

(2009) 08 MAD CK 0335

In the Madras High Court

Case No : Writ Petition No. 8509 of 2001

A. Sampathkumar

APPELLANT

Vs

Board Members, The Chairman, Tamil Nadu Electricity Board
and Regional Chief Engineer (Distribution), Vellore Region

RESPONDENT

Date of Decision : 18-08-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Penal Code, 1860 (IPC) — Section 161

Prevention of Corruption Act, 1947 — Section 5(1), 5(2)

Citation : (2009) 08 MAD CK 0335

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : K. Srinivasan, for the Appellant; B. Sekar, for the Respondent

Final Decision : Dismissed

Judgement

N. Paul Vasanthakumar, J.—The prayer in this writ petition is to quash the order dated 7.8.1990 of the first respondent confirming the order passed by the second respondent dated 9.12.1987, wherein the order passed by the third respondent dated 28.7.1986 was confirmed and to direct the respondents to reinstate the petitioner in service with all benefits.

2. The case of the petitioner is that while he was working as Junior Engineer (O&M) at the office in Kambainallur, he was placed under suspension on the ground that he had demanded and accepted illegal gratification from certain persons for extension of electricity supply to their agricultural pumpsets. The Divisional Engineer, Dharmapuri, issued a memo on 27.8.1981, for which the petitioner submitted his explanation on 30.11.1981 and denied the irregularities and requested to drop further actions. The said explanation having been found not satisfactory, a regular charge memo was issued on 13.11.1982, which contains five charges. The said charges amount to misconduct as per Clause 30(V) of the Standing Orders and the petitioner was directed to submit his

explanation to the charges. On 27.2.1982, petitioner submitted his explanation for the charge memo and denied the same. Not satisfied with the said explanation, an Enquiry Officer was appointed to conduct enquiry and the Enquiry Officer found that charges 1, 2 and 5 as proved and charges 3 and 4 as not proved. On the basis of the enquiry report, the Regional Chief Engineer (Distribution), Vellore, came to a provisional conclusion to dismiss the petitioner from service and issued a show cause notice as to why the petitioner shall not be dismissed from service. Petitioner submitted his reply to the said show cause notice on 23.6.1986. The said explanation was considered and thereafter the proposed punishment was confirmed and the petitioner was dismissed from service on 28.7.1986.

3. Petitioner preferred appeal before the second respondent on 14.8.1986 and the said appeal was dismissed on 9.12.1987. On 6.1.1988 petitioner submitted a representation to the second respondent to reconsider the punishment followed with a reminder dated 19.2.1988 to the Board. On 27.2.1988, petitioner submitted letter to the Secretary of the Electricity Board to place his representation before the Full Board and the Full Board by its proceedings dated 7.8.1990 rejected the representation and confirmed the order of dismissal from service.

4. Against the very same set of allegations petitioner was proceeded in a criminal case and in the year 1990, petitioner was convicted and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs. 500/-, in default to undergo further rigorous imprisonment for three months for committing offences u/s 5(2) read with 5(1)(d) of the Prevention of Corruption Act, 1947, and Section 161 IPC. The petitioner preferred an appeal against the conviction and sentence before this Court in CrI.A. No. 367 of 1990 and the said appeal was allowed by this Court by judgment dated 13.7.1998. After getting acquitted in the criminal case, petitioner challenged the order of dismissal from service by filing this writ petition. The main grounds urged in this writ petition are that the Regional Chief Engineer, namely the third respondent, who has passed the order of dismissal is not the competent authority to pass the order of dismissal and before accepting Enquiry Officer's report, the disciplinary authority/Regional Chief Engineer had not furnished copy of the same and obtained the remarks of the petitioner and thereby the principles of natural justice is violated; and that in the criminal case, petitioner having been acquitted, the departmental proceedings initiated on the very same set of allegations and the order of punishment imposed on the very same charges cannot be sustained.

5. The respondents have filed counter affidavit by stating that the writ petition is liable to be dismissed on the ground of laches as the petitioner has challenged the order of the third respondent dated 28.7.1986, confirmed by the second respondent on 9.12.1987, again confirmed by the Full Board on 7.8.1990, but the writ petition was filed only on 23.1.2001 i.e, after a period of ten years and six months. On merits it is stated that the petitioner while working as Junior

Engineer, Electrical Grade-II at Kambainallur, demanded and accepted illegal gratification from several consumers for effecting agricultural service connections. On receipt of complaints, he was placed under suspension with effect from 3.8.1981. Preliminary enquiry was conducted by the Divisional Engineer and the petitioner was issued with a memo and as the explanation submitted by the petitioner being not convincing, regular charge memo containing five charges was issued on 9.7.1984. The petitioner submitted explanation and denied the same and thereafter the Assistant Executive Engineer, SIPCOT, Hosur, was appointed as the Enquiry Officer. In the enquiry, charges 1, 2 and 5 have been held proved. On the basis of the enquiry report, third respondent issued show cause notice with regard to the proposed penalty and the explanation having been found not satisfactory, by order dated 28.7.1986 petitioner was dismissed from service. The appeal and further appeal were also dismissed. Insofar as the contention that the Regional Chief Engineer is not the competent authority to pass the impugned order of termination it is stated that under the Standing Orders, the third respondent is the competent authority to impose punishment of dismissal against the petitioner, who was a Class-III employee. Insofar as the acquittal in the criminal case it is stated that the same has no bearing as the departmental proceedings were initiated independently and three charges out of five charges were found proved.

6. The learned Counsel for the petitioner submitted that since the petitioner was waiting for disposal of the criminal appeal, which was disposed of only in the year 1998, petitioner filed the writ petition in the year 2001 and the said delay is also explained in the affidavit filed in support of the writ petition and therefore the delay in filing writ petition cannot be put against the petitioner at this stage. The learned Counsel also submitted that the Regional Chief Engineer is not the disciplinary authority of the petitioner and therefore the order passed by the third respondent is a nullity. The learned Counsel further submitted that the enquiry having been conducted by a person other than the disciplinary authority, copy of the report ought to have been furnished and the petitioner's remarks ought to have been obtained before accepting the Enquiry Officer's report. Not following the said procedure, even assuming that the third respondent is having jurisdiction, the same amounts to violation of the principles of natural justice.

7. In answer to the above said submissions, the learned Counsel for the respondents submitted that the jurisdiction to Regional Chief Engineer were conferred in the year 1983 by the Electricity Board and the Vellore region was formed in the year 1986 and therefore the Regional Chief Engineer Distribution, Vellore region is the competent authority to initiate disciplinary proceeding and pass final orders against the petitioner, who was a Class-III employee of the TNEB. The learned Counsel further submitted that even assuming that the petitioner has waited for the disposal of the criminal appeal, the criminal appeal having been disposed of on 13.7.1998, no explanation is given for further delay of about three years in filing the above writ petition. The learned Counsel also submitted that the procedure followed in this case and imposed the punishment

prior to the judgment rendered by the Supreme Court in Union of India and others Vs. Mohd. Ramzan Khan, . The Division Bench of this Court in 2002 (2) CTC 9 (The Board of Directors, Canara Bank, Bangalore v. K. Chandran) also held that the orders passed prior to the said judgment will not have any adverse impact, as the Supreme Court held that the judgment rendered in Mohammed Ramzan Khan's case will have only prospective effect. The learned Counsel also submitted that the charges levelled against the petitioner as to acceptance of bribe for giving agricultural service connection having been proved, the disciplinary authority is entitled to pass the order of dismissal and the same is just and proper.

8. I have considered the rival submissions made by the learned Counsel for the petitioner as well as the learned Counsel for the respondents.

9. The charges levelled against the petitioner are as follows:

Charge No. 1: Thiru A.Sampathkumar, formerly Junior Engineer/O&M/ Kambainallur had demanded and accepted illegal gratification from Thiru.Peraman, S/o.Th.Mottai Gounder, Peramandapatty for extension of power supply to his well (SC. No. 91). This is misconduct as per Clause 30(v) of the Standing order in respect of Workman other than those engaged in clerical work.

Charge No. 2: Thiru A.Sampathkumar, formerly Junior Engineer/O&M/ Kambainallur demanded and accepted illegal gratification from Thiru.Chinnappan, S/o.Th.Thoppulan @ Ponnagounder, peramandapatty for extension of power supply to his well (SC. No. 90). This is misconduct as per clause 30(V) of the Standing orders in respect of Workman other than those engaged in clerical work.

Charge No. 3: Thiru A.Sampathkumar, formerly Junior Engineer/O&M/ Kambainallur has demanded and accepted illegal gratification from Th.S.Perumal, S/o.Selaigounder, Gettupatty for the extension of power supply to his well (SC. No. 33). This is misconduct as per Clause 30(V) of the Standing Order in respect of workman other than those engaged in clerical work.

Charge No. 4: Thiru A.Sampathkumar, formerly Junior Engineer/O&M/ Kambainallur has demanded and accepted illegal gratification from Th.V.Murugan, S/o.Th.Vellaigounder, Peramanapatty for the shifting of SC. No. 9, Peramanpatty to the new well. This is misconduct as per Clause 30(V) Standing Order in respect of workman other than those engaged in clerical work.

Charge No. 5: Thiru A.Sampathkumar, formerly Junior Engineer/O&M/ Kambainallur, has demanded and accepted illegal gratification from Th.Devarajan, S/o.Th.Thandavagounder for shifting of RCC pole in respect of SC. No. 16, Gettupatty and since the party did not come forward to pay the illegal gratification demanded by the Junior Engineer, he has chosen the way of issuing notice to the consumer for making payment of the shifting charges, with the ulterior motive of taking revenge against the party for non-compliance of his demand to pay the illegal gratification and finally disconnected the service on

22.1.1981 and caused hardship to the consumer. This is misconduct as per Clause 30(V) of the Standing Order in respect of workman other than those engaged in clerical work.

For the above said charges, petitioner submitted his explanation on 27.2.1982. The said explanation having been found not acceptable, enquiry was conducted, in which the petitioner had fully participated.

10. In the enquiry, charges 1, 2 and 5 were found proved. Insofar as charge No. 1 is concerned, petitioner demanded and accepted illegal gratification of Rs. 1,000/- from one Peraman for extension of power supply to his well and the prosecution witness had deposed that he gave Rs. 900/- to the petitioner/delinquent. The prosecution witness named Chinnappan also deposed that he was with Peraman at the time of giving Rs. 900/- to the delinquent officer. Insofar as charge No. 2 is concerned, petitioner demanded Rs. 1000/- from Chinnapan and he gave Rs. 900/- for extension of his power supply to his well. With regard to charge No. 5 is concerned, petitioner demanded illegal gratification from one Devarajan for shifting RCC pole in resect of SC. No. 16 Gettupatti and no amount having been paid to the petitioner, notice was issued to the consumer for making payment of shifting charges and ultimately disconnected the service connection on 22.1.1981 and caused hardships to the consumer and after getting Rs. 500/- the electric pole was shifted, however re-connection was not given and only after moving the higher officials, re-connection was given. During the enquiry disconnection was found not necessary and consequently charge No. 5 was found proved.

11. The Enquiry Officer's report along with penalty show cause notice was issued to the petitioner on 10.6.1986 and the petitioner gave his reply on 28.7.1986. The reply having been found not satisfactory, proposed penalty of dismissal from service was imposed against the petitioner. The dismissal order was passed on 17.6.1987 and at that time there was no necessity to serve the Enquiry Officer's report and getting remarks of the delinquent officer before the same can be accepted by the disciplinary authority. The said position is made clear in the judgment of the Supreme Court reported in Union of India and others Vs. Mohd. Ramzan Khan, . The said judgment was rendered on 20.11.1990. In the said judgment it is stated that even if standing order/service rules do not provide for serving copy of the enquiry officer's report and getting the remarks prior to approval by the disciplinary authority, to comply with the principles of natural justice, such procedure was ordered to be followed. In the said judgment it is specifically held that the decisions already taken without following the procedure cannot be treated as vitiated.

12. The very same issue was raised before the Division Bench of this Court in the decision reported in 2002 (2) CTC 9 (The Board of Directors, Canara Bank, Bangalore v. K. Chandran) and in paragraphs 22 to 25 it is held as follows:

22. The decision of the Apex Court in Union of India and others Vs. Mohd.

Ramzan Khan, was rendered on 20.11.1990, which is long after the order imposing punishment of dismissal against the respondent. It is also equally settled and it is the law declared by the Supreme Court that the decision in Union of India and others Vs. Mohd. Ramzan Khan, is only prospective.

23. In Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., a five Judges Bench of the Apex Court had considered the entire case law on the subject. The Apex Court held thus:

The next question to be answered is what is the effect on the order of punishment when the report of the enquiry officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice" which in itself is antithetical to justice.

Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the Court/Tribunal and give the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the Court/Tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment. The Court/Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to short cuts. Since it is the Courts/Tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural

justice nor a denial of the reasonable opportunity. It is only if the Court/Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment....

...It is for the first time in Mohd. Ramzan Khan case 3 that this Court laid down the law. That decision made the law laid down there prospective in operation, i.e., applicable to the orders of punishment passed after November 20, 1990. The law laid down was not applicable to the orders of punishment passed before that date notwithstanding the fact that the proceedings arising out of the same were pending in courts after that date. The said proceedings had to be decided according to the law prevalent prior to the said date which did not require the authority to supply a copy of the enquiry officer's report to the employee. The only exception to this was where the service rules with regard to the disciplinary proceedings themselves made it obligatory to supply a copy of the report to the employee.

24. It is needless to add that the direction with regard to the prospective operation of the law laid down in Union of India and others Vs. Mohd. Ramzan Khan, was followed by various benches of the Apex Court namely in S.P. Viswanathan v. Union of India 1991 Suppl (2) SCC 269, Union of India vs. A. K. Chatterjee, 1993 (2) SCC 191, Managing Director, Food Corporation of India and Others Vs. Narendra Kumar Jain, and in State Bank of Patiala and others Vs. S.K. Sharma, .

25. In S.P. Viswanathan v. Union of India 1991 Suppl (2) SCC 269, the Apex Court held thus:

3. Learned Counsel for the petitioner urged that since a copy of the inquiry report was not supplied to the petitioner the order of termination is vitiated. He placed reliance on the decision of this Court in Union of India v. Mohd. Ramzan Khan. It is true that this Court has held that if inquiry report is not supplied to the delinquent employee before passing the order of punishment, the order would be rendered illegal. But the decision of this Court is given a prospective effect it will not affect the orders passed prior to the date of rendering of the judgment (November 29, 1990) as would be clear from para 17 of the judgment.

(Emphasis Supplied)

Thus, the contention of the learned Counsel for the petitioner that the enquiry report was not furnished to the petitioner before the same is accepted by the third respondent/disciplinary authority has no merits as the order of punishment was issued in this case before 20.11.1990.

13. The jurisdictional issue raised by the learned Counsel for the petitioner that the third respondent has no power to initiate disciplinary proceedings and pass final orders is already answered by the learned Counsel for the respondent by stating that the Regional Chief Engineers are given power of disciplinary action against Class-III employees and the Vellore Region was created in the year 1986.

In the Board proceedings B.P.Ms.(Ch)No.151 (Secretariat Branch) dated 26.4.1983, it is stated as follows:

2. All establishment matters relating to Class-II, III and IV employees in a region shall be dealt with by the respective Regional Chief Engineer (Distribution) except (a) Recruitment and allotment to regions, (b) Promotion and (c) Inter-region transfers. Disciplinary powers hitherto exercised by Chief Engineer (Distribution) South and north shall be exercised by the Regional Chief Engineers in respect of Class II, III and IV employees in their respective region.

In the light of the above delegation of power to the third respondent to take disciplinary action against Class-III employees as per the Board Proceedings, the jurisdictional issue raised by the learned Counsel for the petitioner also cannot be sustained.

14. The third contention that the criminal court having acquitted the petitioner in respect of very same allegations for which the respondent initiated disciplinary proceedings and punished the petitioner also cannot be sustained, since the order passed by this Court in C.A. No. 367 of 1990 dated 13.7.1998 it is stated that PW-10 Investigating Officer has failed in his duty in not marking the document-FIR and there was procedural irregularity and therefore the conviction and sentence imposed against the petitioner was set aside. The effect of acquittal in the criminal case on technical reasons how far can be relied upon while considering the merits of the disciplinary proceedings has already been considered by the Supreme Court and by this Court in very many decisions.

(a) The scope of interference in the domestic enquiry findings and the effect of acquittal in the criminal case was considered by the Honourable Supreme Court in the decision reported in Lalit Popli Vs. Canara Bank and Others, , wherein in paragraphs 16 to 19 it is held thus:

16. It is fairly well settled that the approach and objective in criminal proceedings and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings the preliminary question is whether the employee is guilty of such conduct as would merit action against him, whereas in criminal proceedings the question is whether the offences registered against him are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial are conceptually different. (See State of Rajasthan v. B.K. Meena) In case of disciplinary enquiry the technical rules of evidence have no application. The doctrine of "proof beyond doubt" has no application. Preponderance of probabilities and some material on record are necessary to arrive at the conclusion whether or not the delinquent has committed misconduct.

17. While exercising jurisdiction under Article 226 of the Constitution the High Court does not act as an appellate authority. Its jurisdiction is circumscribed by limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. Judicial review is

not akin to adjudication of the case on merits as an appellate authority.

18. In *B.C. Chaturvedi v. Union of India* the scope of judicial review was indicated by stating that review by the court is of decision-making process and where the findings of the disciplinary authority are based on some evidence, the court or the tribunal cannot reappreciate the evidence and substitute its own finding.

19. As observed in *R.S. Saini v. State of Punjab* in paras 16 and 17 the scope of interference is rather limited and has to be exercised within the circumscribed limits.

(b) In *B.C. Chaturvedi Vs. Union of India and others*, in paragraph 18, it is held as follows:

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

(c) In *Ajit Kumar Nag Vs. General Manager (P.J.), Indian Oil Corporation Ltd., Haldia and Others*, in paragraph 11, the Supreme Court held as follows:

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.

(d) The Division Bench of this Court in the decision reported in 2005 (1) CTC 625 (The Management of Thiruvalluvar Transport Corporation v. S. Anthonysamy). In paragraphs 8 to 13 it is held as follows:

8. It is well settled that on the same charges when there is a criminal proceeding as well as a domestic enquiry, merely because the workman is found innocent in the criminal case, it does not mean that he cannot be found guilty in the departmental/domestic enquiry vide *Thenmozhi v. The Chairman & Managing Director, Neyveli Lignite Corporation* in W.A. Nos. 202 and 203 of 2005 dated 8.2.2005.

9. In the aforesaid Division Bench decision reliance had been placed on the Supreme Court decisions in *Allahabad District Co-operative Bank Ltd., Allahabad Vs. Vidhya Varidh Mishra*, and *Secretary, Ministry of Home Affairs and Anr. v. Tahir Ali Khan Tyagi* JT 2002 (Supp.1) SC 520.

10. In paragraph 12 of the decision in *Allahabad District Co-Op. Bank Ltd. v. Vidhya Varidh Mishra* (supra) the Supreme Court observed:

Mr. Rao submitted that the respondent had been exonerated by the criminal Court. He submitted that the termination was only on the basis of his conviction. He submitted that as his conviction is set aside, the Courts below were right in reinstating the respondent. We are unable to accede to this submission. The termination was pursuant to a disciplinary inquiry. It is settled law that in a disciplinary inquiry a conclusion different from that arrived at by a criminal Court, may be arrived at. The strict burden of proof required to establish guilt in a criminal Court is not required in disciplinary proceeding. The respondent has not claimed that the disciplinary proceedings were not conducted fairly. As the termination was based on findings of the Disciplinary Committee, the fact that the appellate Court exonerated the respondent was no consequence.

11. Similarly, in *Secretary, Ministry of Homes Affairs and Anr. v. Tahir Ali Khan Tyagi* (supra) the Supreme Court observed (vide paragraph -6):

Departmental proceeding and criminal proceeding can run simultaneously and departmental proceeding can also be initiated even after acquittal in a criminal proceeding particularly when the standard of proof in a criminal proceeding is completely different from the standard of proof that is required to prove the delinquency of a government servant in a departmental proceeding, the former being one of proof beyond reasonable doubt, whereas the latter being one of

preponderance of probability.

12. In view of the above, we are clearly of the opinion that the Labour Court proceeded on a wrong legal basis and wrongly ordered reinstatement of the workman concerned after finding that he was guilty of negligence.

13. In Divisional Controller, KSRTC (NWKRTC) Vs. A.T. Mane, the Supreme Court observed that "once a domestic tribunal based on evidence comes to a particular conclusion normally it is not open to the appellate tribunal or Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

Thus, the contention raised by the learned Counsel for the petitioner on this score is also unsustainable.

15. The corruption in public service was seriously viewed by the Honourable Supreme Court in the decision reported in Swatantar Singh Vs. State of Haryana and others, and in paragraph 6 it is held thus,

6. It is sad but a bitter reality that corruption is corroding, like cancerous lymph nodes, the vital veins of the body politic, social fabric of efficiency in the public service and demoralising the honest officers. The efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. The reputation of being corrupt would gather thick and unchaseable clouds around the conduct of the officer and gain notoriety much faster than the smoke. Sometimes, there may not be concrete or material evidence to make it part of the record. It would, therefore, be impracticable for the reporting officer or the competent controlling officer writing the confidential report to give specific instances of shortfalls, supported by evidence, like the remarks made by the Superintendent of Police. More often, the corrupt officer manipulates in such a way and leaves no traceable evidence to be made part of the record for being cited as specific instance....

The same view is reiterated recently in the decision reported in 2009 (1) SCC458 (Surain Singh v. State of Punjab)

16. The petitioner having been proceeded for corruption charges and the same having been proved in the departmental proceedings which was accepted by the appellate authority as well as the Full Board, no exception could be taken with regard to the same by this Court, sitting under Article 226 of the Constitution of India.

There is no merit in the writ petition and the writ petition is dismissed. No costs.