

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
ATJAMMU**

**WP(C) No. 2510/2022
CM No. 6864/2022**

Reserved on: 15.05.2026
Pronounced on: 31.07.2026
Uploaded on: 31.07.2026
Whether the operative part or
full judgment is pronounced: **FULL**

**Naveen Jamwal, Age-43 years,
S/o Nanak Chand Jamwal,
R/o Lower Thather,
Raipur Domana,
Tehsil and District Jammu**

...Petitioner(s)

**Through: - Ms. Surinder Kour, Sr. Advocate with
Ms. Manpreet Kour, Advocate.**

v/s

- 1. Hon'ble High Court of J&K and Ladakh
Through Registrar General,
High Court of J&K and Ladakh, Jammu.**
- 2. Union Territory of J&K, through
Commissioner-cum-Secretary to Government,
Department of Law, Justice and Parliamentary
Affairs, (Judicial Administration Section),
Government of Union Territory of J&K, Civil
Secretariat, Jammu.**
- 3. Secretary to Government,
Department of Law, Justice and Parliamentary
Affairs, (Judicial Administration Section),
Government of Union Territory of J&K, Civil
Secretariat, Jammu.**

...Respondent(s)

Through: -

Mr. Aditya Gupta, Advocate for respondent No.1.
Ms. Monika Kohli, Sr. Advocate (Sr. AAG) for
respondent Nos.2 & 3.

**CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

JUDGMENT

Sanjay Parihar-J

1. The petitioner, a Judicial Officer, was selected by the Jammu and Kashmir Public Service Commission and appointed as Civil Judge (Junior

Division)/Munsiff on 16.03.2013. His first posting was as Munsiff/Additional Mobile Magistrate (Traffic), Doda, in the erstwhile District Doda. According to the respondents, during his tenure at Doda, the petitioner induced three persons, namely Chambail Singh, Ranjit Singh and Rattan Singh, residents of the erstwhile District Doda, to pay ₹2.50 lakh each on the assurance that he would secure their appointment in the Judicial Department by influencing senior officers of the High Court and members of the Selection Committee responsible for recruitment to Class IV posts. The complainants alleged that they paid the amounts demanded but neither secured employment nor received refund. Instead, the petitioner allegedly abused and threatened them. It is further alleged that, even after his transfer from Doda, the complainants repeatedly approached him for return of their money, but he refused to acknowledge them and, on one occasion, drove them away from his residence with a threat of having them arrested.

2. Respondents claim to have received a written complaint against the petitioner, on its administrative side, which provided as under: -

“Hon’ble Chief Justice,
J&K High Court,
Jammu
Camp Doda

Sub: - Loot and extraction committed by Sh. Naveen Singh
Jamwal, the then Addl. Spl. Mobile Magistrate, Doda
Sir,

We the below signatory applicants are unemployed graduate for Rural areas of this District and ever in search of employment/livelihood.

To take benefit of our ambitions, we were defrauded by a person named Sh. Naveen Singh Jamwal who was posted as Addl. Spl. Mobile Magistrate Doda in year 2015.

He lured us to arrange for Rs.2,50,000/- each as he had as per his statement ensured our employment in Judicial Department and the same amount was to be paid to some High Court Judge

and other members of selecting committee for Class IV Employees appointment.

After his transfer from this place, we remain intact with him at least to receive the amount back but last time when we visited his home at Domana Jammu near Police Station, he abused and got us out of his home stating that now nobody is going to listen us.

We have the proof of payments which will be produced to any officer appointed by your honour to enquire the matter.

An affidavit in support of application in annexed herewith.
Thanking you sir.

APPLICANTS

1. Chambail Singh
S/o Late Fareb Singh
R/o village Koti
Tehsil & Dist. Doda
2. Rattan Singh
S/o Kanshi Ram
R/o Dashan
Tehsil & Dist. Doda
3. Ranjeet Singh
S/o Kirpa Singh
R/o ZartundDessa
Tehsil Bhagwah
Dist. Doda”.

3. Upon receipt of the complaint, this Court directed the Registrar Vigilance to conduct a preliminary inquiry. The inquiry revealed that the allegations were prima facie supported by the statements of the complainants and the conversation contained in a compact disc (CD), indicating serious misconduct on the part of the petitioner. The Registrar Vigilance, accordingly, recommended a regular departmental inquiry.
4. Pursuant to the Full Court Resolution dated 27.12.2018, a regular inquiry was entrusted to a Judge of this Court. The Enquiry Officer, vide report dated 24.08.2021, found all the charges proved and held the petitioner guilty of grave misconduct unbecoming of a Judicial Officer. The report was placed before the Full Court, which accepted the findings and resolved to propose the major penalty of dismissal from service. Consequently, a show-cause notice dated 15.12.2021 was issued, calling

upon the petitioner to explain, within fifteen days, why the proposed penalty should not be imposed. In compliance with Rule 33 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956, copies of the inquiry report and the proceedings were also furnished. According to the respondents, the notice was served upon the petitioner on 17.12.2021 in the presence of the Registrar Vigilance and two Registry officers. However, no reply was submitted.

5. Thereafter, on the directions of Hon'ble the Chief Justice, a reminder-cum-second show-cause notice granting seven days' time was issued, which, according to the respondents, was served upon the petitioner's spouse. As no response was received, the matter was again placed before the Full Court, which, by resolution dated 12.04.2022, resolved to impose the penalty of removal from service. The recommendation was accepted by the Government, which issued Government Order No. 2704-JK(LD) of 2022 dated 20.05.2022 removing the petitioner from service.
6. Aggrieved thereof, the petitioner has filed the present writ petition, principally contending that neither the impugned order nor any charge-sheet or show-cause notice was ever served upon him and that he remained unaware of the disciplinary proceedings until he accessed the Government order from the website of the Law Department. It is pleaded that no inquiry, as contemplated under Rule 33 of the Rules of 1956, was conducted and that, had such proceedings been initiated, he would ordinarily have been placed under suspension, whereas he continued to draw his salary throughout. The petitioner further asserts that the disciplinary proceedings were conducted entirely ex parte, in violation of Rule 33, the principles of natural justice and Article 311 of the

Constitution of India. The impugned order is also assailed on the grounds of non-application of mind, arbitrariness and disproportionality of punishment. On these premises, the petitioner seeks issuance of a writ of certiorari quashing Government Order No. 2704-JK(LD) of 2022 dated 20.05.2022, the disciplinary proceedings culminating therein, and a consequential direction for his reinstatement in service.

7. The respondents contend that the disciplinary proceedings were conducted strictly in accordance with Rules 33 and 34 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956, and that all notices, including the show-cause notices, were duly served upon the petitioner. It is pleaded that, despite repeated opportunities, the petitioner deliberately abstained from participating in the inquiry, failed to file reply to the charge-sheet, and chose not to contest the allegations. Consequently, the Enquiry Officer was constrained to proceed ex parte. According to the respondents, notices requiring the petitioner's appearance were duly served through the Principal District Judge, Kulgam, where the petitioner was then posted, including notice dated 18.09.2019. Even after the Full Court accepted the findings of the Enquiry Officer and resolved to propose the major penalty, two separate show-cause notices under Rule 34 were served upon the petitioner, calling upon him to explain why the proposed punishment should not be imposed. As no response was forthcoming, the Full Court ultimately resolved to impose the penalty of removal from service.
8. Learned counsel for the petitioner, on the other hand, submitted that the petitioner remained in active service throughout the relevant period and,

therefore, the allegation that he intentionally abstained from the proceedings is wholly unfounded. It is contended that neither the charge-sheet nor the notices relating to the inquiry or the proposed punishment were ever duly served upon him. On merits, it is argued that the complaint was unsupported by the mandatory material contemplated under Section 204(2) of the Code of Criminal Procedure; that although the complaint was lodged on 31.03.2018, the compact disc (CD) relied upon was produced only on 25.07.2018 without the certificate required under Section 65-B of the Indian Evidence Act; that there was no evidence of demand, acceptance or recovery of any money; and that the recorded conversation was never subjected to forensic examination. It is further submitted that, despite the inquiry having proceeded ex parte, the Enquiry Officer returned findings amounting to criminal misconduct without any legally admissible evidence. Reliance is also placed on the fact that, during the pendency of the disciplinary proceedings, the petitioner was considered for promotion from Civil Judge (Junior Division) to Civil Judge (Senior Division) pursuant to notification dated 19.11.2021, wherein his name appeared at Serial No. 23, and his Annual Confidential Reports had been consistently graded as 'Good', indicating that there was no adverse material against him. It is further argued that the complainants' assertion of having submitted the complaint to the then Acting Chief Justice during his alleged visit to Doda on 31.03.2018 is factually incorrect, as no such visit had taken place. Lastly, it is contended that the disciplinary proceedings are vitiated by non-compliance with the prescribed procedure, inasmuch as the charges were framed nearly one and a half years after the complaint, contrary to Rule 31 of the Rules of

1956, and the impugned order was passed without affording the petitioner an effective opportunity of hearing.

9. We have heard Counsel for both parties besides also have seen the record.
10. The original record produced by the respondent reveals that the complaint was accompanied by an affidavit sworn by one of the complainants, Chambail Singh. Upon receipt of the complaint, the Registrar Vigilance was directed to conduct a preliminary inquiry. During the inquiry, all three complainants appeared and their statements were recorded. One of them also produced a Compact Disc (CD), asserting that it contained a recorded conversation between complainant Ranjeet Singh and the delinquent Judicial Officer (petitioner).
11. In his report dated 14.09.2018, the Registrar Vigilance noted that the CD, when played, disclosed a conversation between Ranjeet Singh and another person, who, though not expressly identified, appeared to be posted at Mahore at the relevant time. The conversation reflected a demand by Ranjeet Singh for return of the money allegedly paid by him, to which the other person responded that he was entitled to receive ₹30,000–32,000/-. The Registrar Vigilance further recorded that all three complainants had consistently alleged payment of ₹2.50 lakh each to the petitioner on the assurance of securing employment in the Judicial Department, but neither were they appointed nor was the money returned. On the basis of the complainants' statements and the contents of the CD, the Registrar Vigilance concluded that the allegations prima facie disclosed grave

misconduct on the part of the petitioner and recommended initiation of a regular departmental inquiry.

12. The report was placed before the Administrative Committee on 16.10.2018, which resolved to place the matter before the Full Court. By resolution dated 27.12.2018, the Full Court ordered a regular inquiry and authorised Hon'ble the Chief Justice to nominate an Enquiry Officer. Accordingly, Hon'ble Mr. Justice Sanjeev Kumar was appointed as the Enquiry Officer with Reg. Vigilance being presenting officer.
13. The inquiry commenced on 20.08.2019, when notice was issued directing the petitioner to appear on 13.09.2019. As the petitioner did not appear on the scheduled date, the Enquiry Officer directed the Presenting Officer to place on record proof of service and ordered issuance of a fresh notice requiring the petitioner's appearance on 17.10.2019. The record shows that the said notice was served through the Principal District Judge, Kulgam and was acknowledged by the petitioner on 18.09.2019. The notice specifically informed the petitioner that, in the event of his failure to appear, the inquiry would proceed ex parte. Despite such service, the petitioner remained absent on 17.10.2019, whereupon the Enquiry Officer proceeded ex parte and recorded the evidence adduced by the Presenting Officer.
14. During the enquiry, the statement of Article charges was drawn against the petitioner (Annexure-II of the Regular enquiry by the Enquiry Officer) as under: -

“Statement of allegations in support of Article of Charges framed against Shri Naveen Jamwal (the then Addl. Spl. Mobile Magistrate, Doda) presently posted as Munsiff Mahore: -

1. That while being posted as Munsiff/Addl. Spl. Mobile Magistrate, Doda, you indulged in corruption and abuse of your official position.
2. That in the year 2015, Class IV posts for District Doda in the District Judiciary had been advertised and you held out a promise to arrange the appointments for the complainants namely Sh. Chambail Singh, Sh. Ranjit Singh and Sh. Rattan Singh, in lieu of the payment of money which in turn was to be paid to the higher authorities.
3. That in pursuance to the promise held out by you to the complainants, the complainant Chambail Singh paid an amount of Rs.1.00 lacs to you in your residential quarter at Doda and a further sum of Rs.1.50 lacs was paid to you by said complainant at your residence at Domana after you had been transferred from Doda to Jammu.
4. That you also received an amount of Rs.2.50 lacs each from complainants Sh. Ranjit Singh and Sh. Rattan Singh in pursuance of the promise held out to them by you.
5. That the complainants were not given the employment and the money received by you was not returned by you to them, as a consequence whereof, the complainants made a written complaint before the Hon’ble the Acting Chief Justice on 31.03.2018.
6. That by your aforesaid omission and commission, you have abused your official position and have resorted to corrupt practices thereby indulging in a conduct unbecoming of a Judicial Officer which calls for enquiry under Rule 33 read with Rule 30 acts of the J&K Civil Service (Classification, Control and Appeal) Rules, 1956. Apart from this, your acts constitute criminal misconduct punishable under Section 5 of the Prevention of Corruption Act, 2006”.

15. The same were served to the petitioner through Principal District and Sessions Judge, Reasi asking him to submit his defence within 15 days.

On 24.08.2021, the Enquiry Officer returned its findings as under: -

“9. As the DO has failed to appear and lead any defence evidence and has been set ex-parte, therefore, the enquiry has to be completed only on the basis of the evidence of the complainants and the record placed on the file.

10. Having heard the Presenting officer and perused the material on record, I am of the considered view that the charges against the D.O have been proved. The statements of all the three witnesses are in sync with each other and clearly demonstrate the culpability of the D.O. From the

statements of the witnesses it is established by preponderance of all probabilities that in the year 2015, when the D.O was posted as Munsiff/Addl. Mobile Magistrate Traffic, Doda, he came in contact with the complainants, Chambail Singh, Rattan Singh and Ranjit Singh on different occasions and on the promise of arranging Class IV job in Judiciary in District Doda, demanded and received different sums on different occasions. It was only when the select list of Class IV came to be issued, the complainants came to know that they had been duped. They approached the D.O for refund of their money. The D.O refused to recognize them and refund their money.

11. It may be noted that the conduct of the D.O during the course of enquiry has remained as one of defiance. Not only did he refuse to submit his reply to the charges but he virtually declined to participate in the enquiry. The D.O was served time and again with a direction to appear before the undersigned but he, despite having acknowledged the summons, remained absent. The conduct exhibited by the D.O is sufficient enough to infer that the D.O had not defence to offer and had conceded the charges. It is these circumstances the D.O was proceeded ex-parte and the Presenting officer was asked to lead evidence. All the three complainants appeared before me and unequivocally deposed against the D.O and supported the charges framed against him. I have elaborately reproduced the statements of the three complainants, which, as already stated, are in sync with each other and fully prove the charges, more so, when these had not been contested or rebutted.

12. In view of the aforesaid, I have no doubt in my mind that the charges framed against the D.O are fully established and, therefore, I hold him guilty of serious misconduct unbecoming of a Judicial Officer.”

16. The Enquiry Report was thereafter placed before the Full Court on the administrative side, which accepted the findings recorded by the Enquiry Officer and resolved to propose the major penalty of dismissal from service. Accordingly, the petitioner was issued 2nd show-cause notice calling upon him to explain why the proposed penalty should not be imposed. Despite service of the notice, the petitioner did not submit any response. The record further reveals that, on the directions of Hon'ble the Chief Justice, one additional opportunity too was afforded to the petitioner by issuance of a fresh show-cause notice, even then, no reply

was forthcoming. Consequently, the Full Court, upon reconsideration of the matter, resolved to recommend to the Government the petitioner's removal from service on account of the misconduct established in the departmental inquiry.

17. Rule 34 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 governs disciplinary proceedings against civil servants and, in the absence of separate disciplinary rules for members of the subordinate judiciary, equally applies to Judicial Officers. Its application, however, must be understood in the backdrop of the constitutional scheme, under which the District Judiciary remains under the administrative control of the High Court. While exercising such control, the High Court is constitutionally entrusted with the duty of maintaining discipline within the judicial service while simultaneously protecting its independence and integrity. The control vested in the High Court under Article 235 of the Constitution is comprehensive, subject only to the constitutional powers of the Governor in matters of appointment, posting and promotion. In disciplinary matters involving major penalties, such as dismissal, removal or reduction in rank, the High Court is competent to conduct the disciplinary proceedings, record its findings and recommend the appropriate punishment. The formal order imposing such penalty is, however, required to be passed by the Governor in terms of Articles 233, 234 and 235 of the Constitution of India
18. In **‘Union of India and others Vs. K. K. Dhawan’ AIR 1993 Supreme Court 1478** while being seized of an issue regarding conduct of civil

servant and the power of the government to take disciplinary action, it was held:-

“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."

19. Speaking with regard to the power of the High Court in matters of disciplinary control over District judiciary, the Apex Court in ‘**R. R. Parekh Vs. High Court of Gujarat and Anr.**’ reported in **AIR 2016 Supreme Court 3356**, laid down the procedure that has to be followed in such matters. It is held as under: -

“13. The submission suffers from a fundamental fallacy. Under Article 235 of the Constitution, the High Court exercises

control over the district judiciary. The exercise of disciplinary control is a manifestation of that power. Exercise of disciplinary control over the district judiciary is vested in the High Court in pursuance of the provisions of Article 235. The High Court, in order to streamline the process governing the exercise of its disciplinary jurisdiction, may make-as High Courts in fact do make-procedural provisions regulating its exercise. The High Court of Gujarat in a meeting of a Full Court held on 2 March 2004 resolved that matters listed in annexure 'A' to the resolution should be dealt with and decided by the High Court as a whole. Action to be taken against judicial officers in the exercise of disciplinary jurisdiction was one of those matters. However, having due regard to the multitude of administrative matters over which the Full Court exercises jurisdiction, the High Court assigns and distributes its administrative functions to constituent committees. This is imperative for the efficient exercise of the control of the High Court over the district judiciary under Article 235. Distribution of work to a Committee of the High Court does not efface the jurisdiction that vests in the High Court. By a resolution that was passed in a Chamber meeting of the High Court held on 26 December 1998 a detailed procedure was enunciated for the conduct of disciplinary inquiries against judicial officers of the district judiciary. The procedure envisages that after an Inquiry Officer submits a report, the report together with underlying material on the record would be examined by a Disciplinary Committee consisting of two judges. The Disciplinary Committee would submit its provisional conclusions in a report which would lay before the High Court and this would become a decision of the Court after a stipulated period. The second stage for the Disciplinary Committee to prepare and submit its report would be after issuing a notice to show cause to the officer and granting him a personal hearing after which the Disciplinary Committee would prepare a report containing its reasoned conclusions regarding the punishment. Once again the report would be tabled before High Court and would become a

decision of the Court after passage of a stipulated period. The recommendation which is submitted by the Disciplinary Committee on whether or not to accept the Report of an Inquiry Officer is not binding on the High Court. The Full Court has an obligation to apply its mind to a report which has been submitted by the Disciplinary Committee and to determine whether it should or should not be accepted. Hence, there is no merit in the submission that the Full Court was bound by the decision of its Disciplinary Committee.”

20. In that case, the judicial officer had been accused of having passed certain orders by allowing benefit of a set-off and orders had been passed with oblique purpose. The Apex Court while commenting upon such misconduct observed in para 15, the same is reproduced below: -

“15. The issue of whether a judicial officer has been actuated by an oblique motive or corrupt practice has to be determined upon a careful appraisal of the material on the record. Direct evidence of corruption may not always be forthcoming in every case involving a misconduct of this nature. A wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle. In the absence of a cogent explanation to the contrary, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that the judicial officer was actuated by extraneous considerations can be drawn. Cases involving misdemeanours of a judicial officer have to be dealt with sensitivity and care. A robust common sense must guide the disciplinary authority. At one end of the spectrum are those cases where direct evidence of a misdemeanour is available. Evidence in regard to the existence of an incriminating trail must be carefully scrutinized to determine whether an act of misconduct is established on the basis of legally acceptable evidence. Yet in other cases, direct evidence of a decision being actuated by a corrupt

motive may not be available. The issue which arises in such cases is whether there are circumstances from which an inference that extraneous considerations have actuated a judicial officer can legitimately be drawn. Such an inference cannot obviously be drawn merely from a hypothesis that a decision is erroneous. A wrong decision can yet be a bona fide error of judgment. Inadvertence is consistent with an honest error of judgment. A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact. The legality of a judicial determination is subject to such remedies as are provided in law for testing the correctness of the determination. It is not the correctness of the verdict but the conduct of the officer which is in question. The disciplinary authority has to determine whether there has emerged from the record one or more circumstances that indicate that the decision which forms the basis of the charge of misconduct was not an honest exercise of judicial power. The circumstances let into evidence to establish misconduct have to be sifted and evaluated with caution. The threat of disciplinary proceedings must not demotivate the honest and independent officer. Yet on the other hand, there is a vital element of accountability to society involved in dealing with cases of misconduct. There is on the one hand a genuine public interest in protecting fearless and honest officers of the district judiciary from motivated criticism and attack. Equally there is a genuine public interest in holding a person who is guilty of wrong doing responsible for his or his actions. Neither aspect of public interest can be ignored. Both are vital to the preservation of the integrity of the administration of justice.”

21. The Court had found that the view taken by the High Court on charge of misconduct was based on proper appreciation and in enquiry such misconduct was duly established. However, the Apex Court found that the

punishment of dismissal was harsh, it proceeded to substitute it by an order of compulsory retirement.

22. Applying the aforesaid legal principles to the facts of the present case, the principal contention of the petitioner is that he was denied, reasonable opportunity of hearing. The original record, however, does not support this assertion. The complaint (Exhibit-CS), submitted before a Judge of this Court on 31.03.2018, was forwarded to the Registrar Vigilance for a preliminary inquiry to ascertain whether it disclosed any substance. The complaint alleged that the petitioner, while posted as Additional Special Mobile Magistrate, Doda, had accepted money from the complainants on the assurance of securing their appointments in the Judicial Department.
23. The Registrar Vigilance conducted the preliminary inquiry by recording the statements of all the complainants, who consistently reiterated the allegations and also produced a Compact Disc (CD) containing a recorded conversation between one of the complainants and the petitioner. Upon considering the statements and the contents of the CD, the Registrar Vigilance concluded that the allegations were prima facie substantiated and disclosed grave misconduct on the part of the petitioner, warranting a regular departmental inquiry. The report was accordingly placed before the Full Court, which resolved to initiate regular disciplinary proceedings.
24. Pursuant thereto, the Enquiry Officer, by order dated 20.08.2019, directed issuance of notice to the petitioner, then posted as Munsiff, Qazigund, requiring his appearance on 13.09.2019. The record reveals that the notice was served through the Principal District Judge, Kulgam and was

acknowledged by the petitioner on 18.09.2019. The Principal District Judge, Kulgam, by communication dated 25.09.2019, confirmed that service had been duly effected. Despite service, the petitioner failed to appear. Consequently, a fresh notice was directed to be issued, and the Registrar Vigilance was further instructed to communicate the next date of hearing to the petitioner through telephone, WhatsApp and e-mail. Even thereafter, on 17.10.2019, the petitioner remained absent. The Enquiry Officer, having recorded satisfaction that the petitioner had deliberately chosen not to participate despite due service, proceeded to conduct the inquiry ex parte.

25. The record further reveals that, even prior to commencement of the regular inquiry, while the petitioner was posted as Munsiff, Mahore, within the jurisdiction of the Principal District Judge, Reasi, a formal charge-sheet, together with all annexures, had been served upon him through the Process Server on 17.04.2019. He was required to submit his written statement of defence on or before 02.05.2019. Admittedly, neither any reply nor any request for extension of time was submitted.

26. It is, therefore, evident that the petitioner was duly served both with the charge-sheet and the notices issued during the regular inquiry. The record further indicates that the direction issued by the Enquiry Officer for communicating the dates of hearing through telephone, WhatsApp and e-mail was also complied with. Apart from making a bald assertion that the inquiry was conducted behind his back, the petitioner has failed to produce any material to rebut the documentary record establishing due

service or to show that he was deprived of an opportunity to participate in the proceedings.

27. The evidence led before the Enquiry Officer consisted principally of the statements of the three complainants. Rattan Singh deposed that he had paid ₹2.50 lakh to the petitioner in two instalments, first at the Dak Bungalow, Doda, and thereafter at the petitioner's residence at Domana-Jammu on the assurance of securing employment in the Judicial Department. Upon publication of the select list, when he was not selected and demanded refund of the money, the petitioner allegedly refused to recognise him and threatened to have him arrested. He further stated that, while visiting the petitioner's residence, he found the other two complainants, who had allegedly suffered a similar fate.

28. Ranjeet Singh likewise deposed that he had paid ₹2.50 lakh to the petitioner for the same purpose. According to him, after the petitioner was transferred to Mahore, he contacted him telephonically and later met him at his residence at Domana. On one occasion, the petitioner allegedly handed him a small amount towards travelling expenses but ultimately declined to return the money. Chambail Singh also deposed that the petitioner initially demanded ₹3 lakh for securing his appointment as a Class-IV employee in the District Court, Doda, which was later reduced to ₹2.50 lakh. He stated that the amount was paid in two instalments at the petitioner's official residence at Doda and thereafter at his residence at Domana. When no appointment materialised and he sought refund of the amount, the petitioner allegedly misbehaved with him and refused to return the money.

29. Significantly, the writ petition does not contain even a whisper that the allegations levelled by the complainants are false, fabricated or actuated by mala fides. The petitioner's principal grievance is confined to the assertion that the Enquiry Officer accepted the statements of the complainants without subjecting them to cross-examination. This contention is wholly untenable. The record unmistakably demonstrates that the petitioner, despite due service and repeated opportunities, chose not to participate in the departmental inquiry. Having voluntarily abstained from the proceedings, he forfeited his right to cross-examine the witnesses.
30. The complainants consistently reiterated, both before the Registrar Vigilance and the Enquiry Officer, the allegations set out in the complaint, namely, that the petitioner had induced each of them to pay ₹2.50 lakh on the assurance of securing appointments in the Judicial Department; that no such appointments materialised; and that, when they demanded refund of the money, the petitioner either refused to recognise them or threatened them. In the absence of any rebuttal or cross-examination by the petitioner, the Enquiry Officer cannot be faulted for placing reliance upon their uncontroverted testimony.
31. The record unmistakably demonstrates that the petitioner was duly served with the memorandum of charges, notices issued during the disciplinary proceedings, and the show-cause notices proposing the major penalty. Repeated and adequate opportunities were afforded to him to submit his defence, participate in the inquiry and cross-examine the witnesses. The petitioner, however, consciously opted to remain absent throughout.

Having deliberately abstained from the proceedings the petitioner who is a judicial officer, cannot now invoke the principles of natural justice to assail the inquiry. The rule of *audi alteram partem* protects a diligent litigant; it cannot be converted into a weapon by one who, despite due notice, chooses not to avail the opportunity afforded to him.

32. It was contended by learned Senior counsel for the petitioner that CD relied upon was not accompanied with certificate required under Section 65-B of the Evidence Act, therefore, the finding of the misconduct on the part of the petitioner is erroneous in law.
33. We have examined the report of the Enquiry Officer and we find that though the witnesses had identified the voice of the petitioner when the compact disc (CD) was played before them during the course of preliminary enquiry, but the Enquiry Officer has not at all relied upon the said CD to determine the culpability of the petitioner. This contention is, therefore, misconceived and same is rejected. The Enquiry Officer has mainly relied upon the oral testimony of the witnesses and has determined the culpability of the petitioner.
34. It was next contended that the Enquiry stood vitiated because it proceeded ex parte. It is true that the Enquiry Officer proceeded against the petitioner in ex parte, but that is because of the own conduct of the petitioner who despite having been duly served not only with the charge-sheet but all subsequent proceedings, has at his own peril, decided not to participate in the enquiry proceedings and under such circumstances, the Enquiry Officer had no option but to proceed against the petitioner.

35. In '**B.C. Chaturvedi v. Union of India & Others**' reported in **AIR 1996 SC 484**, it was held:-

“12. 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 eye of the court. When an inquiry is conducted on charges of a 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. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. 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 finding 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 each case.”

36. In '**State of U.P. & Ors. v. Saroj Kumar Sinha**' reported in (2010) 2

SCC 772, the Apex Court while dealing with the procedure relating to the conduct of enquiry, held in paras 26, 27 & 28 as under:-

"26. A bare perusal of the aforesaid sub-Rule shows that when the respondent had failed to submit the explanation to the charge sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the Government servant despite notice of the date fixed failed to appear that the enquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the enquiry officer to record the statement of witnesses mentioned in the charge sheet. Since the Government servant is absent, he would clearly lose the benefit of cross examination of the witnesses. But nonetheless in order to establish the charges the department is required to produce the necessary evidence before the enquiry officer. This is so as to avoid the charge that the enquiry officer has acted as a prosecutor as well as a judge. Enquiry officer acting in a quasi judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

27. Apart from the above by virtue of Article 311(2) of the Constitution of India the departmental inquiry had to be conducted in accordance with rules of natural justice. It is a basic requirement of rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceeding which may culminate in a punishment being imposed on the employee.

28. When a department enquiry is conducted against the Government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The enquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service. In the case of *Shaughnessy v. United States*, 345 US 206 (1953) (Jackson J), a judge of the United States Supreme Court has said "procedural fairness and regularity are of the indispensable essence of liberty. Severe substantive laws can be endured if they are fairly and impartially applied."

37. This was followed in **Chairman-cum-MD., Coal India Limited & Ors.**

v. Ananta Saha & Ors. reported in 2011 (5) SCC 142, para 23 of the judgment reads as under: -

"23. In the instant case, **proceedings were held ex-parte against the delinquent as he failed to appear in spite of notice and such a course of the inquiry officer was justified** (See: *State of U.P. v. Saroj Kumar Sinha*, AIR

2010 SC 3131). There is no averment by the delinquent that he did not receive the said notice and the copy of the inquiry report. The plea taken by the delinquent shows that he has adopted a belligerent attitude and kept the litigation alive for more than two decades merely on technical grounds. The delinquent waited till the conclusion of the purported fresh enquiry initiated on 17.1.2002, even though he could have challenged the same having been initiated by a person not competent to initiate the proceedings and being in contravention of the orders passed by the High Court earlier. In such a fact-situation, the High Court ought to have refused to entertain his writ petition. More so, the writ petition could not have been proceeded with and heard on merit when the statutory appeal was pending before the Board of Directors, CIL. xxxxxxxx

Unfortunately, both the parties proceeded with the case without any sense of responsibility, as subsequent to disposal of the writ petition and appeal by the High Court, the statutory appeal filed by the delinquent after 15 months of imposition of punishment was entertained, though the limitation prescribed under the Rules 1978 is only 30 days and appeal has been dismissed on merit without dealing with the issue of limitation. It clearly shows that both sides considered the litigation as a luxury and that the appellants have been wasting public time and money without taking the matter seriously.”

38. The aforesaid principle was followed in **Pravin Kumar v. Union of India & Ors.**, reported in **2020 (9) SCC 471**, observing as under:-

“25. Learned counsel for the appellant spent considerable time taking us through the various evidences on record with the intention of highlighting lacunas and contradictions. We feel that such an exercise was in vain, as the threshold of interference in the present proceedings is quite high. The power of judicial review discharged by Constitutional Courts under Article 226 or 32, or when sitting in appeal under Article 136, is distinct from the appellate power exercised by a departmental appellate authority. It would be gainsaid that judicial review is an evaluation of the decision making process, and not the merits of the decision itself. Judicial Review seeks to ensure fairness in treatment and not fairness of conclusion. It ought to be used to correct manifest errors of law or procedure, which might result in significant injustice; or in case of bias or gross unreasonableness of outcome.

28. It is thus well settled that the Constitutional Courts while exercising their powers of judicial review would not assume the role of an appellate authority. Their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice. Put differently, judicial review is not analogous to venturing into the merits of a case like an appellate authority.”

39. The aforesaid exposition of law squarely negates the petitioner's contention. It clearly establishes that the petitioner was afforded adequate and reasonable opportunities to participate in the disciplinary proceedings. Having consciously chosen not to avail those opportunities, he cannot now assail the inquiry on the ground that it proceeded *ex parte*. Furthermore, the findings of the Inquiry Officer are supported by

evidence on record and do not suffer from any legal infirmity, procedural irregularity, or factual perversity warranting interference in the exercise of judicial review.

40. The contention that the petitioner was not placed under suspension during the pendency of the inquiry is equally devoid of substance. Suspension is not a condition precedent either for initiation or continuation of disciplinary proceedings. The decision whether or not to place a delinquent employee under suspension lies within the domain of the disciplinary authority and does not, by itself, affect the legality of the inquiry or the punishment ultimately imposed.

41. The findings recorded by the Enquiry Officer are based upon evidence adduced during the inquiry, including the consistent testimony of the complainants, which remained wholly uncontroverted because of the petitioner's deliberate failure to participate. This Court cannot ignore that the writ petition does not contain any categorical plea that the allegations levelled by the complainants were false, fabricated or actuated by mala fides. The challenge is founded almost exclusively on alleged procedural irregularities, which, upon scrutiny of the original record, are found to be non-existent.

42. It is equally well settled that, while exercising the power of judicial review under Article 226 of the Constitution, this Court does not sit as an appellate authority over disciplinary proceedings. The Court is concerned with the decision-making process and not the decision itself. Re-appreciation of evidence or substitution of the Court's own conclusions

for those arrived at by the disciplinary authority is wholly impermissible unless the findings are shown to be perverse, based on no evidence, vitiated by mala fides, or rendered in flagrant violation of statutory provisions or the principles of natural justice. None of these contingencies arise in the present case.

43. The office of a Judicial Officer demands unimpeachable integrity, absolute honesty and conduct that inspires public confidence in the administration of justice. The credibility of the judicial institution rests not merely upon the correctness of judicial decisions but equally upon the character and rectitude of those who man it. Allegations of accepting money on the promise of securing public employment strike at the very root of judicial probity and erode public faith in the justice delivery system. Once such misconduct stands established in a duly conducted disciplinary inquiry, the High Court, in exercise of its constitutional control under Article 235 of the Constitution, is not only empowered but duty-bound to maintain the purity of the judicial service by recommending appropriate disciplinary action.

44. Having examined the entire record, this Court finds that the disciplinary proceedings were conducted strictly in accordance with the Jammu and Kashmir Civil Services(Classification, Control and Appeal) Rules, 1956; the petitioner was afforded more than adequate opportunity to defend himself; the findings of guilt are supported by evidence; and the recommendation of the Full Court, culminating in Government Order No. 2704-JK(LD) of 2022 dated 20.05.2022, suffers from neither procedural infirmity nor legal perversity. The penalty imposed cannot, in the facts

and circumstances of the case, be said to be disproportionate so as to warrant interference.

45. Accordingly, we find no merit in the writ petition, the same is dismissed. The impugned Government Order No.2704-JK(LD) of 2022 dated 20.05.2022 is upheld. Consequently, all connected applications, if any, shall also stand disposed of. There shall, however, be no order as to costs.

(Sanjay Parihar)
Judge

(Rajnesh Oswal)
Judge

JAMMU
31.07.2026
Narinder

Whether the order is speaking?: **Yes**
Whether the order is reportable?: **Yes**

