
(2026) 02 KL CK 1709

In the High Court Of Kerala

Case No : Writ Petition (C) No. 29334 Of 2016

Alexander Kunjukunju

APPELLANT

Vs

Bharat Petroleum Corporation Ltd

RESPONDENT

Date of Decision : 17-02-2026

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Prevention of Corruption Act, 1988 — Section 7

Citation : (2026) 02 KL CK 1709

Hon'ble Judges : M.A.Abdul Hakhim, J

Bench : Single Bench

Advocate : C.S.Ajith Prakash, V.C.Archana, T.K.Devarajan, Franklin Arackal, A.T Jose, Paul C Thomas, Benny P. Thomas, D.Prem Kamath

Final Decision : Dismissed

Judgement

M.A.Abdul Hakhim, J

1. Petitioner is a retired employee of the Respondent No.1/BPCL Kochi Refinery who retired during the pendency of this Writ Petition on 31.05.2020. This Writ Petition was filed while the Petitioner was in service, challenging Ext.P37 Order of the Respondent No.3/Disciplinary Authority imposing punishment of demotion and Ext.P33 Enquiry Report of the Enquiry Officer.

2. As per Ext.P13 Charge Sheet, the Charges levelled against the Petitioner were as follows:

"1. While working as 'Planning Assistant' in the Development Cell during the period from 03.11.2008 to 10.11.2011, you were unnecessarily putting hardship for Sri. C P Saidhu and Sri. K K Anilkumar, contractors who took the contract jobs of "Cement Lining of Fire Water Piping" during 2010-11 and "Fire water line Maintenance" during March 2011 to August 2011 respectively, by delaying the verification of the measurements of jobs carried out by them inspite of repeated requests from the contractors.

2. On completion of the jobs, you were intentionally finding fault with the contractors and unnecessarily insisted on redoing the works performed by them without any valid reasons, which resulted in delay in completion of jobs and increasing the costs of the contractor. The above actions on your part were with the ulterior motive of getting undue favour from the contractor.

3. You had accepted Rs.20,000/- (Rupees Twenty Thousand Only) as bribe from Sri. C P Saidhu, contractor in two instalments of Rs. 10,000/- each during the period 2010-11 and thereafter you did not make any delay in verification of the measurements of these jobs. After some time, you again started harassing the above contractor.

4. You were also harassing Sri. K K Anilkumar with the malafide intention of extracting undue benefits from him.”

3. As per Ext.P13, the said Charges amount to misconduct under Clause 29.3 of the Certified Standing Orders of BPCL- Kochi Refinery that ‘acceptance or solicitation by employee of any money, favour or any other reward for retention in the company’s service, or for any other special consideration’.

4. In the Ext.P33 Enquiry Report, the Enquiry Officer found that the Management has established all the allegations against the Petitioner in Ext.P13 Charge Sheet and found the Petitioner guilty of misconduct under Clause 29.3 of the Standing Orders of BPCL- Kochi Refinery.

5. In Ext.P37 Order, the Petitioner was imposed with a punishment of demotion from the post of Senior Fitter Craftsman (Gr-VII) to the post of General Craftsman (Fitter) at the lowest stage in Grade VI in the scale of pay of Rs.15,000 – Rs.43,000.

6. The Respondent Nos.1 to 4 have filed Counter Affidavit opposing the prayers in the Writ Petition.

7. I heard the learned Counsel for the Petitioner, Sri. C.S. Ajith Prakash, and the learned Senior Counsel for the Respondents, Sri. Benny P. Thomas, instructed by Advocate Sri. D.Prem Kamath.

8. Learned Counsel for the Petitioner contended that the disciplinary proceedings were initiated against the Petitioner by way of victimisation on account of the sole reason for challenging the transfer of the Petitioner from the post of Planning Assistant to Senior Fitter Craftsman in this Court by filing W.P.(C) No.30508/2011, which culminated in Ext.P18 judgment of this Court dated 14.03.2014 setting aside the transfer order and directing to repost the Petitioner as Planning Assistant. Ext.P6 Interim Order was passed by this Court on 16.11.2011 in W.P.(C) No.30508/2011 directing to maintain status quo. The Respondents did not permit the Petitioner to continue as a Planning Assistant, claiming that by the time Ext.P6 Interim Order was passed, the transfer order was already effected. The Respondent No.3 issued Ext.P11 Show Cause Notice dated 19.02.2013 alleging acceptance of bribe from a contractor during the

period 2010 – 2011 and also alleging harassment of contractors during the period 2010 – 2011 and during the period March 2011 to August 2011. There is no explanation for the Respondents for the delay in initiating the disciplinary proceedings. Even in Ext.P11 Show Cause Notice and Ext.P13 Charge Sheet, the specific dates of the alleged acceptance of bribe are not stated. The Respondents submitted only one witness before the Enquiry Officer in the first instance as per Ext.P14. Thereafter, other witnesses were also included as per Exts.P15, P16 & P17. The Respondents are predetermined to impose punishment on the Petitioner and had been fabricating evidence one by one after initiating the domestic enquiry. Learned Counsel invited my attention to the depositions of the witnesses examined before the Enquiry Officer, which are produced as Exts.P25 to P32 extensively in order to substantiate the point that it is the case of imposition of penalty with no evidence. Learned Counsel invited my attention to Ext.P22 in which the Vigilance Department of the Respondents reported that the conclusion on the allegations can be arrived at only through a detailed investigation/enquiry. The Enquiry Officer completed the Enquiry without waiting for further investigation by the Vigilance Department. The learned Counsel invited my attention to Ext.P33 Enquiry Report and contended that the Enquiry Officer relied on the evidence of the management witnesses, finding that there is nothing to discard their testimonies in cross-examination. The evidence of the witnesses was not analysed by the Enquiry Officer before entering into a finding that the allegations against the Petitioner are proved. Hence, there is perversity also in appreciating the evidence in Ext.P33 Enquiry Report. The Petitioner produced DWs 1 to 3, who are the superior officers of the Petitioner. All of them deposed that they do not have any complaint against the Petitioner and that the Petitioner had been very punctual and sincere in his job. DWs 1 to 3 are the immediate superior officers of the Petitioner. The allegation is that MW2 & MW3 contractors submitted Exts.M5 & M7 complaints to the Respondent No.3. The reason for submitting such complaints directly to the Respondent No.3 is not revealed. It is clear that the Respondents obtained the said false complaints from MW2 & MW3 in order to initiate disciplinary action against the Petitioner. Even though there is specific allegation that MW2 had given Rs.20,000/- as bribe to the Petitioner, no action was taken against him for blacklisting, and he has still been continuing as a contractor of the Respondents involving Crores of Rupees. The Petitioner was compelled to approach this Court by filing this Writ Petition challenging Ext.P37 Order & Ext.P33 Enquiry Report since the Trade Unions refused to raise a dispute before the Labour Court with regard to the legality of the same. Since it is not a case of dismissal, the Petitioner cannot raise an individual dispute before the Labour Court. The learned Counsel pointed out the serious civil consequences suffered by the Petitioner on account of the disciplinary proceedings, as the basic pay of Rs.48,098/- and total monthly pay of Rs.1,26,880.30 enjoyed by the Petitioner as Senior Fitter Craftsman was reduced to a pay scale of Rs.15,000 – Rs.43,000 in the post of General Craftsman (Fitter). Learned Counsel cited the decisions of the Hon'ble Supreme Court in *United Bank of India v. Biswanath Bhattacharjee* [(2022) 13 SCC 329], *State of Haryana and Another v. Rattan*

Singh [(1977) 2 SCC 491], Anil Kumar v. Presiding Officer and Others [(1985) 3 SCC 378], M.V. Bijlani v. Union of India and Others [(2006) 5 SCC 88], Kuldeep Singh v. Commissioner of Police and Others [(1999) 2 SCC 10] and Utkal Highways Engineers and Contractors v. Chief General Manager and Others [2025 SCC OnLine SC 1400], the decision of this Court in Sekharan N.R. v. State of Kerala [2015 KHC 3673], the decision of the Bombay High Court in Association of Engineering Workers, Mumbai v. Hindustan Motor Manufacturing Company, Mumbai [2004-II-LLJ 790] and the decision of the Allahabad High Court in Sant Lal v. State of U.P. and Others [MANU/UP/1302/2005] in support of his contentions. Learned Counsel concluded his arguments by praying to allow the Writ Petition setting aside Ext.P37 Order and Ext.P33 Enquiry Report and to grant appropriate reliefs to the Petitioner as he retired from service during the pendency of the Writ Petition.

9. Per contra, the learned Senior Counsel for the Respondents contended that when the Petitioner is having an effective alternate remedy under the Industrial Disputes Act, 1947, before the Labour Court against the Ext.P33 Enquiry Report and Ext.P37 Order of the Disciplinary Authority, the Writ Petition challenging the same is not maintainable. The Writ Petition was filed at a time when the Petitioner was in the service of the Respondents and the Petitioner was a member of the Trade Union. The reasons stated in the Writ Petition for not invoking the alternate remedy are that the alternate remedy is not efficacious and the Petitioner is visited with severe financial implications which have a long-standing effect. The Petitioner has no case that the Petitioner approached the Trade Union for raising an industrial dispute and the same was refused by the Trade Union. If the Petitioner had challenged Exts.P33 & P37 by raising an industrial dispute, the Labour Court would have considered the legality and propriety of the enquiry at the first stage. If the Labour Court had set aside the Enquiry Report, the Labour Court would have given opportunity to the Respondents/Management to adduce evidence before the Labour Court to substantiate the charges against the Petitioner. The said exercise could not be done by this Court. Hence, the Writ Petition is not maintainable. The Petitioner has no allegation that the principles of natural justice were not complied with in the enquiry. The Petitioner was given effective opportunity to defend the charges in the Enquiry Report. The Respondents adduced both oral and documentary evidence before the Enquiry Officer by examining MWs 1 to 5 and marking Exts.M1 to M9. The Petitioner adduced evidence by examining DWs 1 to 4 and marking Exts.D1 to D22. When evidence is available before the Enquiry Officer, it is a matter of appreciation of evidence by the Enquiry Officer and it is not a case of no evidence in support of the charges. Even assuming that the Writ Petition is maintainable, this Court cannot undertake reappraisal of evidence and arrive at a conclusion different from that arrived at by the Enquiry Officer. There could not be any perversity attributed to the findings in Ext.P33 Enquiry Report, as the Enquiry Officer has entered findings based on the evidence before him. The contention of the Petitioner that the disciplinary proceedings were initiated by

way of victimisation is totally unfounded. There are several employees who had challenged transfer orders issued by the Respondents before the Court. In several cases, they obtained favourable orders also. The Petitioner could not point out that in all cases where the employees approached the Court challenging the transfer order or obtained favourable orders, the Respondents have initiated disciplinary proceedings. When the acceptance of bribe is proved in the enquiry, the Respondents could have imposed the punishment of dismissal from service on the Petitioner. But the Respondents have taken a lenient view and ordered punishment of demotion on the Petitioner. If the intention of the Respondents was to victimise the Petitioner, there was no need for the Respondents to show any leniency in favour of the Petitioner. Learned Counsel cited the decisions of the Hon'ble Supreme Court in Deputy General Manager (Appellate Authority) and Others v. Ajai Kumar Srivastava [(2021) 2 SCC 612], Union of India and Others v. P. Gunasekaran [(2015) 2 SCC 610], Airports Authority of India v. Pradip Kumar Banerjee [(2025) 4 SCC 111] and Premier Automobiles Ltd. v. Kamlekar Shantaram Wadke of Bombay and Others [(1976) 1 SCC 496] in support of his contentions. The learned Senior Counsel concluded his arguments, praying to dismiss the Writ Petition. I have considered the rival contentions.

10. Since the learned Senior Counsel has raised a question of maintainability of the Writ Petition, let me consider the said question first.

11. There is an effective adjudication mechanism under the Industrial Disputes Act to challenge the Enquiry Report and the Order of the Disciplinary Authority imposing punishment on the basis of the findings in the Enquiry Report. If the Enquiry Report is set aside by the Labour Court/Industrial Tribunal, the Management gets an opportunity to adduce evidence before the Labour Court/Industrial Tribunal to prove the charges. If this Court sets aside the Enquiry Report, the Management will not get an opportunity to adduce evidence before this Court to prove the charges. The Petitioner has not stated any sustainable reason to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. Though the Counsel for the Petitioner contended that the Petitioner filed this Writ Petition on the refusal of the Trade Union to raise an Industrial Dispute, as rightly pointed out by the learned Senior Counsel for the Respondents, there is no averment in the Writ Petition that the Petitioner approached the Trade Union to raise an Industrial Dispute and the Trade Union refused the same. In Premier Automobiles Ltd. (supra) cited by the learned Senior Counsel for the Respondents, the Hon'ble Supreme Court has considered the jurisdiction of the Civil Court in relation to industrial disputes. It is held that if the industrial dispute relates to the enforcement of a right or an obligation created under the Industrial Disputes Act, then the only remedy available is to get an adjudication under the Industrial Disputes Act. In Utkal Highways Engineers and Contractors (supra) cited by the learned Counsel for the Petitioner, the Hon'ble Supreme Court held that dismissal of a Writ Petition on grounds of alternative remedy after 10 years, particularly when parties have exchanged affidavits, is not the correct course unless there are disputed questions of fact

which by their very nature cannot be adjudicated upon without recording formal evidence. The decision in *Utkal Highways Engineers and Contractors* (supra) is clearly distinguishable as the remedy before this Court under Article 226 of the Constitution of India is not an effective remedy to challenge the Enquiry Report and the Order of the Disciplinary Authority imposing punishment on the basis of the findings in the Enquiry Report. Hence, I find that this Writ Petition challenging Ext.P33 Enquiry Report and Ext.P37 Order of the Disciplinary Authority is unsustainable.

12. Then, let me examine the established propositions of law with respect to the scope of judicial review in disciplinary proceedings, which are laid down in the decisions cited by both sides.

13. *Biswanath Bhattacharjee* (supra) cited by the Counsel for the Petitioner arose from a departmental proceedings, in which the Hon'ble Supreme Court followed its decision in *B.C. Chaturvedi v. Union of India* [(1995) 6 SCC 749] in which it is held 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 is warranted. In the very same decision, it is held that judicial review is not an appeal from a decision but a review of the manner in which the decision is made; that 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; that the Court/Tribunal in its power of judicial review does not act as an appellate authority; it does not re-appreciate the evidence; that 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; that 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; that the disciplinary authority is the sole judge of facts; that in a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant and that adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. The Hon'ble Supreme Court referred *Union of India v. H.C. Goel* [(1964) 4 SCR 718], in which it is held 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 is based on no evidence at all, a writ of certiorari could be issued.

14. *Rattan Singh* (supra) cited by the Counsel for the Petitioner arose from a service case. The Hon'ble Supreme Court held that in a domestic enquiry, the strict and sophisticated rules of evidence under the Indian Evidence Act, 1872,

may not apply; that all materials which are logically probative for a prudent mind are permissible; that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Evidence Act; and that sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. It is further held that the essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations, and observance of rules of natural justice, and that fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiates the conclusions reached, such a finding, even though of a domestic tribunal, cannot be held good.

15. Anil Kumar (supra) is cited by the Counsel for the Petitioner to substantiate the point that the Enquiry Report is bad if the Enquiry Officer does not discuss the evidence. It is held that an Enquiry Report in a quasi-judicial enquiry must show the reasons for the conclusion; that it cannot be an ipse dixit of the Enquiry Officer; that it has to be a speaking order in the sense that the conclusion is supported by reasons; and that where a disciplinary enquiry affects the livelihood and is likely to cast a stigma and it has to be held in accordance with the principles of natural justice, the minimum expectation is that the report must be a reasoned one.

16. In M.V. Bijlani (supra) cited by the Counsel for the Petitioner, it is held that disciplinary proceedings being quasi-criminal in nature, there should be some evidence to prove the charge; that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record; and that while doing so, he cannot take into consideration any irrelevant fact.

17. In Kuldeep Singh (supra), it is held that if a decision is arrived at on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse; that if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with; and that normally the High Court and the Supreme Court would not interfere with the findings of fact recorded at the domestic enquiry but if the findings of guilt is based on no evidence, it would be a perverse finding and would be amenable to judicial scrutiny.

18. The decision of this Court in Sekharan N.R. (supra) is cited by the Counsel for the Petitioner to substantiate the point that, without any proof of demand of illegal gratification, a person cannot be found guilty. This decision arose from a criminal case under the Prevention of Corruption Act, 1988, in which this Court was considering the ingredients of the offence under Section 7 therein, and hence this decision is not applicable to the present case.

19. In Association of Engineering Workers(supra), the Bombay High Court held

that it is the duty of the Enquiry Officer to analyse evidence to disclose how the allegation against the workman is established.

20. The decision of the Allahabad High Court in Sant Lal (supra) is cited by the Counsel for the Petitioner to substantiate the point that uncorroborated evidence should not be relied on. In the said case, the Court was dealing with the reliability of the evidence of an approver in a criminal case, and hence, this decision is not applicable to the case on hand.

21. Learned Senior Counsel for the Respondents cited Ajai Kumar Srivastava (supra) to highlight the scope of judicial review in departmental enquiry. The Hon'ble Supreme Court held that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision - making process and not the merits of the decision itself; that it is to ensure fairness in treatment and not to ensure fairness of conclusion; that the Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence; that if the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued; and that the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact. The Hon'ble Supreme Court laid down the matters to be examined by the Court as: (i) whether the enquiry was held by the competent authority; (ii) whether rules of natural justice are complied with; and (iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.

22. In P. Gunasekaran (supra) cited by the Senior Counsel for the Respondents, the Hon'ble Supreme Court held that while exercising the jurisdiction under Articles 226/227 of the Constitution of India, the High Court shall not - (i) reappreciate 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.

23. Learned Senior Counsel for the Respondents cited the recent decision of the Hon'ble Supreme Court in Pradip Kumar Banerjee (supra) arising from a charge of illegal gratification in which it is held that even non-examination of the complainant is not fatal in a departmental enquiry if there is sufficient evidence from other witnesses in a departmental enquiry. The further finding is that it is not necessary for the Disciplinary Authority to deal with each and every ground raised by the delinquent officer in the representation against the proposed

penalty and detailed reasons are not required to be recorded in the order imposing punishment if he accepts the findings recorded by the Enquiry Officer. But this finding is made with reference to the Order of the Disciplinary Authority and not with reference to the Enquiry Report.

24. Bearing in mind the aforesaid legal propositions, let me examine whether there is any scope for interference with Ext.P37 Order of the Disciplinary Authority and Ext.P33 Enquiry Report. In the light of the aforesaid legal propositions and the arguments addressed before me, the question to be considered is whether Ext.P37 Order and Ext.P33 Enquiry Report are unsustainable on the grounds of a case of no evidence to prove the charges, perversity of findings, and victimisation.

25. The Petitioner has no case that there is a violation of the principles of natural justice in the Enquiry. The Petitioner was given full opportunity to cross-examine the Management Witnesses and to examine Witnesses from his side. Since both sides adduced evidence before the Enquiry Officer, it could not be said that it is a case of no evidence. In view of the settled propositions of law, the adequacy or reliability of evidence in the domestic enquiry is not a matter for the Court to consider. In light of the aforesaid decisions, what is needed is some evidence to prove the charges. Under judicial review, this Court cannot reappraise the evidence and arrive at a conclusion different from that of the Enquiry Officer. Of course, if necessary, this Court can go through the evidence to confirm that it is not a case of no evidence. While undertaking such an exercise, even if this Court is of the view that a different conclusion could have been possible, this Court cannot substitute its view with that of the Enquiry Officer. That too, when the Enquiry Report and the Order of the Disciplinary Authority in a labour matter are challenged directly in this Court. Even the fairness of the conclusion is not a matter for this Court to consider. I hold that this is not a case of no evidence to support the charges against the Petitioner.

26. The next question is whether there is any perversity in the findings of the Enquiry Officer. It is well settled that the strict rules of evidence is not applicable to an enquiry in disciplinary proceedings. Only if the Enquiry Officer has entered findings contrary to the evidence before him, it could be said that he acted in a perverse manner. Even though the Petitioner attempted to persuade this Court by taking this Court extensively through the evidence adduced before the Enquiry Officer, this Court is of the view that even if the Petitioner succeeds in such an attempt, it is not legally permissible for this Court to substitute its opinion with that of the opinion of the Enquiry Officer. The Enquiry Officer has discussed the evidence in the Enquiry Report. Even if this Court feels that there should have been a better consideration or discussion of evidence at the hands of the Enquiry Officer, it is not a ground to interfere with the Enquiry Report. I hold that there is no perversity or arbitrariness in the findings of the Enquiry Officer.

27. Learned Counsel contended that the disciplinary proceedings were initiated by way of victimisation for challenging the transfer order issued by the

Respondents. There is nothing on record to prove that the Respondents used to victimize employees who challenged the actions of the Respondents. When the charge of taking bribe is proved in the enquiry, the Respondents could have imposed a punishment of dismissal on the Petitioner. But the Respondents took a lenient view and imposed a punishment of demotion to a lower grade with lower pay. Of course, it has resulted in serious civil consequences for the Petitioner. But considering the proven charge of taking bribe, it is only a lesser punishment. In such a case, the case of victimisation alleged by the Petitioner is unsustainable.

28. The Writ Petition fails both on the ground of maintainability and unsustainability of the challenge against Ext.P33 Enquiry Report and Ext.P37 Order of the Disciplinary Authority. Accordingly, the Writ Petition is dismissed.