



2026:DHC:7892



IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment reserved on :02.09.2026*
Judgment delivered on : 16.09.2026
Judgment uploaded on : 16.09.2026

CNR No. DLHC010335542017

+ **W.P.(C) 1075/2017**

SUNIL KUMAR

.....Petitioner

versus

**M/S DELHI METRO RAIL
CORPORATION LTD.**

.....Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Atul Bandhu, Advocate.

For the Respondent : Mr. V. S. R. Krishna, Advocate.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed under Article 226/227 of the Constitution of India assailing award dated 11.02.2016 (hereinafter '**impugned award**') passed by the Central Government Industrial Tribunal in I.D. No. 41/2014.

2. Briefly stated, the petitioner-workman joined the services of the respondent as a Driver on 10.10.1999. On 17.06.2008, the petitioner



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was served with a Memorandum along with Articles of Charge, which are reproduced hereinbelow:

“Statement of Article of Charges

Shri Sunil Kumar, Driver, Emp. No. 277, has repeatedly indulged in acts of indiscipline. He has been warned on a number of occasions but despite assurances he is not showing any signs of improvement. He has indulged in the following serious acts of indiscipline in the recent past:-

Article-1

Misbehaviour with Shri Daljeet Singh, CPM/S on 09/02/07- On joining duty after availing extended medical leave, Shri Sunil Kumar, Driver, misbehaved with CPM/S when asked to submit his leave application along with medical fitness certificate. He threw the leave application out of window and drove the Car in rough manner.

Article-2.

Unauthorized absence from the place of duty of work on 24/12/07- Shri Sunil Kumar, Driver, while on official duty has unauthorisedly visited Gupta Nursing Home, Uttam Nagar, on 24/12/07 and argued with DGM/TO, Shri Ratnesh Kumar Jha.

Article-3

Misbehaviour with Shri S.K. Gupta, CPM/SE on 14/01/2008- Shri Sunil Kumar, Driver has not carried out the instructions of CPM/SE and has failed to extend courteous behaviour on few occasions. On being asked to explain, he tried to dodge the issue.

As per item Nos. 4.1, 5.6, 5.18 and 5.20 of DMRC's Service Rules, an employee should maintain devotion to duty and do nothing which is unbecoming of a public servant, should not be disobedient, should not be absent from the employee's appointed place of work without permission or sufficient cause.

By your above act of misconducts he has acted in a manner which is highly unbecoming of a public servant and thereby have violated rule Nos. 4.1, 5.6, 5.18 and 5.20 of DMRC's Service Rules.”



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3. Pursuant thereto, the respondent conducted a departmental enquiry against the petitioner. Upon conclusion of the enquiry, the petitioner was held guilty of all the charges levelled against him and was removed from service *vide* order dated 16.10.2009.

4. Aggrieved by the aforesaid order, the petitioner preferred a departmental appeal dated 03.11.2009. The said appeal was dismissed by the Appellate Authority *vide* letter dated 27.01.2010. The petitioner thereafter preferred a review petition before the Reviewing Authority, which also came to be dismissed on 24.05.2010.

5. The petitioner thereafter approached the Conciliation Officer of the Central Government. However, the conciliation proceedings failed and, consequently, the appropriate Government referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court No. 1 *vide* reference order dated 01.09.2010, framing the terms of reference as under:

“Whether the action of the management of M/s. DMRC in terminating the services of Sh. Sunil Kumar, Driver w.e.f. 16.10.2009 is legal and justified? If not, what relief he is entitled to?”

6. The learned Labour Court framed the following issues in the present matter:

1) *Whether the enquiry conducted by the management against the claimant was just, fair and legal?*



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2) *Whether the punishment of removal from service awarded to the claimant was commensurate with the misconduct proved against him?*

3) *As per the terms of reference.*

4) *Relief.*

7. Issue No. 1 was treated as a preliminary issue. After the respondent led its evidence on the said issue, the learned Labour Court, *vide* order dated 21.01.2011, held that the domestic enquiry conducted by the respondent had been carried out in violation of the principles of natural justice and decided the said issue in favour of the petitioner and against the respondent. The respondent was thereafter granted an opportunity to lead evidence before the learned Labour Court to establish the charges levelled against the petitioner.

8. Thereafter, the respondent moved an application seeking amendment of its written statement, *inter alia*, to place on record certain instances of the petitioner's past conduct and also certain alleged incidents which had occurred after his removal from service. The petitioner opposed the proposed amendment insofar as it sought to introduce his conduct subsequent to his removal. *Vide* order dated 14.12.2010, the learned Tribunal permitted the respondent to incorporate the legal propositions and factual allegations relating to the petitioner's past conduct but specifically declined to permit the respondent to incorporate the alleged incidents subsequent to the petitioner's removal, observing that such incidents were neither



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relevant to the adjudication nor could constitute misconduct for the purposes of the present proceedings.

9. Upon appreciation of the evidence led by the parties, the learned Tribunal held that the charges against the petitioner stood proved and that the penalty of removal from service was neither harsh nor disproportionate to the misconduct committed by him. The learned Tribunal accordingly answered the reference in favour of the management and against the petitioner and dismissed the claim, while directing the respondent to release the petitioner's provident fund and other permissible dues in accordance with its rules.

10. Aggrieved thereby, the present petition has been filed.

11. The learned counsel for the petitioner submitted that the learned Tribunal, despite having held *vide* order dated 21.01.2011 that the domestic enquiry was vitiated for violation of the principles of natural justice and having thereafter permitted the respondent to prove the charges independently by leading evidence before it, nevertheless relied upon the enquiry report and the petitioner's reply thereto while returning findings of guilt in the impugned award.

12. He submitted that, insofar as Article 1 is concerned, the learned Tribunal erred in observing that the petitioner had not explained the allegation levelled against him, whereas the petitioner had submitted his reply dated 21.02.2007 when the allegation was first levelled against



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him, besides placing on record the medical fitness certificate, original leave application and the relevant log book. He submitted that these documents were not properly appreciated while accepting the management's version regarding the alleged throwing of the leave application and rash driving.

13. He submitted that, with regard to Article 2, the learned Tribunal relied upon the attendance register, Ex. MW2/W2, to hold that the petitioner was not on duty on 24.12.2007, even though the charge itself alleged unauthorised absence from the place of duty. He submitted that the petitioner's case was that he had accompanied WW1 Inderjeet to Gupta Nursing Home during the early hours, before his duty hours commenced, which was supported by the testimony of WW1, while WW5 Dharmesh Ranjan, who was present at the nursing home at about 11.15 a.m., specifically denied the petitioner's presence there. He submitted that this evidence, which directly contradicted the management's case, was not properly considered by the learned Tribunal.

14. He submitted that, as regards Article 3, the allegation was that the petitioner had failed to comply with the instruction of the CPM/SE to distribute dak on 14.01.2008. He submitted that the petitioner had specifically denied being given any such instruction and had placed on record the RTI documents exhibited to show that the relevant correspondence received by the CPM/SE on that date did not support



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the allegation and that distribution of dak was not part of the duties of a Driver. He submitted that these documents and the petitioner's specific defence were not properly appreciated by the learned Tribunal.

15. He submitted that the learned Tribunal further relied upon the testimony of MW7, MW8 and MW9 concerning an alleged incident dated 13.10.2010, despite the petitioner having been removed from service on 16.10.2009 and the learned Tribunal having, *vide* order dated 14.12.2010, specifically restricted the respondent from pleading or proving incidents subsequent to the petitioner's removal. He submitted that such evidence was wholly extraneous to the charges under adjudication and could not have been relied upon by the learned Tribunal in determining the petitioner's guilt.

16. He submitted that the learned Tribunal also failed to properly appreciate the contemporaneous log book, which was material to the allegations forming the subject matter of Articles 1 and 3, as well as the petitioner's service record and ACRs. He submitted that these documents were material both to the question of whether the charges stood proved and, in any event, to the question of the proportionality of the punishment imposed upon the petitioner.

17. He submitted that, even assuming that the charges against the petitioner stood proved, the punishment of removal from service was wholly disproportionate to the nature of the alleged misconduct. He submitted that the allegations essentially concerned acts of alleged



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misbehaviour, unauthorised absence and failure to comply with an instruction and, having regard to the petitioner's service record, the learned Tribunal ought to have exercised its jurisdiction on the question of proportionality and considered whether the extreme penalty of removal was warranted.

18. *Per Contra*, The learned counsel for the respondent vehemently opposed the present petition. He submitted that no grounds had been made out by the petitioner warranting interference under Article 226 of the Constitution of India.

19. He submitted that, with respect to Article 1, the learned Tribunal, upon considering the oral and documentary evidence, rightly concluded that the petitioner had effectively admitted the misconduct, his defence being that he had already been warned for the same and could not therefore be punished again, and accordingly held the charge proved.

20. He submitted that Article 2, relating to the petitioner's unauthorised absence from duty on 24.12.2007 and his alleged rude and indecent behaviour towards senior officers at Gupta Nursing Home, stood proved through the testimony of the management witnesses as well as the attendance register, which showed that the petitioner had not marked his attendance while he was found at the nursing home by senior officials. He submitted that the petitioner had failed to furnish any satisfactory explanation for his presence there or for his conduct towards the senior officers.



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21. He submitted that Article 3, concerning the petitioner's failure to comply with the direction of the CPM/SE to distribute dak in accordance with the office circular, was also proved through the oral and documentary evidence led before the learned Tribunal. He submitted that the enquiry report formed part of the record of the proceedings and was therefore available to the learned Tribunal for consideration along with the other material while determining whether the charges stood proved.

22. He submitted that the petitioner's reliance upon his ACRs was misconceived, as a good service record by itself could not negate the specific acts of misconduct found proved against him, particularly where the misconduct involved repeated instances of indiscipline and improper behaviour towards senior officials.

23. He submitted that the reliance placed by the petitioner upon the RTI replies was equally misconceived, as the said replies merely furnished the information sought from the concerned CPIO and did not, by themselves, establish the petitioner's defence or disprove the evidence led by the respondent before the learned Tribunal.

24. He submitted that the learned Tribunal, being the competent adjudicatory forum, had considered the evidence and the question of proportionality of punishment and, having regard to the seriousness and repeated nature of the misconduct, concluded that the penalty of removal was not disproportionate. He submitted that the impugned



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award dated 11.02.2016 is accordingly a reasoned and considered award and no ground has been made out for interference by this Hon'ble Court in exercise of its jurisdiction under Article 226 of the Constitution.

25. I have heard the arguments and perused the record.

26. At the outset, it is necessary to note that the scope of interference under Articles 226 and 227 of the Constitution of India with an Award passed by the Labour Court is limited. This Court does not sit as a Court of appeal over findings of fact rendered by the Labour Court. Interference is warranted only where the findings are perverse, based on no evidence, suffer from patent illegality, or disclose a jurisdictional error. Reference in this regard may be made to the judgment in ***International Airport Authority of India v. International Air Cargo Workers Union : (2009) 13 SCC 374*** where the Hon'ble Apex Court held as under:

“47. It is true that in exercising the writ jurisdiction, the High Court cannot sit in appeal over the findings and award of the Industrial Tribunal and therefore, cannot reappreciate evidence. The findings of fact recorded by a fact-finding authority should ordinarily be considered as final. The findings of the Tribunal should not be interfered with in writ jurisdiction merely on the ground that the material on which the Tribunal had acted was insufficient or not credible.

48. It is also true that as long as the findings of fact are based on some materials which are relevant, findings may not be interfered with merely because another view is also possible. But where the Tribunal records findings on no evidence or irrelevant evidence, it is certainly



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open to the High Court to interfere with the award of the Industrial Tribunal.”

27. Adverting to the merits of the present case, the principal challenge raised by the petitioner is that, having held the domestic enquiry to be vitiated *vide* order dated 21.01.2011, the learned Tribunal could not have relied upon the enquiry report or the material forming part thereof while adjudicating the charges. It is true that, upon the domestic enquiry being held to be vitiated, the respondent was required to establish the alleged misconduct independently before the learned Tribunal.

28. In the present case, however, the learned Tribunal had expressly permitted the respondent to lead evidence to establish the charges, pursuant to which the respondent examined twelve witnesses and produced documentary evidence. The petitioner also led evidence in defence. The learned Tribunal thereafter considered the evidence led before it and returned findings on each of the three charges. Therefore, even if the learned Tribunal made reference to the earlier enquiry proceedings or the material forming part thereof, such reference, by itself, would not vitiate the ultimate findings, particularly when the respondent had independently led evidence before the learned Tribunal and the findings are otherwise supported by such evidence.

29. Turning to the charges levelled against the petitioner, Article 1 alleged that, on 09.02.2007, the petitioner misbehaved with Shri Daljeet Singh, his senior officer. It was alleged that, when the petitioner was



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asked to submit his leave application along with a medical fitness certificate, he threw the application out of the window and, when questioned about his conduct, drove the vehicle at a high speed in a rough manner, thereby narrowly avoiding an accident.

30. In support of the aforesaid charge, Shri Daljeet Singh appeared as MW5 before the learned Tribunal and deposed in detail regarding the incident. He stated that while travelling in the vehicle from Metro Bhawan, the petitioner showed him his leave application and questioned why his leave had not been sanctioned. When he was asked to submit the medical fitness certificate along with the application, the petitioner allegedly threw the application out of the window. MW5 further deposed that, upon questioning the petitioner about his conduct, the petitioner drove the vehicle at a very high speed in a zig-zag, rash and negligent manner, as a result of which he narrowly escaped an accident. He further stated that he reported the incident telephonically and also submitted a written note in this regard to the Company Secretary, which was exhibited as Ex. MW5/1.

31. The learned Tribunal, after considering the aforesaid testimony, held that the charge stood proved against the petitioner. The learned Tribunal noted that the petitioner had not furnished any explanation to the allegations either in his reply to the charge-sheet or in his written submissions filed before the learned Tribunal. The learned Tribunal also



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noted that the petitioner had not satisfactorily explained his conduct as alleged by MW5.

32. The petitioner has contended that the aforesaid finding proceeds on an incorrect factual premise, since he had in fact furnished a reply dated 21.02.2007 to the charge. A perusal of the said reply shows that the petitioner had merely denied throwing the leave application out of the window, stating that the application was still with him. He also denied driving the vehicle improperly and stated that he had driven it properly, while apologising if the officer had felt otherwise. It is pertinent to note that subsequent to the aforesaid incident, the petitioner was issued a warning for the said misconduct the same was accepted by the petitioner.

33. Even otherwise, the aforesaid letter, by itself, does not displace the finding of misconduct. The learned Tribunal relied upon the testimony of MW5, who was himself the officer involved in the incident and who gave a detailed account of the petitioner's conduct, including the throwing of the application and the subsequent manner of driving. The written complaint made by MW5 was also placed on record. Upon an overall consideration of the evidence, the finding that the charge stood proved is a view reasonably possible on the material before the learned Tribunal. This Court, exercising jurisdiction under Article 226 of the Constitution, cannot reappreciate the evidence or substitute its own view for that of the learned Tribunal merely because another view



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may also be possible. In the absence of any perversity, patent illegality or finding unsupported by evidence, no interference with the finding of the learned Tribunal on Article 1 is warranted.

34. With regard to Article 2, it was alleged that, on 24.12.2007, the petitioner unauthorisedly absented himself from duty and, while at Gupta Nursing Home, spoke rudely and argued with senior officials. To establish the charge, the management examined MW2 Manish Yadav, MW3 Balbir Singh, MW4 Ratnesh Jha and MW6 S.K. Gupta, who deposed regarding the petitioner's presence at the nursing home and his conduct towards the senior officers.

35. The learned Tribunal, upon considering the aforesaid evidence, held that the charge stood proved. The learned Tribunal placed reliance upon the fact that several senior officers of the management had independently deposed regarding the petitioner's conduct and observed that there was no reason to presume that all such officers would make false statements against him. The learned Tribunal also relied upon the attendance sheet, which did not contain the petitioner's name, whereas the names of the other employees present on duty on 24.12.2007 were recorded therein. The learned Tribunal observed that the aforesaid supported the management's case that the petitioner had remained absent from duty. The learned Tribunal further observed that the petitioner had not furnished any proper explanation in his written submissions and that the explanations subsequently relied upon by him



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were merely an afterthought. It consequently concluded that the evidence led by the petitioner did not disprove the charge.

36. The principal contention of the petitioner before this Court is that the attendance register, Ex. MW2/W2, itself shows that he was not on duty on 24.12.2007 and, therefore, the allegation of unauthorised absence could not have been established. The aforesaid contention, however, is misconceived. The case of the management was precisely that the petitioner had remained unauthorisedly absent from his assigned duty, and the absence of his name from the attendance register, therefore, cannot by itself be treated as evidence exonerating the petitioner.

37. The petitioner had further contended that the learned Tribunal did not consider the testimonies of WW1 Inderjeet and WW5 Dharmesh Ranjan to contend that his visit to Gupta Nursing Home had taken place during the early hours, before the commencement of his duty. WW1 Inderjeet deposed that he, along with the petitioner, had visited the nursing home in the morning and left before meeting any senior official. WW5, on the other hand, merely deposed that he did not see the petitioner at the nursing home. The said evidence was available before the learned Tribunal and, upon appreciation of the rival versions, the learned Tribunal accepted the management's case. This Court, in exercise of its limited jurisdiction under Article 226 of the Constitution, cannot reappreciate the evidence or substitute its own appreciation for



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that of the learned Tribunal merely because a different view may be possible. The finding on Article 2 cannot be said to be perverse or unsupported by evidence and, therefore, does not warrant interference.

38. With regard to Article 3, it was alleged that, on 14.01.2008, the petitioner, while working as a Driver, was directed by the CPM/SE, Shri S.K. Gupta, to report to his chamber and distribute dak in accordance with the office circular, but failed to do so till 5.00 p.m. It was further alleged that, on various occasions, the petitioner had failed to extend courteous behaviour, had not properly responded to the directions of his superior officers and had reported for duty in an unpresentable manner.

39. In support of the aforesaid allegations, MW6 Shri S.K. Gupta, CPM/SE, deposed that on 14.01.2008 he had asked the petitioner to come to his chamber and distribute dak after parking the vehicle, but the petitioner did not report till 5.00 p.m. He further deposed regarding the petitioner's conduct on various occasions, including his failure to respond to directions, uncourteous behaviour and reporting for duty in an unpresentable manner. He also referred to instances where the petitioner would stand away from the official vehicle while the officer was seated inside, would not respond to instructions and had, on one occasion, responded in an uncourteous manner.

40. The management also examined MW7 Shri Kuldeep Singh, who deposed regarding an incident in which the petitioner had behaved rudely and used abusive language. MW8 Shri Sohan Singh and MW9



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Shri Sasank Sharma also deposed regarding the petitioner's conduct in connection with the incident dated 13.10.2010. MW10 Shri Satish Kumar, a senior officer of the management, deposed regarding an earlier occasion when he had travelled with the petitioner to Mussourie for four days and stated that, despite being instructed to drive carefully, the petitioner drove rashly, overtook from the wrong side, failed to slow down at speed breakers and behaved in a rude and unpleasant manner.

41. Upon consideration of the aforesaid evidence, the learned Tribunal concluded that the petitioner was an indisciplined employee and was guilty of talking rudely with senior officers, misbehaviour, use of bad language, rash driving, insubordination, failure to follow orders, discourteous conduct and unauthorised absence. The learned Tribunal consequently held that the management had lost confidence in the petitioner and that the management could not be expected to function with an employee displaying such conduct.

42. The petitioner has specifically disputed that he was ever directed by the CPM/SE to distribute dak and has relied upon the RTI documents, Ex. MW6/W3 to MW6/W6 and Ex. WW4/12, to contend that distribution of dak was not part of the duties prescribed for a Driver. The aforesaid documents, however, do not by themselves establish that no such direction was issued to the petitioner on the relevant date. At the highest, they may bear upon the general duties assigned to a Driver;



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they do not conclusively displace the specific testimony of MW6 regarding the direction allegedly given to the petitioner on 14.01.2008.

43. The petitioner has also challenged the reliance placed by the learned Tribunal upon the evidence of MW7, MW8 and MW9 concerning the alleged incident dated 13.10.2010. The petitioner had been removed from service on 16.10.2009 and, *vide* order dated 14.12.2010, the learned Tribunal had specifically declined to permit the respondent to incorporate factual allegations concerning incidents subsequent to his removal. Having itself held that such subsequent incidents were not relevant to the adjudication of the present dispute, the learned Tribunal could not thereafter rely upon the incident dated 13.10.2010 while assessing the petitioner's misconduct. The evidence of MW7, MW8 and MW9 insofar as it relates to the said subsequent incident, therefore, has to be excluded from consideration.

44. However, the exclusion of the aforesaid evidence does not, by itself, demolish the finding regarding the petitioner's conduct. MW6 had independently deposed regarding the petitioner's discourteous behaviour, failure to respond to directions and manner of reporting for duty. MW10 Shri Satish Kumar, another senior officer, also deposed regarding the petitioner's rude and unpleasant behaviour and his failure to follow instructions regarding careful driving. Thus, even after excluding the evidence relating to the incident dated 13.10.2010, there remained evidence before the learned Tribunal regarding the



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petitioner's conduct on the basis of which it returned its finding. The finding of the learned Tribunal on Article 3 cannot be said to be perverse or wholly unsupported by evidence. The finding of misconduct on Article 3, therefore, does not warrant interference.

45. The petitioner has further contended that the learned Tribunal failed to appreciate the log book, as well as his ACRs. The mere fact that every document relied upon by a party has not been dealt with separately or at the length desired by that party would not, by itself, render the award perverse. The learned Tribunal considered the evidence of the witnesses produced by both parties and the documentary material on record and thereafter recorded findings on the individual charges. It is well settled that in departmental proceedings, strict rules of evidence are not applicable and the charges are required to be proved on the touchstone of preponderance of probabilities, and not beyond reasonable doubt.

46. This Court, while exercising jurisdiction under Article 226 of the Constitution, does not sit as an appellate court over the findings recorded by the learned Tribunal and cannot reappreciate the evidence merely because another view may be possible. The petitioner has failed to demonstrate that the findings recorded by the learned Tribunal are perverse or otherwise suffer from any illegality warranting interference in writ jurisdiction. The findings of misconduct recorded by the learned Tribunal are, accordingly, upheld.



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47. The question of the punishment imposed upon the petitioner, however, stands on a different footing. The learned Tribunal, while considering the question of proportionality, has declined to interfere with the punishment of removal from service, principally having regard to the nature and repeated instances of misconduct attributed to the petitioner. However, even accepting the findings of misconduct recorded by the learned Tribunal, this Court is of the considered view that the punishment of removal from service is shockingly disproportionate to the misconduct proved against the petitioner.

48. It is well settled that this Court can only interfere with the punishment awarded to a delinquent employee when, in the facts and circumstances of the case, the penalty imposed is so disproportionate to the nature of charge that it shocks the conscience of the Court and the Court is forced to believe that it is totally unreasonable and arbitrary. (Ref: ***Deputy Commissioner, Kendriya Vidyalaya Sangathan and Ors. v. J. Hussain : (2013) 10 SCC 106***)

49. The charges in the present case, relate to three specific instances concerning alleged misbehaviour with superior officers, unauthorised absence and failure to comply with an instruction. The misconduct, though certainly warrants disciplinary action, cannot, in the opinion of this Court, be regarded as of such gravity as to justify the extreme penalty of removal from service, when the petitioner had satisfactorily worked for 8-9 years. The punishment of removal awarded in the



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peculiar facts and circumstances of the present case, meets the threshold of shockingly disproportionate and warrants interference.

50. However, the relief of reinstatement can also not be granted mechanically. The petitioner was removed from service on 16.10.2009 and nearly seventeen years have elapsed since then, reinstatement at this stage cannot be awarded. In these circumstances, while the findings of misconduct are upheld and the punishment of removal is held to be shockingly disproportionate, this Court is of the view that the ends of justice would be met by awarding a lump-sum compensation to the petitioner.

51. In the opinion of this Court, having regard to the fact that the petitioner served with respondent for a period of 8-9 years, and the peculiar circumstances of the present case, a lump-sum compensation of ₹3,00,000/- would meet the ends of justice. The respondent is accordingly directed to pay the said amount to the petitioner within a period of eight weeks from the date of this order.

52. The impugned award dated 11.02.2016 is modified to the aforesaid extent. The present petition stands disposed of in the aforesaid terms.

53. Pending applications (if any) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 16, 2026 / DU