

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 17666 of 2025

1. The Union of India through the Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, Government of India, New Delhi-110011.
2. The Addl. Secretary, Ministry of Health & Family Welfare, CGHS Division (CGHS-1 Section), Nirman Bhawan, Govt. of India, New Delhi-110011.
3. The Under Secretary, Government of India, Ministry of Health and Family Welfare, CGHS Division, (CGHS-1 Section), Nirman Bhawan, Government of India, New Delhi-110011.
4. The Director, Government of India, Central Government, Health Scheme, Nirman Bhawan, New Delhi-110011.
5. The Additional Director, Government of India, Central Government Health Scheme, 54 South Chajju Bagh, Patna-800001, Bihar.

... .. Respondents/Petitioners

Versus

Dr. Vibha Sinha D/o Janardhan Prasad Sinha, Resident of Kailash Niwas, Bikhna Pahari, Patna-800004, At present employed as Chief Medical Officer (NMSG) at CGHS Wellness Centre-1, Budh Marg, Patna-800001.

... .. Respondent/s

Appearance:

For the Petitioner/s : Dr. K. N. Singh, Sr. Adv. ASG
Mr. Rabindra Kumar Priyadarshi, Sr. Panel Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 25-11-2025

The present writ petition has been filed against the order dated 30.05.2025, passed in OA/050/00758/2023, whereby and whereunder the Ld. Central Administrative Tribunal, Patna



Bench, Patna (hereinafter referred to as the “CAT”) has been pleased to allow the original application filed by the respondent herein by quashing the order of punishment dated 14.08.2023, as conveyed to the respondent vide office order dated 23.8.2023 and the petitioners have been further directed to grant all consequential benefits to the respondent within a period of three months of the date of receipt of the said order.

2. The short facts of the case, according to the original applicant - Respondent are that she started her career with the Central Government Health Services in the year 1997 by joining the post of Medical Officer on 24.06.1998, whereafter she was promoted as Senior Medical Officer in the year, 2001, after which she was promoted as Chief Medical Officer in the year, 2009 and as Chief Medical Officer (NFSG) in the year, 2013. It is stated that though the petitioner was due to be promoted on the post of Senior Administrative Grade in the year 2016, however the same has been denied to her. It is the case of the respondent that after rendering about 24 years of unblemished service, she was being put to trouble, inasmuch as firstly she was transferred from Patna to Prayagraj, whereafter a motivated departmental proceeding was initiated against her, vide memorandum of charge dated 17.05.2021, which was issued



under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as the “Rules, 1965”). In the said memo of charge dated 17.05.2021, two charges were levelled against the Respondent, firstly that while she was posted as Chief Medical Officer (CMO), NFSG, at the office of the Additional Director, CGHS, Patna, she was found to be a habitual late comer and used to leave the Wellness Centre early, hence by her said act the Respondent has failed to maintain devotion towards duty and has acted in a manner unbecoming of a Government Servant. The second charge levelled against the Respondent was that while she was posted as Chief Medical Officer, NFSG at the office of the Additional Director, CGHS, Patna, she was involved in private practice at Ashadeep Nursing Home, Bhikhna Pahari, Patna, Bihar, hence has thereby committed gross official misconduct as also has contravened the provisions contained in Rule 13 of the Central Health Services Rules, 2014, as such has failed to maintain absolute integrity and devotion towards duty and has acted in a manner unbecoming of a Government Servant.

3. The respondent had then filed a written statement of defence on 29.05.2021 to the memorandum of charge dated 17.05.2021, refuting all the aforesaid charges, whereafter the



disciplinary enquiry had started, wherein the respondent had participated and finally the Enquiry Officer submitted his enquiry report dated 28.12.2021, wherein on the basis of the evidence adduced before him during the course of the enquiry, he found the allegations levelled against the Respondent to have not been proved. At this juncture, it would be relevant to reproduce the conclusion part of the inquiry report dated 28.12.2021 herein below:-

“Conclusion: 1. Regarding late coming: The Inquiry Officer held:-

With the available documentary and oral evidence submitted by the Presenting Officer and the Charged Officer, it is evident that no proper records of attendance of doctors were maintained and provided to the Inquiry Committee by the AD, CGHS, Patna. Biometric attendance system was available w.e.f. 01-05-2017, but was not functioning properly. The AD kept the manual attendance register with him and marked P all the doctors and did not enforce proper attendance rules. The fact-finding Committee based their decision of late coming of Dr Vibha Sinha CMO (NFSG), CGHS, Patna, on the basis of compact Log-in time, used to attend to the patients. It was verified by both the Committee members on cross examination by the CO that Computer Log-in/Log-off time cannot be taken as arrival departure time. Moreover, Log-off time cannot be ascertained from computer. The second Committee visited the Wellness Centre PA04 on 13-09-2019 and found the attendance of Dr Vibha Sinha working there at that time, as satisfactory. In view of the above facts observed it is concluded that:

Article 1 of the Charge Sheet:



“That the said Dr Vibha Sinha, while posted as CMO (NFSG) at the Additional Director, CGHS, Patna, was found to be a habitual latecomer and left the Wellness Centre early Thus, by her aforesaid act, Dr. Vibha Sinha, CMO (NFSG) has failed to maintain devotion to duty and has acted in a manner unbecoming of a Government Servant, thereby violating provisions of Rule 3(1)(ii) and (iii) of CCS (Conduct) Rule 1964”:-

CHARGE-NOT PROVED

Conclusion: 2. Regarding private practice:-

With the documentary and oral evidence produced by the Presenting Officer and Charged Officer, it is evident that the fact-finding Committee comprising Dr. Naresh Panchal and Dr Sanjay Kumar-II did not find any evidence of private practice by Dr Vibha Sinha. CMO (NFSG), CGHS, PATNA, at Ashadeep Nursing Home, except that being run by her husband from their residence. The two members Committee of Shri S. Sridhar and Shri Pawan Patel, who visited the Nursing Home on 13-09-2019, opined that Dr. Vibha Sinha was involved in private practice at Ashadeep Nursing Home, solely on the basis of recovery of a single pamphlet which bears the name of Dr. Vibha Sinha, the authenticity of which could not be established, the hearsay of a patient's relative. The committee did not find her name on the website, any name plate, visiting card, letter head, and prescription written by Dr. Vibha Sinha or even her presence at the Nursing Home at the time of visit. Thus, even the basic facts are not proved for weighing the probabilities. Hence, in view of the above facts, it is concluded that:

Article-II of the Charge Sheet:

"That the said Dr. Vibha Sinha while posted as Chief Medical Officer (CMO), NFSG at the Office of Additional Director, CGHS, Patna, was found to have involved herself in private practice at Ashadeep Nursing Home, Bikhna Pahari. Patna-800004, Bihar. Thus, by her aforesaid act, Dr Vibha Sinha, CMO (NFSG) has



committed gross official misconduct thereby contravening provisions contained in Rule 13 of Central Health Service (CHS) Rules, 2014 and has failed to maintain absolute integrity, devotion to duty as well as acted in a manner unbecoming of a Government Servant, thereby violating provisions of Rule 3(1)(i) (ii) and (iii) of CCS (Conduct) Rules, 1964":-

CHARGE-NOT PROVED

4. The disciplinary authority had then disagreed with the aforesaid enquiry report dated 28.12.2021, whereafter the enquiry report along with the disagreement note was served upon the respondent, vide memorandum dated 25.02.2022. The respondent had then submitted her representation dated 15.03.2022 to the said disagreement note, whereafter the matter was sent to the UPSC for advice, which furnished its advice dated 13.04.2023, vide memorandum dated 14.06.2023, wherein it was observed as follows:-

“Article-(i). Not proved.

Article-(ii). Proved on “Preponderance of Probability”.

It is observed in paragraph no. 4.22 of the advice of UPSC dated 13.04.2023 as follows:-

“4.22. The Commission note that IO has observed that with the documentary and oral evidence produced by the PO and the CO, it is evident that the Fact-Finding Committee comprising Dr. Naresh Panchal and Dr. Sanjay Kumar-II did not find any evidence of private practice by the CO at Ashadeep Nursing Home except that it was being run by her husband from their residence.



The two members Committee of Shri S. Sridhar and Shri Pawan Patel, who visited the Nursing Home on 13.09.2019, opined that the CO was involved in private practice at Ashadeep Nursing Home, solely on the basis of recovery of a single pamphlet which bears the name of CO, the authenticity of which could not be established and hearsay of a patient's relative. The Committee did not find her name on the website, any name plate, visiting card, letter head, and prescription written by CO or even her presence at the Nursing home at the time of visit. Thus, even the basic facts are not proved for weighing the probabilities."

5. It is also mentioned in para 4.25 of the advice of UPSC that when the team visited the said Nursing home at 10.30 AM on 13.09.2010 the Safai-Karmachari of the hospital informed that no doctor is available in the nursing home at that moment and that the doctor will be available in the evening. When the team asked the name and letter head of the doctor, she handed over a pamphlet which had the name of Ashadeep Nursing Home at the top and also the name of the CO and Dr. Sanjay Kumar Sinha, who is her husband. Further, an attendant of one of the patients in Ashadeep Nursing Home informed that the CO was treating her patient, however the Safai-Karmachari denied the claim and said that Dr. Asha Sinha is the doctor here and also mentioned that the pamphlet is more than 9 years old but the team found a pamphlet having the name of the CO and as per inquiries there is preponderance of probability that she is



engaged in private practice in Ashadeep Nursing Home.

6. Thereafter, the respondent had submitted her representation on 11.07.2023 against the advice of the UPSC, wherein she had categorically stated that the fact-finding report dated 23.06.2017 has been considered instead of the evidences adduced and gathered during the course of regular Disciplinary Enquiry coupled with the observations and conclusion drawn up by the Inquiry Officer in his Inquiry Report. The respondent had further submitted that in the advice of UPSC dated 13.04.2023, as against Article-I, it has been observed and held as follows:- “Not Proved” and as far as Article-II is concerned, it has been observed and held as follows:- “Proved” based on “preponderance of probability”, which is not permissible at the stage of issuance of “Advice upon punishment”. The respondent had also submitted that the advice tendered by the UPSC dated 13.04.2023 to impose upon her monetary penalty of reduction to a lower stage in the time scale of pay by one stage for a period of two years with a further direction that she will not earn increments of pay during the period of such reduction and on the expiry of such period, the reduction will not have the effect of postponing the future increments of pay, was not at all warranted and justified. Thus, it was stated by the respondent



that the advice of the UPSC dated 13.04.2023 is not based upon correct application of rules and law, as such the same is required to be negated by the Disciplinary Authority and she be exonerated in the aforesaid departmental proceeding.

7. The disciplinary authority had then passed the order of punishment dated 14.08.2023, as contained in memo dated 23.08.2023, inflicting upon respondent the punishment of reduction to a lower stage in the time scale of pay by one stage for a period of two years, with further direction that the respondent will not earn increments of pay during the period of such reduction and on the expiry of such period, the reduction will not have the effect of postponing the future increments of her pay. The said order of punishment dated 14.08.2023 was challenged by the respondent by filing the connected original application bearing OA/050/00758/2023. The petitioners had filed a written statement before the Ld. CAT, however only one legal issue was raised to the effect that it is a well settled legal position of law that in a departmental enquiry, penalty can be imposed on the delinquent officer on the basis of preponderance of probability. The Ld. CAT, by the impugned order dated 30.05.2025, after considering the submissions advanced by the learned counsel for the parties, has come to a finding that there



is no conclusive proof or evidence or even a preponderance of probability that the Respondent was doing private practice at Ashadeep Nursing Home, which is apparently named after Dr. Asha Sinha and not the respondent and even the prosecution witnesses have conceded during their cross-examination that the charges are not proved, thus merely on the basis of a pamphlet, which is nine years old, it cannot be confirmed that the Respondent was involved in private practice in the said Nursing Home. The Ld. CAT has also held that the presumption of the UPSC that since the applicant joined the service as CGHS Doctor in the year 1998, she might be doing private practice in the said Nursing Home nine years ago while being in service also has got no legs to stand apart from no enquiry having been conducted with regard to the printing of the pamphlet and moreover, not only the husband of the Respondent has expired but the Nursing Home is no longer functioning, hence it is not possible or prudent to blame the Respondent for private practice even today. In such view of the matter, the Ld. CAT held that the two allegations levelled against the respondent have not been substantiated, as such the punishment imposed upon the respondent is not sustainable in the eyes of law because it is a case of no evidence and secondly it held that the conclusion



arrived at by the UPSC while tendering advice as also passing of the order of punishment by the disciplinary authority are completely perverse and bad in law. Thus, the Ld. CAT allowed the connected original application filed by the respondent and quashed the order of punishment dated 14.08.2023 as also has directed the petitioners to grant all consequential benefits within a period of three months of the date of receipt of the said order.

8. The learned Additional Solicitor General of India, Dr. K. N. Singh, Senior Advocate has though tried to assail the impugned order dated 30.05.2025, by submitting that the charge no. II regarding the respondent being engaged in private practice has stood proved on the basis of “preponderance of probability” and moreover, the disciplinary enquiries are not governed by strict rules of evidence as also standard of proof is not strict standard which governs a criminal trial but is governed by preponderance of probability, apart from the fact that the Ld. CAT ought not to have re-appreciated the evidence led before the enquiry proceedings, however has not denied the fact that the present case is a case of no evidence. The learned Additional Solicitor General has been gracious enough to not seriously oppose the present writ petition in view of the finding of the Ld. CAT to the effect that the husband of the respondent has already



expired and the Nursing Home is no longer functioning.

9. We have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the enquiry officer had submitted an enquiry report dated 28.12.2021, wherein he had held that both the charges levelled against the respondent have not stood proved, however the disciplinary authority had issued disagreement note, nonetheless the disciplinary authority has failed to indicate therein as to what is the evidence which has not been considered by the enquiry officer, which goes to prove the guilt of the respondent, thus the same has caused grave prejudice to the Respondent, nonetheless the fact remains that the present case is a case of no evidence and further, the conclusion of the disciplinary authority, leading to passing of the order of punishment dated 14.08.2023, on the very face of it is wholly arbitrary and capricious and no reasonable person could ever have arrived at such conclusion. At this juncture, it is submitted that though it is true that this Court in exercise of its powers under Articles 226/227 of the Constitution of India cannot re-appreciate evidence, however it can definitely see as to whether the conclusion arrived at by the disciplinary authority is wholly arbitrary and capricious or not and whether the finding of fact is



based on no evidence, as is the case in the present case. In this regard, it would be apt to refer to a judgment rendered by the Hon'ble Apex Court in the case of *Union of India v. P. Gunasekaran*, reported in (2015) 2 SCC 610, paragraph no. 12 whereof is reproduced herein below:-

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*



(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.”

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10. Yet another aspect of the matter is that in a writ proceeding the Court has to consider, in exercise of its power of judicial review, as to whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence. In this regard, we would gainfully refer to a judgment rendered by the Hon'ble Apex Court in the case of *Nirmala J. Jhala v. State of Gujarat*, reported in *(2013) 4 SCC 301*, para nos. 22 to 24 whereof are reproduced herein below:-

“22. It is settled legal proposition that judicial review is not akin to adjudication on merits by re-appreciating the evidence as an appellate authority. 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. The adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the Court in writ proceedings. (Vide State of T.N. v. S. Subramaniam [(1996) 7 SCC 509], R.S. Saini v. State of Punjab [(1999) 8 SCC 90] and Govt. of A.P. v. Mohd. Nasrullah Khan [(2006) 2 SCC 373]).

23. In Zora Singh v. J.M. Tandon [(1971) 3 SCC 834] this Court while dealing with the issue of scope of judicial review, held as under: (SCC p. 838, para 10)

“10. ... The principle that if some of the reasons relied



on by a Tribunal for its conclusion turn out to be extraneous or otherwise unsustainable, its decision would be vitiated, applies to cases in which the conclusion is arrived at not on assessment of objective facts or evidence, but on subjective satisfaction. The reason is that whereas in cases where the decision is based on subjective satisfaction if some of the reasons turn out to be irrelevant or invalid, it would be impossible for a superior court to find out which of the reasons, relevant or irrelevant, valid or invalid, had brought about such satisfaction. But in a case where the conclusion is based on objective facts and evidence, such a difficulty would not arise. If it is found that there was legal evidence before the Tribunal, even if some of it was irrelevant, a superior court would not interfere if the finding can be sustained on the rest of the evidence. The reason is that in a writ petition for certiorari the superior court does not sit in appeal, but exercises only supervisory jurisdiction, and therefore, does not enter into the question of sufficiency of evidence.”

24. *The decisions referred to hereinabove highlights clearly, the parameter of the Court's power of judicial review of administrative action or decision. An order can be set aside if it is based on extraneous grounds, or when there are no grounds at all for passing it or when the grounds are such that, no one can reasonably arrive at the opinion. The Court does not sit as a court of appeal but, it merely reviews the manner in which the decision was made. The Court will not normally exercise its power of judicial review unless it is found that formation of belief by the statutory authority suffers from mala fides, dishonest/corrupt practice. In other words, the authority must act in good faith. Neither the question as to whether there was sufficient evidence before the authority can be raised/examined, nor the question of re-appreciating the evidence to examine the correctness of the order under*



challenge. If there are sufficient grounds for passing an order, then even if one of them is found to be correct, and on its basis the order impugned can be passed, there is no occasion for the Court to interfere. The jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. This apart, even when some defect is found in the decision-making process, the Court must exercise its discretionary power with great caution keeping in mind the larger public interest and only when it comes to the conclusion that overwhelming public interest requires interference, the Court should intervene.”

11. It is a well-settled principle of law that the High Court while exercising its power of judicial review under Articles 226/227 of the Constitution of India should not interfere in matters of disciplinary proceedings and the punishment inflicted therein unless the findings are found to be perverse and unless it is a case of no evidence. Reference in this connection be had to a judgment rendered by the Hon’ble Apex Court in the case of ***R. R. Parekh vs. High Court of Gujarat***, reported in ***(2016) 14 SCC 1***. It is equally a well-settled law that suspicion, as is well-known, however high may be, can under no circumstances be held to be a substitute for legal proof even in disciplinary proceedings and in case the finding of guilt is based on no evidence, it would be a perverse finding as also would be amenable to judicial scrutiny and such order of punishment resting on no evidence would be liable to be quashed. Reference



in this connection be had to the following judgments rendered by the Hon'ble Apex Court:-

*“(i). the one rendered in the case of **Roop Singh Negi vs. Punjab National Bank & Others**, reported in (2009) 2 SCC 570.*

*(ii). **Kuldeep Singh vs. The Commissioner of Police & Others**, reported in (1999) 2 SCC 10.*

*(iii). **The State of Uttar Pradesh & Others vs. Saroj Kumar Sinha**, reported in (2010) 2 SCC 772.*

12. Now coming back to the present case, we find that as far as charge no. I regarding the respondent coming late to her place of work is concerned, it has been concluded by the disciplinary authority that the said charge is not proved, however as far as charge no. II, regarding the respondent doing private practice at Ashadeep Nursing Home, Patna is concerned, the facts and circumstances as discussed hereinabove along with the findings recorded by the enquiry officer, disciplinary authority and the UPSC would show that there is absolutely no evidence to prove the guilt of the respondent apart from the fact that the conclusion of the disciplinary authority with regard to charge no. II is on the very face of it so arbitrary and capricious that no reasonable person could have ever arrived at such a conclusion so as to indict the respondent. In fact there is no conclusive proof or evidence or even a preponderance of probability that the respondent was doing private practice at Ashadeep Nursing



Home, which is apparently named after Dr. Asha Sinha and not the respondent and even the prosecution witnesses have conceded during the course of enquiry being held by the inquiry officer that the charges are not proved, thus merely on the basis of a pamphlet, which is nine years old, it cannot be established that the respondent was involved in private practice in the said Nursing Home. Moreover, the presumption of UPSC that since the applicant joined the service as CGHS Doctor in the year 1998, she might be doing private practice in the said Nursing Home nine years ago while being in service is also perverse and incongruous, besides the fact that not only the husband of the respondent has expired but the Nursing Home is no longer functioning, hence it is erroneous and unjustifiable to blame the respondent for private practice even today. Thus, apparently the allegations levelled against the respondent have not stood substantiated, as such the punishment imposed upon the respondent is not sustainable in the eyes of law because it is a case of no evidence. Therefore, we find that there is no legal infirmity with the impugned order dated 30.05.2025, passed by the Ld. CAT in OA/050/00758/2023.

13. Having regard to the facts and circumstances of the case and for the foregoing reasons, we do not find any merit in the



present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

(Soni Shrivastava, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	04.12.2025
Transmission Date	NA

