

(2026) 01 DEL CK 1373

In the Delhi High Court

Case No : Writ Petition (C) No. 5776 Of 2018

Commissioner Of Police And Ors

APPELLANT

Vs

Constable Sanjay Kumar Dubey

RESPONDENT

Date of Decision : 14-01-2026

Acts Referred:

Constitution of India, 1950 — Article 226

Prevention of Corruption Act, 1988 — Section 7, 13(1)(d), 13(1)(d)(ii)

Evidence Act, 1872 — Section 65B

Citation : (2026) 01 DEL CK 1373

Hon'ble Judges : Navin Chawla, J; Madhu Jain, J

Bench : Division Bench

Advocate : Ankit Raj, Vikram Kumar, Ali Mohd.Khan, Digvijay Singh, Arshdeep Singh Khurana, Harsh Srivastava, Sidak Singh Anand

Final Decision : Dismissed

Judgement

Madhu Jain, J

1. The present petition has been filed challenging the Order dated 02.08.2016, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal'), in O.A. No. 2802/2013, titled Constable Sanjay Kumar Dubey v. Commissioner of Police & Ors., whereby the learned Tribunal allowed the said O.A. filed by the respondent herein with the following directions

"11. In the circumstances and for the reasons stated, the OA is allowed. The report of the EO and the orders of Disciplinary Authority and Appellate Authority are quashed. The applicant will be entitled to all consequential benefits including the treatment of the period of suspension from 27.12.2005 to 23.12.2010, as a period spent on duty, but without back wages. The order shall be implemented within a period of three months from the date of receipt of a certified copy of this order. No costs."

FACTUAL MATRIX

2. The genesis of the matter lies in a complaint made by one Shri Chetan Prakash, wherein allegations were levelled against certain officials of the Delhi Police regarding demand and acceptance of illegal gratification, which was stated to have been videographed by him. The said complainant also approached this Court by filing W.P. (Crl.) No. 1897/2005, titled Chetan Prakash v. State 2006:DHC:9900. This Court in the above said writ petition directed a vigilance enquiry to be conducted. Pursuant thereto, a vigilance enquiry was undertaken by the Vigilance Branch of the Delhi Police. During the said enquiry, it was alleged that the respondent, while being posted at P.S Dabri and performing patrolling duty on a government motorcycle bearing No. DL-1SN-4046, was found indulging in corrupt practices of accepting illegal gratification from bootleggers. The said allegation was founded primarily on a Compact Disc (CD), particularly Scene No. 6 thereof, which had been submitted by the complainant, Shri Chetan Prakash, before this Court in the aforesaid writ petition.

3. During the vigilance enquiry, Constable Shri Vijay Singh stated that he had viewed the CD and identified the respondent therein as the person accepting the alleged bribe.

4. Consequent to the vigilance enquiry, the respondent was placed under suspension vide order dated 27.12.2005. Thereafter, FIR No.383/2007 dated 07.05.2007 under Sections 7 and 13(1)(d)(ii) of the Prevention of Corruption Act (PC Act), 1988, was registered against him at Police Station Dabri.

5. The criminal proceedings arising out of the said FIR culminated in acquittal of the accused persons, including the respondent, by the learned Special Judge (PC Act), Tis Hazari Courts, Delhi, by judgment dated 12.08.2015, which was assailed by the State before this Court in Crl. A. No. 217/2017, titled State (GNCT of Delhi) v. Netrapal Singh & Ors., which was dismissed, thereby affirming the acquittal.

6. The order of suspension was revoked by the competent authority on 23.12.2011 and a departmental enquiry was initiated against the respondent vide order dated 13.07.2011 under the provisions of the Delhi Police (Punishment & Appeal) Rules, 1980.

7. The enquiry was initially entrusted to Inspector Shri Jagjit Singh and was thereafter conducted by Inspector Shri Dalip Kumar, who completed the proceedings and submitted his report holding that the charge against the respondent stood proved. The Inquiry Officer recorded that the respondent was on patrolling duty on 16.10.2005 in the area of P.S Dabri and was identified in the photograph/CD relied upon by the prosecution witnesses.

8. The Disciplinary Authority, agreeing with the findings returned by the Inquiry Officer, furnished a copy of the enquiry report to the respondent on 14.09.2012. The respondent submitted his representation dated 27.09.2012, inter alia

contending that the findings were based on suspicion and surmises; that the material witness had not categorically deposed about acceptance of bribe; that the complainant had not appeared in the enquiry; and that neither the CD nor the Forensic Science Laboratory report regarding its genuineness had been supplied to him.

9. The Disciplinary Authority, after considering the representation and granting personal hearing to the respondent, rejected the objections raised by him. The Disciplinary Authority itself viewed the CD in the presence of the respondent and recorded that the respondent was clearly visible therein accepting money. Finding the explanation of the respondent unsatisfactory, the Disciplinary Authority, vide Order dated 22.11.2012, imposed the penalty of forfeiture of ten years of approved service permanently, entailing proportionate reduction in pay, and further ordered that the period of suspension from 27.12.2005 to 23.12.2010 shall be treated as 'period not spent on duty' for all intents and purposes.

10. Aggrieved thereby, the respondent preferred a departmental appeal wherein he reiterated his challenge to the evidentiary basis of the enquiry and also raised a plea of parity with other officials allegedly involved in the same incident.

11. The Appellate Authority, upon consideration of the record and after affording an opportunity of hearing to the respondent, upheld the finding of misconduct. However, taking note of the plea of parity raised by the respondent, it modified the penalty vide order dated 27.06.2013, and reduced the punishment to forfeiture of two years of approved service temporarily, entailing proportionate reduction in pay.

12. The respondent thereafter approached the learned Tribunal by filing O.A. No. 2802/2013, challenging the enquiry report as well as the orders passed by the Disciplinary Authority and Appellate Authority.

13. The learned Tribunal, vide Impugned Order dated 02.08.2016, allowed the said O.A. and quashed the enquiry report and the orders of the Disciplinary Authority and the Appellate Authority, and directed that the period of suspension be treated as spent on duty, though without grant of back wages.

14. Aggrieved by the aforesaid order, the petitioners have approached this Court contending that the learned Tribunal erred in law in interfering with the disciplinary proceedings.

SUBMISSIONS ON BEHALF OF THE PETITIONERS:

15. The learned counsel for the petitioners submits that during the vigilance enquiry, Constable Vijay Singh categorically stated that he had viewed the said CD and had identified the Respondent therein while accepting bribe from the bootlegger.

16. The learned counsel for the petitioner submits that although the suspension

order was revoked on 23.12.2010, a departmental enquiry was thereafter initiated against the Respondent on 13.07.2011 under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980.

17. It is contended by the learned counsel of the petitioner that the departmental enquiry was conducted in accordance with the prescribed rules and, upon its completion, the Inquiry Officer returned a finding that the charge against the Respondent stood proved. It was established on record that on 16.10.2005 the Respondent was posted at P.S Dabri, was on patrolling duty on the said Government motorcycle in question, and was duly identified by a prosecution witness in the incriminating act.

18. It is submitted by the learned counsel of the petitioners that the Disciplinary Authority, agreeing with the findings of the Inquiry Officer, supplied the enquiry report to the Respondent vide order dated 14.09.2012. The Respondent submitted a representation dated 27.09.2012, which was duly considered but found to be devoid of merit. It is further submitted that the Disciplinary Authority independently examined the CD, which was played in the presence of the Respondent, and it was clearly observed that on 06.10.2005 at 19:55:42 hours, the Respondent was seen accepting money. Despite being afforded an opportunity, the Respondent could offer no explanation with regard to the said visual evidence.

19. The learned counsel submits that the appeal preferred by the Respondent was considered by the Appellate Authority after due examination of the entire record and after affording the respondent an opportunity of hearing. While affirming the findings of misconduct, the Appellate Authority, taking a lenient view on parity, reduced the punishment to forfeiture of two years' approved service temporarily vide order dated 27.06.2013.

20. The learned counsel of the petitioner further submits that the Appellate Authority also recorded that the complainant, Shri Chetan Prakash, had been repeatedly summoned during the departmental enquiry but had failed to appear. In such circumstances, the Inquiry Officer was justified in proceeding under Rule 16(iii) of the Delhi Police (Punishment & Appeal) Rules, 1980, which permits reliance on prior statements where the presence of a witness cannot be procured without undue delay.

21. The learned counsel further submits that the Respondent, being a member of a disciplined force, abused his official position for personal gain and indulged in conduct amounting to grave misconduct, lack of integrity, and behaviour unbecoming of a police official.

22. It is contended that acts such as those attributed to the Respondent severely erode public confidence in law enforcement institutions and have a deleterious impact on the morale and credibility of the police force as a whole.

23. It is further contended that corruption by members of a disciplined force

strikes at the root of public confidence and cannot be lightly condoned. Reliance is placed on K.C. Sareen v. CBI, Chandigarh (2001) 6 SCC 584., to submit that public interest demands strict treatment of public servants found guilty of corruption.

24. The learned counsel further relies upon Runu Ghosh v. CBI, 2011 SCC Online Del 5501 and Rajiv Kumar v. State of U.P & Anr. (2017) 8 SCC 791., to contend that criminal misconduct under Section 13(1)(d) of the PC Act is attracted once the abuse of official position to secure pecuniary advantage is established.

25. Reliance is also placed on State of M.P. & Ors. v. Ram Singh, (2000) 5 SCC 88., to submit that the PC Act is a social legislation and deserves a purposive and liberal construction to curb corruption in public offices.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

26. The learned counsel for the respondent submits that the very foundation of the departmental proceedings against the respondent was the alleged CD, which purportedly contained a video recording of acceptance of illegal gratification. However, the said CD was never produced or proved during the course of the departmental enquiry. The respondent was neither supplied with the CD nor was the same played or exhibited during the enquiry proceedings, thereby depriving the respondent of any meaningful opportunity to meet the allegations levelled against him.

27. It is further submitted by the learned counsel for the respondent that the complainant, namely Chetan Prakash, whose alleged recording formed the basis of the charge, was never examined in the departmental enquiry. His non-examination denied the respondent the opportunity to cross-examine a material witness and to test the veracity and authenticity of the allegations. The learned counsel submits that the learned Tribunal, rightly relied upon its earlier decision in the case of a co-accused, where on identical facts the departmental proceedings were quashed on the ground that non-examination of the complainant rendered the enquiry fundamentally defective.

28. The learned counsel submits that the alleged CD itself was never proved in accordance with law. The learned Trial Court, after a detailed appreciation of evidence, had held the CD to be inadmissible and acquitted the accused persons including the respondent. The said finding has since been affirmed by this Court while dismissing the appeal against acquittal. It is thus argued that when the primary electronic evidence itself is held to be inadmissible, any tertiary or oral evidence referring to the contents of such CD could not form the basis of a finding of guilt even in departmental proceedings.

29. The learned counsel places reliance on the judgment of this Court dated 09.01.2024 passed in CrI. A. No. 217/2017, titled State (GNCT Of Delhi) v. Netrapal Singh And Ors 2024:DHC:136., whereby the acquittal of the Respondent was upheld.

30. It is further submitted that this Court had categorically held that the prosecution failed to prove demand and acceptance of any bribe; that the evidence of the complainant was purely hearsay; that the recording device was never sent to the Forensic Science Laboratory; that the cassette was not the original recording; that no certificate under Section 65-B of the Indian Evidence Act was produced; and that the authenticity of the recording was not established. The learned Trial Courts appreciation of evidence was found to be complete and unimpeachable.

31. The learned counsel submits that in view of Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980, once a police officer is acquitted in a criminal case on the same set of charges, he cannot be punished departmentally, unless the case falls within the recognised exceptions. It is submitted that none of the exceptions under Rule 12 are attracted in the present case and, therefore, the continuation of disciplinary action itself was impermissible.

32. The learned counsel submits that the forensic examination itself noted several discontinuities, blank frames, and unexplained jumps in the video recording, and specifically observed that it was not possible to determine whether the recording constituted original data, as the original recording device was never produced. These serious infirmities, it was argued, strike at the root of the departmental case.

33. The learned counsel contends that all other officials who were allegedly involved in the same incident have either been exonerated in departmental proceedings or have had their punishments set aside by the learned Tribunal.

ANALYSIS AND FINDINGS:

34. We have considered the submissions advanced on behalf of the parties and have carefully perused the record.

35. The scope of interference by this Court in disciplinary matters, particularly in exercise of writ jurisdiction, is well-settled. While this Court does not act as an Appellate Authority over findings recorded in a Departmental Enquiry, it is equally settled that where the conclusions are based on no evidence, or where the enquiry suffers from violation of principles of natural justice, judicial interference is not only permissible but necessary.

36. The fulcrum of the departmental proceedings against the respondent is the alleged CD , stated to contain a video recording of acceptance of illegal gratification. It is not in dispute that the said CD constituted the primary and foundational material on the basis of which the vigilance enquiry was initiated, the departmental charge was framed, and the finding of misconduct was ultimately recorded. The question that arises for consideration is whether such material was proved, relied upon, and put to the respondent in a manner known to law, even within the parameters applicable to departmental proceedings.

37. It is true that the standard of proof in a departmental enquiry is one of

preponderance of probabilities and not proof beyond reasonable doubt. However, this diluted standard does not dispense with the requirement that the material relied upon must be legally admissible and must be brought to the notice of the delinquent officer, affording him a reasonable opportunity to rebut the same. Even in a domestic enquiry, findings cannot rest on material which is neither proved nor made available to the charged officer.

38. From the record, it emerges that the alleged CD was neither exhibited nor formally proved during the departmental enquiry. The complainant, who was stated to have recorded the video, was admittedly not examined. The Inquiry Officer proceeded on the basis of secondary references to the contents of the CD and the statement of a police witness who claimed to have seen the recording. The CD itself was not played before the Inquiry Officer in the course of evidence, nor was it supplied to the respondent for his response.

39. The reliance placed by the petitioners on Rule 16(iii) of the Delhi Police (Punishment & Appeal) Rules, 1980 does not aid the petitioners case.. The Rule 16(iii) of the Delhi Police (Punishment & Appeal) Rules, 1980 is reproduced herein below:

"(iii) If the accused police officer does not admit the misconduct, the Enquiry Officer shall proceed to record evidence in support of the accusation, as is available and necessary to support the charge. As far as possible, the witnesses shall be examined direct and in the presence of the accused, who shall be given opportunity to take notes of their statements and cross-examine them. The Enquiry Officer is empowered, however, to bring on record the earlier statement of any witness whose presence cannot, in the opinion of such officer, be procured without undue delay, inconvenience or expense if he considers such statement necessary provided that it has been recorded and attested by a police officer superior in rank to the accused officer, or by a Magistrate and is either signed by the person making it or has been recorded by such officer during an investigation or a judicial enquiry or trial. The statements and documents so brought on record in the departmental proceedings shall also be read out to the accused officer and he shall be given an opportunity to take notes. Unsigned statements shall be brought on record only through recording the statements of the officer or Magistrate who had recorded the statement of the witness concerned. The accused shall be bound to answer any questions which the enquiry officer may deem fit to put to him with a view to elucidating the facts referred to in the statements of documents thus brought on record."

40. The said provision permits reliance on previous statements where the presence of a witness cannot be procured without undue delay or inconvenience. However, such reliance cannot extend to dispensing with the proof of the primary incriminating material itself. The said rule cannot be invoked to cure a fundamental defect where the very basis of the charge is neither proved nor tested.

41. The situation is further compounded by the fact that the same CD and the same set of allegations formed the subject matter of criminal proceedings. The learned Trial Court, after an elaborate appreciation of evidence, held that the electronic record was inadmissible, *inter alia*, on account of absence of certification, non-production of the original recording device, and serious doubts regarding authenticity. These findings were examined and affirmed by this Court while upholding the acquittal. While it is correct that acquittal in a criminal case does not *ipso facto* nullify departmental proceedings, it is equally settled that where the acquittal is founded on a finding that the very material relied upon is unreliable or inadmissible, the disciplinary authority must independently assess whether any sustainable evidence remains to support the charge.

42. In the present case, once the CD is excluded from consideration, there remains no substantive material to establish either demand or acceptance of illegal gratification by the respondent. The complainant was not examined. The alleged payer of the bribe was neither produced nor examined. No witness has deposed to having personally seen the respondent demand or accept bribe. What remains is, at best, a derivative assertion based on viewing of an unproved electronic record. Such material, even on the touchstone of preponderance of probabilities, falls short of sustaining a finding of guilt.

43. The learned Tribunal has also taken note of the fact that in the case of other officials allegedly involved in the same incident, the departmental proceedings have either resulted in exoneration or the punishments imposed have been set aside. While parity by itself may not be determinative, it does assume relevance where the allegations, evidence, and foundational material are common. In such circumstances, selective sustainment of punishment against one individual, without any distinguishing material, would be difficult to justify.

44. Much emphasis was placed by the petitioners on the seriousness of the charge and the need for zero tolerance towards corruption in public service, particularly in a disciplined force. There can be no quarrel with the principle. However, the gravity of the allegation cannot dilute the requirement of fairness in the process

45. The learned Tribunal, in our considered view, has not re-appreciated evidence as an Appellate Authority, but has confined itself to examining whether there existed any legally sustainable material to support the finding of guilt. Its conclusion that reliance on an unproved CD, coupled with non-examination of the complainant, vitiated the enquiry, cannot be said to be perverse or contrary to law.

46. In light of the above discussion, this Court finds no infirmity in the approach adopted by the learned Tribunal in holding that the disciplinary proceedings stood vitiated on account of foundational defects. The interference by the learned Tribunal was within the permissible limits of judicial review and does not warrant interference under Article 226 of the Constitution.

47. In view of the above, the Impugned Order dated 02.08.2016 passed by the learned Tribunal does not call for any interference. The writ petition is, accordingly, dismissed.

48. There shall be no order as to costs.