin Bank) v. Rajendra Singh*, (2013) 12 SCC 372

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

V. CONCLUSION

Thus, from the above discussion it can be deduced that the Court exercising jurisdiction of judicial review with respect to disciplinary proceedings must be cautious that they are not appellate authority and have a very limited scope of review and should not delve into re-appreciation of evidence, and if enquiry procedure is found to be vitiated for want of reasonable opportunity to a delinquent employee to defend himself, or even if enquiry procedure is found to be sound and reasonable then also it can deal with the proportionality of the punishment imposed, if ex-facie it shocks the conscience of the Court. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.
