

5 At the outset, it may be noted that the High Court applied the wrong test in exercising its power of judicial review with reference to disciplinary proceedings. Disciplinary proceedings are not quasi criminal in nature. A disciplinary inquiry is conducted by the employer to inquire into a charge or misconduct pertaining to a breach of the rules and regulations governing the service of the employer. The standard of proof is not that governed by a criminal trial. In exercising judicial review the test is whether the findings are based on some evidence. The High Court may interfere with only in a case where there is no evidence to sustain the charge of misconduct.

6 In the present case, the respondent was appointed as a driver in the Uttarakhand Transport Corporation on 25 May 1989. The alleged incident took place on 4 January 2005 at about 1930 hours when an Assistant Regional Manager was discussing the time table of the depot. At that stage, the respondent is alleged to have entered Time Keeper's room and abused and assaulted a colleague driver.

7 A charge-sheet was issued to the respondent on 12 January 2005. The inquiry officer came to the conclusion that charges were proved and submitted an inquiry report on 1 April 2005. A notice of show cause was issued by the Regional Manager on 30 April 2005. The disciplinary authority, after cause was shown, came to the conclusion that the charge of misconduct was proved and accordingly, by its order dated 26 August 2005, imposed a penalty of the stoppage of eight increments. The

respondent unsuccessfully pursued the claim against the disciplinary proceedings before the Public Service Tribunal, Uttarakhand. The Public Service Tribunal by its order dated 30 September 2011 dismissed the claim petition. The Division Bench of the High Court has set aside the disciplinary inquiry on an evaluation which is confined to one sentence which reads as follows:

“However, the fact of the matter is that the case of the prosecution has not been supported by the complainant himself i.e. Sri Nand Kishor.”

The High Court also observed (as noted above) that the nature of a disciplinary proceeding is quasi criminal. The High Court has evidently acted with haste and ignored the fact that besides the driver who was assaulted, there was other evidence which had been adduced during the course of the disciplinary inquiry which supported the charge of misconduct. This is evident from the evidence of the Assistant Regional Manager. The Enquiry Report is extracted below, in that regard:

“Thereafter, complainant Shri Khushi Ram, Assistant Regional Manager, Tanakpur appeared and made statement that on 04.01.2005 he was discussing time table in time office at about 7:30 p.m. with Shri Satpal Ji, Assistant Regional Manager and Shri Prateek Jain, Complier Head-Quarter Dehradun, at that time Nand Kishor, driver was at diesel room where he was filling diesel in the vehicles. At that time Shri Heera Singh, driver came to operational room and started abusing and assaulting Shri Nand Kishor, driver as written by Shri Nand Kishor in his

report. I went to save him, Heera Singh, driver pushed me also and abuse me. Written report was sent to Regional Manager, Tanakpur vide letter no. 4329 dated 05.01.2005 which bears my signatures. The same is proved

The delinquent driver has been given full opportunity of defence to cross examine the complainant. Delinquent driver asked the complainant, Sir, when I pushed you. Complainant replied that on 04.01.2005 at 7:30 pm in the presence of Shri Satpal ARM and Prateek Jain when I was trying to protect Shri Nand Kishor and another, I was pushed and abused.

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Shri R.P.Bhatt, Station Incharge, Tanakpur whose comments are recorded on the report of driver Shri Nand Kishor, has stated on 04.01.2005 at 7:30 pm he was preparing time table on computer in the office of Station Superintendent, suddenly, on hearing loud noise all of them came out. There was abuses between Shri Heera Singh, drive and Shri Nand Kishor, driver while filling the diesel. They have reached to the stage of assault. Thereafter Heera Singh, driver went out. The said remark has been written by me on the report submitted under the signature of Shri Nand Kishor and the same is proved.”

8 It is true that the colleague of the respondent who is alleged to have been abused and assaulted by the complaint changed his version. However, having regard to the evidence of the Assistant Regional Manager and the Station in-charge, as noted above, both of whom were present on the spot and gave accounts of what had transpired, the charge of

misconduct stood proved. It cannot be held that the punishment imposed was either disproportionate or arbitrary.

9 We accordingly allow the appeal and set aside the impugned judgment and order of the High Court dated 10 October 2008. The writ petition filed by the respondent challenging the disciplinary proceedings shall accordingly stand dismissed. No costs.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

New Delhi;
December 18, 2019

