

(2001) 09 AHC CK 0054
In the Allahabad High Court
Case No : C.M.W.P. No. 17416 of 1997

Ram Chandra Shukla

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 06-09-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 439
Income Tax Act, 1961 — Section 144
Uttar Pradesh Government Servants (Conduct) Rules, 1956 — Rule 3

Citation : (2001) 4 AWC 2728 : (2001) 3 UPLBEC 2530 : (2001) 3 UPLBEC 2351

Hon'ble Judges : U.S. Tripathi, J;G.P. Mathur, J

Bench : Division Bench

Advocate : C.P. Gupta, Dinesh Dwivedi, Radhey Shyam, Satish Dwivedi and V.B. Upadhyay, for the Appellant; Vinod Misra, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mathur, J.—This petition under Article 226 of the Constitution has been filed for quashing of order dated 17.4.1997 by which the petitioner was dismissed from service.

2. The petitioner was member of Higher Judicial Service and at the relevant time, was posted as Additional District and Sessions Judge at Etah. A disciplinary enquiry was held against him by a Sitting Judge of the High Court with regard to certain acts of misconduct. The charges were found to have been established. A copy of the report of the Inquiry Judge was furnished to the petitioner and he was given an opportunity to show cause. The matter was then considered by the full court which recommended that he should be dismissed from service. Thereafter, the Governor of U.P. passed the impugned order of dismissal on 17.4.1997.

3. The charges against the petitioner related to grant of bail in two murder cases being Case Crime No. 15 of 1994 and Case Crime No. 23 of 1994. In Case Crime

No. 15 of 1994 of P.S. Kashganj, the allegation was that the accused Poo ran assaulted the deceased Ganga Singh alias Gajraj with a knife. In order to save himself, the deceased ran towards a police outpost which was nearby but he fell down almost in front of the outpost. Some police personnel who were present in the outpost saw the accused chasing the deceased and they caught him on the spot with a blood stained knife in his hand. The incident took place at about 12.30 p.m. (afternoon) and an entry regarding the arrest of the accused was made in the general diary. The accused Pooran applied for the bail but his bail application was rejected by the Incharge Sessions Judge. Etah, on 6.4.1994. He filed a bail application in the High Court which was also rejected on 28.11.1994. However, shortly thereafter the petitioner entertained a second bail application directly in his Court and granted bail to the accused on 6.2. 1995. In Case Crime No. 23 of 1994, the incident took place at about 9.30 a.m. on 9.3.1994 in which Narain Das and Manohar accused were alleged to have fired upon Ganga Singh and Chandra Shekhar. Chandra Shekhar received gunshot injuries and Ganga Singh died on way to the hospital. The bail application moved by the accused was rejected by the 1st Addl. Sessions Judge on 30.9.1994. A second bail application was moved for short term bail but the same was also rejected on 9.2.1995, Narain Das accused also filed a bail application in the High Court which was pending. The District and Session Judge had passed a general order on 28.1.1995 that no bail application should be directly entertained by an Addl. Sessions Judge. However, a third bail application was filed by the accused on 5.2.1995 which was directly entertained by the petitioner and he granted bail to both the accused on 16.2.1995. After obtaining the order of bail, the accused got their bail application in the High Court, which had been filed earlier and was pending, dismissed on 21.2.1995 as not pressed.

4. After getting information about the grant of aforesaid bail applications, the Administrative Committee appointed Mr. Justice A. N. Gupta, a Sitting Judge of the Court, to hold an enquiry against the petitioner. Two charges were framed and charge No. 1 was with regard to grant of bail to accused Narain Das and Manohar in Case Crime No. 23 of 1994. The second charge was with regard to grant of bail to accused Pooran in Case Crime No. 15 of 1994. In substance, the charges were that the petitioner allowed second or third bail applications on some extraneous consideration without any new ground being made out for grant of bail and thereby committed gross misconduct in violation of Rule 3 of U.P. Government Servants Conduct Rules, 1956. A copy of the charges framed against the petitioner has been filed as Annexure-2 to the writ petition. They also mention in detail the evidence which was proposed to be considered in support of the charges. Charge No. 1 contained list of ten documents and charge No. 2 contained list of seven documents which were proposed to be relied upon against the petitioner. The petitioner gave a reply and the main plea taken therein was that u/s 439, Cr. P.C., a Sessions Judge has concurrent power with the High Court to grant bail. It was also pleaded that a Sessions Judge can grant bail to an accused even after rejection of his bail application by the High Court provided a

substantial new ground for bail had arisen since last order of rejection of bail and a reasonably long interval had elapsed. The department filed the documentary evidence, reference of which was made in the chargers but the petitioner did not adduce any evidence.

5. With regard to charge No. 1 regarding Case Crime No. 23 of 1994, the Inquiry Judge held that incident had taken place in the morning hours at 9.30 a.m. in which Narain Das and Manohar were alleged to be the principal accused who had fired shots from their firearms due to which Ganga Singh had died and another person, namely, Chandra Shekhar had received injuries. The first bail application had been rejected by the District and Sessions Judge on 30.9.1994 and the second application for short term bail had also been rejected on 9.2.1995. Even though a bail application was pending in the High Court, the petitioner directly entertained a third bail application inspite of general order of the District and Sessions Judge dated 28.1.1995 prohibiting the Additional Sessions Judges from directly entertaining a bail application and granted bail on 16.2.1995. Regarding Case Crime No. 15 of 1994, it was held that incident had taken place at about 12.30 p.m. (afternoon) when the deceased being chased by the accused who had caused him knife injury ran and fell down in front of police outpost and the accused was arrested by the members of the public and also the police personnel with a blood stained knife in his hand. It was a case of spot arrest. The bail application had already been rejected by the Incharge Sessions Judge on 6.4.1994 and also by the High Court on 28.11.1994 but the petitioner granted bail to the accused on 6.2.1995. By this time, the sessions trial had commenced and two eye-witnesses had also been examined, who had supported the prosecution version of the incident. The Inquiry Judge also took notice of the fact that the bail application was moved on 14.9.1994 and it was adjourned on as many as eight occasions and ultimately the bail was granted on 6.2.1995. The plea of the petitioner that a substantial new ground had arisen and a long period had elapsed since rejection of the first bail application was not accepted. It was also held that from the facts and circumstances of the case, an irresistible inference had to be drawn that the petitioner adjourned the hearing of bail application on several occasions and in the meantime struck the bargain with the accused. On these findings, the Inquiry Judge held that the petitioner committed gross misconduct in violation of Rule 3 of U.P. Government Servants Conduct Rules. 1956.

6. Sri Radhey Shyam learned counsel for the petitioner has contended that the charges levelled against the petitioner related to grant of second bail applications, which he had done in the capacity as Addl. Sessions Judge and the orders were judicial orders which may or may not be absolutely correct or justified in law but this could be no ground to initiate disciplinary proceedings or to draw an inference of misconduct without their being any evidence of illegal gratification. Learned counsel has further contended that neither the State nor the complainant (first informant of the case) challenged the orders of grant of bail in the High Court nor they were set aside and. therefore, it is not possible to

draw an inference of misconduct on their basis. The contention is that no disciplinary proceedings could be initiated against the petitioner with regard to his exercise and performance of judicial powers. An identical contention has been considered by the Apex Court in several cases and has been repelled. In *Union of India and others Vs. A.N. Saxena*, , the Court was considering the conduct of an Income Tax Officer who was charged with completing certain assessments in an irregular manner. In paragraph 8 of the reports, the Court ruled as under :

"In our view, an argument that no disciplinary action can be taken in regard to actions taken or purported to be done in the course of judicial or quasi-judicial proceedings is not correct. It is true that when an officer is performing judicial or quasi-judicial functions, disciplinary proceedings regarding any of his actions in the course of such proceedings should be taken only after great caution and a close scrutiny of his actions and only if the circumstances so warrant. The initiation of such proceedings, it is true, is likely to shake the confidence of the public in the officer concerned and also if lightly taken likely to undermine his independence. Hence the need for extreme care and caution before initiation of disciplinary proceedings against an officer performing judicial or quasi-judicial functions in respect of his actions in the discharge or purported discharge of his functions. But it is not as if such action cannot be taken at all. Where the actions of such an officer indicate culpability, namely, a desire to oblige himself or unduly favour one of the parties or an improper motive there is no reason why disciplinary action should not be taken."

A similar contention was again considered in *Union of India and Others Vs. K.K. Dhawan*, , and the principle was more succinctly stated as under in paras 28 and 29 of the reports :

"28. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases :

- (i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty ;
- (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty :
- (iii) if he has acted in a manner which is unbecoming of a Government servant :

(iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers ;

(v) if he had acted in order to unduly favour a party ;

(vi) if he had been actuated by corrupt motive, however, small the bribe may be, because Lord Coke said long ago "though the bribe may be small, yet the fault is great".

29. The instances above catalogued are not exhaustive. However, we may add that for a mere technical violation or merely because the order is wrong and the action not falling under the above enumerated instances, disciplinary action is not warranted. Here, we may utter a word of caution. Each case will depend upon the facts and no absolute Rule can be postulated."

7. In Union of India (UOI) and Others Vs. Upendra Singh, , the Court was dealing with the conduct of an Inspecting Assistant Commissioner of Income Tax while holding proceedings u/s 144A of the Income Tax Act and a similar contention made by the delinquent officer was repelled following the earlier decisions rendered in Union of India v. A. N. Saxena and Union of India v. K.K. Dhaon (supra) and the order of Central Administrative Tribunal staying the disciplinary proceedings was set aside. The matter was again considered in Government of Tamil Nadu Vs. K.N. Ramamurthy, . In this case, the delinquent officer had passed certain assessment orders in the capacity of Deputy Commercial Tax Officer. The Administrative Tribunal set aside the punishment imposed upon the officer on the ground that even though the assessment orders were palpably wrong, he should not be subjected to disciplinary proceedings since by passing such assessment orders, he exercises quasi-judicial functions conferred upon him in the relevant statute. The contention of the delinquent officer was not accepted and the Court after referring to A. N. Saxena and K.K. Dhawan (supra) set aside the order of Tribunal. In High Court of Judicature at High Court of Judicature at Bombay through its Registrar Vs. Shirish Kumar Rangrao Patil and another, , the Court was dealing with a case of Civil Judge (Junior Division) and it was observed that if the evidence adduced during the departmental enquiry proves the proclivity of corrupt conduct on the part of the judicial officer and enquiry into his conduct is fair and germane, the imposition of punishment should be proper to the magnitude of the misconduct. The order of the High Court passed on the judicial side quashing the dismissal order was set aside. In view of these catena of decisions, it is not possible to accept the contention of the learned counsel for the petitioner that no disciplinary proceedings could be held against the petitioner in regard to his conduct of passing judicial orders while performing his duty as a Sessions Judge.

8. Sri Radhey Shyam has next contended that the findings recorded by the Inquiry Judge that no new substantial ground had arisen and a long period had not elapsed since the rejection of the earlier bail application when the petitioner granted second bail application is not correct and the charges have been wrongly

held to have been proved. It has been urged that the inference drawn by the Inquiry Judge from the material on record was not justified and the finding that the petitioner committed misconduct is perverse. We must keep in mind that we are hearing a writ petition under Article 226 of the Constitution wherein the administrative action, namely, the order passed by the appointing authority dismissing the petitioner from service is subject-matter of challenge. What is the scope and ambit of judicial review in such a case was explained in *H. B. Gandhi v. Gopi Nath and Sons* in following words (para 8 of the reports) :

"Judicial review. It is trite, is not directed against the decision but is confined to the decision making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the correctness of the decision itself."

This view was quoted with approval in *Union of India (UOI) and Others Vs. Upendra Singh*, . In *Union of India (UOI) Vs. Sardar Bahadur*, , it was held as follows :

".....A disciplinary proceeding is not a criminal trial. The standard of proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that Nand Kumar was a person likely to have official dealings, with the respondent was one which reasonable person would draw from the proved facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Article 226 to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court".....

A similar contention was examined in *B.C. Chaturvedi Vs. Union of India and others*, , and it was held as follows :

".....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 eyes 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 inquiry 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 inquiry 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 Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. When the authority accepts the evidence and the conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. 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. 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 inquiry or where the conclusion or findings 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 that case....."

9. Again in High Court of Judicature at High Court of Judicature at Bombay through its Registrar Vs. Udaysingh Nimbalkar and Others, , after review of several earlier decisions, it was held as follows in para 10 of the reports :

".....It is equally settled law that technical Rules of evidence have no application for the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the view of the Court or Tribunal. When the conclusion reached by the authority is based on evidence. Tribunal is devoid of power to reappreciate the evidence and would (sic) come to its own conclusion on the proof of the charge. The only consideration the Court/Tribunal has in its judicial review is to consider whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence....."

In view of this settled legal position, what is required to be seen is whether the petitioner has received a fair treatment and whether the conclusion is based on evidence which supports the finding or is based on no evidence. The petitioner cannot contend that he has not received a fair treatment. The charges were served upon him which enumerated the documents, which were proposed to be

relied against him. Copies of the aforesaid documents were also supplied to the petitioner. He was given adequate opportunity to file a reply and adduce evidence before the Inquiry Judge. He had filed a detailed reply but chose not to file any evidence in support of his defence. He was afforded opportunity of hearing. Thus, the enquiry was conducted strictly in accordance with Rules and also the principles of natural justice. In view of the settled legal position that in judicial review of an administrative action, the Court is not concerned with the decision but is concerned only with the decision making process, namely, that the delinquent officer has received a fair treatment. It is, therefore, not possible for us to reappraise the evidence and examine the correctness of the finding recorded by the Inquiry Judge.

10. The petitioner can certainly assail the findings if they are based on no evidence or are perverse in the sense that no reasonable person can arrive at such a conclusion. In Case Crime No. 15 of 1994, the petitioner granted bail within two months and one week of the rejection of bail by the High Court and at a time when the trial had commenced, deposition of two eye-witnesses had been recorded who had supported the prosecution version of the incident. In Case Crime No. 23 of 1994, the only plea taken by the petitioner is that a substantial new ground had arisen, viz., existence of a cross case. When an accused sets up another version of the same incident, it is commonly said as "cross case". By the very nature of things, the cross case has to be of the same time and place or almost the same time or place and consequently, it can under no case be a new development or a new ground which may come into existence subsequently. The District and Sessions Judge while rejecting the first bail application on 30.9.1994, had considered this aspect of the case and had observed : "It has not been shown at this stage that the first information report lodged is a cross version of the incident." On these facts. In our opinion, the findings recorded by the Inquiry Judge cannot be assailed as based on no evidence or perverse. On the contrary, this is the only inference possible.

11. Sri Radhey Shyam learned counsel for the petitioner has strenuously urged that the copy of the report dated 21.9.1995 of the District Judge. Etah, was not supplied to the petitioner and. therefore, he was greatly prejudiced and there has been no fair enquiry. It may be stated here that the aforesaid report of the District Judge has not at all been taken into consideration by the Inquiry Judge nor there is even a whisper of the said report in his finding. The order passed by the Governor undoubtedly makes a mention of it at one place. The sentence in the impugned order where reference is made to the aforesaid report should not be read in isolation but should to be read in its context. It merely recites that the District Judge, Etah, had given a report on 21.9.1995 to the effect that the petitioner had granted such bails which had been rejected earlier and on the basis of the same, the High Court decided to hold an enquiry against him and appointed Hon'ble Mr. Justice A. N. Gupta as Inquiry Judge. Reference of the said report is only for this limited purpose, namely, as to how the enquiry was initiated and commenced. If a judicial officer is not working fairly and in

accordance with the settled norms but is passing orders on extraneous considerations or after taking illegal gratification. action can be taken against him only by the High Court. In a big State like Uttar Pradesh where there were more than 65 districts at the relevant time, the High Court can come to know about the misdeed of a judicial officer either through the reports made by the District Judge or when the order is examined on the judicial side in an appeal or revision. A District Judge is the best person to give timely information about the misconduct of an officer working under him to the High Court. It was in this context that the District Judge sent a report against the petitioner to the High Court on 21.9.1995 and it was on this report that the Administrative Committee decided to initiate formal disciplinary proceedings against the petitioner. Therefore, non-supply of a copy of this report has absolutely no bearing on the disciplinary proceedings which were conducted against the petitioner and also on the report of the Inquiry Judge and the findings recorded therein.

12. Even otherwise, the non-supply of copy of a document cannot have the effect of vitiating the report of the Enquiry Officer or rendering the disciplinary proceedings illegal or void. What will be the effect of non-furnishing the documents has been considered in *State of Tamil Nadu Vs. Thiru K.V. Perumal and others*, wherein it was held as follows :

".....Now remains only the third ground, viz., the non-furnishing of the documents asked for by the respondent. The Tribunal seems to be under the impression that the Inquiry officer/disciplinary authority is bound to supply each and every document that may be asked for by the delinquent officer/ employee. It is wrong here. Their duty is only to supply relevant documents and not each and every document asked for by the delinquent officer/employee. In this case the respondent had asked for certain documents. The Registrar, to whom the request was made, called upon him to specify the relevance of each and every document asked for by him. It is not brought to our notice that the respondent did so. The Tribunal too has not gone into the question nor has it expressed any opinion whether the documents asked for were indeed relevant and whether their non-supply has prejudiced the respondent's case. The test to be applied in this behalf has been set out by this Court in *State Bank of Patiala and others Vs. S.K. Sharma*, . It was the duty of the respondent to point out how each and every document was relevant to the charges or to the enquiry being held against him and whether and how their non-supply has prejudiced his case. Equally, it is the duty of the Tribunal to record a finding whether any relevant documents were not supplied and whether such non-supply has prejudiced the defendant's case. Since this has not been done by the Tribunal in this matter, it has to go back for a rehearing."

13. The learned counsel for the petitioner has not been able to show anything as to how the report of the District Judge was relevant to the charges or to the enquiry being held against him and how non-supply of a copy thereof has prejudiced him. We are, therefore, of the opinion that the enquiry held against

the petitioner and also the impugned dismissal order cannot be held to have been vitiated on the ground that a copy of the report of the District Judge dated 21.9.1995, was not supplied to him.

14. Shri Radhey Shyam has also urged that Ram Prasad who made complaint regarding grant of bail in Crime No. 23 of 1994 and Kundan Singh who made complaint in Crime No. 15 of 1994 were not examined as witnesses in the enquiry and this has prejudiced the petitioner. Notices sent to these persons were served but they did not appear before the Inquiry Judge. It is common knowledge that influence and pressure is exerted on the witnesses not to give evidence by those who are facing some charge. There is no provision in the Rules under which a witness may be compelled to appear and give evidence. The petitioner has not shown what prejudice he has suffered by the non-examination of these persons. At any rate, if the petitioner thought that their testimony would be helpful in establishing his defence, there was nothing to prevent him from examining them as his witnesses.

15. Learned counsel has also urged that in the complaint made against the petitioner, there was no allegation of taking bribe and, therefore, it cannot be held that he committed any misconduct. No one takes bribe in presence of others. Even if such an allegation is made, it is mostly based on some hearsay information. From the material placed before the Inquiry Judge, he has come to a positive conclusion and, in our opinion, rightly so that the petitioner committed misconduct. Therefore, the contention raised has no substance.

16. Learned counsel has also submitted that the petitioner had an unblemished record and the punishment of dismissal from service imposed upon him is extremely harsh and severe and, therefore, the same deserves to be set aside. The counter-affidavit filed on behalf of the High Court shows that the petitioner had been selected in the U.P. Nyayaik Sewa and was appointed as Additional Munsif on 11.4.1975. Subsequently, the U.P. Public Service Commission wrote a letter to the Government on 30.5.1981, that the petitioner had submitted wrong certificates of being dependent of a freedom fighter though in reality he was not. This fraud was revealed after a writ petition was filed where filing of wrong documents by some candidates was highlighted. The Commission withdrew its recommendation for appointment of the petitioner on the post of Addl. Munsif and recommended that his appointment be cancelled. The Government sought concurrence of the High Court for cancelling his appointment. The matter was considered and it was resolved by the full court that after lapse of a long period, it would not be proper to cancel the appointment of the petitioner and to remove him from service. Government also sent a letter to the Court that disciplinary proceedings be held against the petitioner wherein punishment may be imposed upon him for furnishing wrong documents. The matter was entrusted to Addl. Registrar for enquiry but by that time, the petitioner had been promoted to the Higher Judicial Service. The Registrar made a report that as enquiry against a member of H.J.S. is conducted by Judge of the Court, the enquiry in this matter

may be entrusted to a Judge. The Chief Justice directed that the matter may be placed before the full court. However, in the meantime, the present disciplinary proceedings initiated against the petitioner were concluded and the full court resolved to recommend his dismissal. Therefore, the enquiry regarding his submission of wrong documents by which he got benefit as dependent of freedom fighter could not be held. It is also averred in the counter-affidavit that in the year 1980-81, he was given an entry by the Court that his judgment lacked proper appraisal of evidence and also displayed inability to apply law correctly and he was rated as fair officer. For the year 1993-94, the District Judge. Lakhimpur Khiri, gave him adverse remarks. In view of these facts, it is not at all possible to accept the submission of the learned counsel that the petitioner has unblemished record. Even on merits, we do not think that the punishment imposed upon the petitioner is undoubtedly harsh or excessive. We would like to reproduce the observation made in the High Court of Judicature at Bombay v. Uday Singh (supra) in para 13 of the reports :

".....Since the respondent is a judicial officer and the maintenance of discipline in the judicial service is a paramount matter and since the acceptability of the judgment depends upon the creditability of the conduct, honesty, integrity and character of the officer and since the confidence of the litigant public gets affected or shaken by the lack of integrity and character of the judicial officer, we think that the imposition of penalty of dismissal from service is well justified. It does not warrant interference."

17. Sri Radhey Shyam has lastly urged that the report against the petitioner had been made by Sri N. S. Gahlot, District Judge, Etah, who subsequently became Registrar of the High Court and it was on account of his influence that the Inquiry Judge recorded adverse findings against the petitioner. The submission is only to be stated to be rejected. Sri N. S. Gahlot had no personal interest in the matter and he had merely sent a report in his official capacity as District Judge. That apart, it is preposterous to suggest that a Registrar would have the courage to approach a Sitting Judge of the Court and would be able to persuade him to give a report to his liking. Neither Sri N.S. Gahlot nor the Inquiry Judge have been impleaded as respondents to the writ petition. It would have been better if such a baseless contention levelling a serious charge had not been made.

18. No other point was urged.

19. For the reasons mentioned above, we find no merit in this writ petition, which is hereby dismissed.