IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 15728 of 2019

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Nilima Sinha W/o K.K. Sinha Formerly Child Development Project Office Tillothu, P.S.- P.O.- Tillothu, District- Rohtas. A/p Mogalpura Jagri ka Chauraha, Nawab Bahadur Road, Nagla, P.S.- Khajekalan, District- Patna.

... ... Petitioner/s

Versus

1. State of Bihar

2. The Chief Secretary to the Govt. of Bihar, Old Secretariate, Patna.

3. Cabinet Secretary cum Commission, Govt. of Bihar, Old Secretariat, Patna.

4. Secretary cum Commissioner to the Department of Social Welfare Bihar, Old Secretariate, Patna.

5. Joint Secretary to the Govt., Department of Social Welfare Govt. of Bihar.

... ... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Keshav Kumar Sinha, Advocate

For the Respondent/s : Mr. Md.Raisul Haque (Standing Counsel-10)

Mr. Krishna Kant Singh,

AC to Standing Counsel-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V. JUDGMENT

Date: 24-12-2021

The present case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

2. The present writ petition has been filed for quashing the order of punishment dated 27.04.2012, passed by the Secretary, Social Welfare Department, Government of Bihar whereby and whereunder the petitioner has been dismissed from service. The petitioner has further prayed for quashing of the appellate order dated 31.05.2019, as contained in Memo dated 18.06.2019, whereby and whereunder the review petition filed by the petitioner has been rejected by the Additional Chief Secretary, Social Welfare Department, Govt. of Bihar, Patna.

3. The brief facts of the case according to the petitioner is that the petitioner had initially joined as a lady supervisor whereafter she was promoted on the post of Child Development project Officer vide notification dated 14.01.2009 and posted at Tilothu (Rohtas). It is the case of the petitioner that since she had exposed the corruption prevailing in the Anganwadi centers under Tilothu project falling within the administrative control of Rohtas District, she was placed under suspension vide order dated 21.04.2010. The petitioner is stated to have then filed a

writ petition bearing CWJC No. 7654 of 2010 challenging the aforesaid order of suspension dated 21.04.2010, however, since the departmental proceedings had already been initiated against her, a coordinate Bench of this Court, by an order dated 18.11.2010, disposed off the said writ petition with a direction to conclude the departmental proceeding within a period of six months from the date of receipt and/or presentation of a copy of the order, failing which the disciplinary authority shall be obliged to reconsider the issue of continued suspension of the petitioner. The petitioner had then filed an appeal against the said order dt. 18.11.2010 bearing L.P.A. No. 34/2011, however, the same was disposed off by an order dated 15.03.2012, passed by a Ld. Division Bench of this Court, with a direction that in case the final order is not passed in the ongoing departmental proceeding by 31.3.2012, the order of suspension dated 21.04.2010 shall stand revoked and the petitioner would be reinstated in service with effect from 1st April, 2012. The enquiry proceedings had then commenced and ultimately the enquiry report was submitted by the enquiry officer. Thereafter, a second show cause notice dated 29.04.2011 was issued to the petitioner enclosing the copy of the enquiry report to which the petitioner had submitted her reply. The disciplinary authority

had then passed the impugned order of dismissal dated 27.04.2012, which was challenged by the petitioner before this Court in CWJC No. 1173 of 2015, however the said writ petition was disposed off by an order dated 18.01.2019, granting liberty to the petitioner to raise her objections before the competent authority by filing a review petition, whereupon the petitioner had filed a petition before the appellate authority-cum-Principal Secretary, Social Welfare Department, Bihar, Patna on 07.02.2019 but the same has been dismissed by the impugned order dt. 31.05.2019, passed by the Additional Chief Secretary, Social Welfare Department, Govt. of Bihar, Patna.

4. At this juncture, this Court deems it appropriate to state the actual and correct facts. It appears that a departmental proceeding was initiated against the petitioner by a resolution contained in Memo dated 07.05.2010 issued under the signature of the Deputy Secretary to the Government, Social Welfare Department, Government of Bihar, Patna (upon the orders of the Governor, Bihar), containing the charges levelled against the petitioner in Prapatra-‘ka’ along with the evidence. At this juncture, it would be appropriate to reproduce the charges levelled against the petitioner, as mentioned in Prapatra-‘ka’ herein below:-

प्रपत्र–क

पदाधिकारी का नाम:– श्रीमती निलिमा सिन्हा
पदनाम:– बाल विकास परियोजना पदाधिकारी,तिलौथु ।
वेतनमान:– 6,500 से 10,500 (असंशोधित)

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आरोप सं0–(1) मुख्यालय में आवासन नहीं रखना:– आप के द्वारा तिलौथू बाजार में एक घर किराये पर लिया गया है, परन्तु आप सासाराम में ही किराये के मकान में रहती हैं और अपने निर्धारित मुख्यालय तिलौथू में नही रहती हैं। आप सासाराम से तिलौथू कभी–कभी जाकर सरकारी कार्यो का निर्वहन करती हैं। **इस प्रकार आप के द्वारा बिहार सरकारी सेवक आचरण नियमावली, 1976 की धारा– 3–1(ii) एवं 3–3 का उल्लंघन किया गया है।**

आधार:– . आपके मुख्यालय से बराबर अनुपस्थित रहने की शिकायत के आलोक में अनुमंडल पदाधिकारी, डिहरी से जाँच करायी गयी। अनुमंडल पदाधिकारी, डिहरी ने अपने पत्रांक 1549/गो0 दिनांक 23.10.09 के द्वारा यह प्रतिवेदित किया है कि उनके द्वारा दिनांक 21.10.09 को करीब 2.00 बजे अपराह्न में बाल विकास परियोजना मुख्यालय, तिलौथू में आपके आवास के बारे में जांच की गई । जांच के क्रम में यह पाया गया कि आपने तिलौथू बाजार में श्री रामनाथ सेठ के मकान में किराये पर एक मकान ले रखा है, परन्तु आसपास के लोगों से पूछताछ से यह स्पष्ट हुआ कि आप कभी–कभार ही तिलौथू स्थित अपने आवास में रहती है। जांच पदाधिकारी के द्वारा कुछ ग्रामीणों से भी बयान लिया गया है।

1.श्री जयराम सिंह पिता राम प्रवेश सिंह साकिन पथरा जो इलेक्ट्रीक मोटर मेकनीक है और तिलौथु स्थित आपके द्वारा किराये पर लिए गए मकान के नीचे रहते है, ने जांच पदाधिकारी को बताया कि आप कभी कभार ही अपने आवास में रहती है।

2. श्री सरयु चौधरी पिता विश्वनाथ चौधरी ग्राम सरैया, जो आपके तिलौथु स्थित किराये के मकान के सामने केवल कुमार के यहां काम करते है, ने जांच पदाधिकारी को यह बताया कि आप पल्स पोलियो कार्यक्रम के दौरान ही वहां रहती है।

3. श्री केवल कुमार पिता गोपाल दास ग्राम तिलौथु वार्ड सदस्य नं0–3 ने जांच पदाधिकारी को यह बताया कि आप सप्ताह में केवल दो–तीन दिन ही रहती हैं।

4. तिलौथू पूर्वी के मुखिया श्रीमती मंजु देवी ने बतलाया कि उन्होने कभी भी आप को तिलौथु स्थित आवास में रहते नहीं देखा है।

जांच के क्रम में यह भी तथ्य सामने आया कि आप ने सासाराम में पूर्व विधायक श्री राम सेवक सिंह के मकान में किराये पर घर लिया है यह मकान पुरानी जी0टी0रोड पर प्रकाश पेट्रोल पम्प के पास अवस्थित है।

128 इससे यह स्पष्ट होता है कि आप मुख्यालय में नहीं रहती है जबकि सरकार द्वारा बार–बार यह निदेश निर्गत किया गया है कि सभी पदाधिकारी अपने पदस्थापित मुख्यालय में ही अपना आवास रखेंगे ताकि आम जनता को किसी तरह की कोई कठिनाई नहीं होने पावे। इस संबंध में मुख्य सचिव बिहार पटना के अर्द्धसरकारी पत्रांक 15067 दिनांक 20.11.08 में यह स्पष्ट निदेश दिया गया है कि सभी पदाधिकारी अपने निर्धारित मुख्यालय में ही उपस्थित रहेंगे । विहित आदेश के बिना मुख्यालय से

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बाहर रहकर आने जाने के लिए सरकारी वाहन का उपयोग सरकारी राशि का दुरूपयोग है ऐसे दोषी पदाधिकारी के विरूद्ध प्रशासनिक कार्रवाई के अतिरिक्त वाहन के इधन की राशि की भी वसूली की जायेगी। इसके अतिरिक्त आयुक्त एवं सचिव, ग्रामीण विकास विभाग बिहार पटना के द्वारा भी पत्रांक 12998 दिनांक 23.11.06 के द्वारा सभी पदाधिकारियो को निर्धारित मुख्यालय में ही रहने का आदेश दिया गया है।

साक्ष्य– 1.अनुमंडल पदाधिकारी, डिहरी के पत्रांक 1549 दिनांक 23.10.09 की छायाप्रति।

आरोप सं0–(2) रिश्वत की मांग एवं दुर्व्यवहार करना:– बाल विकास परियोजना, तिलौथु अन्तर्गत संचालित कुल 76 आंगनबाड़ी केन्द्रों में से जाँच के समय उपस्थित 69 आंगनबाड़ी सेविकाओं के द्वारा आप के एवं आप के पति श्री के0 के0 सिन्हा के विरूद्ध उनलोगो के साथ दुर्व्यवहार करने ,तंग करने एवं आर्थिक शोषण करने का आरोप लगाया गया। **इस प्रकार आप के द्वारा बिहार सरकारी सेवक आचरण नियमावली, 1976 की धारा– 3–1(i) एवं 3–1 (iii) का उल्लंघन किया गया है।**

आधार:– आप के विरूद्ध प्राप्त अनेक शिकायत पत्रों की जाँच अनुमंडल पदाधिकारी, डिहरी के द्वारा दिनांक 31.10.09 को प्रखंड कार्यालय, तिलौथू में प्रखंड विकास पदाधिकारी, तिलौथु एवं श्री रमेश ओझा,जिला प्रोग्राम पदाधिकारी के समक्ष की गयी। इनमें से कुछ सेविकाओं के द्वारा दिए गए बयान को लिखित रूप में एवं सभी सेविकाओं के बयान को सी0डी0 में दर्ज किया गया है।

जांच के क्रम में जो मुख्य बाते प्रकाश में आयी वो निम्न प्रकार है:–

1. कुमारी ललिता आंगनबाड़ी सेविका केन्द्र संख्या 70 पासवान टोला केरपा के द्वारा बताया गया कि उन्हें आप के द्वारा 10,000.000(दस हजार) रूपये बतौर रिश्वत देने के लिए बराबर तंग व परेशान किया जाता था तथा गलत आरोप लगाकर उनके चयन को रद्द करने की धमकी दी जाती थी। अन्ततः लाचार होकर उन्होंने दिनांक 5 अगस्त 2009 को महाजन से सूद पर राशि लेकर दस हजार रूपये आप को आपके आवास पर जाकर दिया।

2. ललिता देवी आंगनबाड़ी सेविका केन्द्र संख्या 36 के द्वारा बताया गया कि आप के द्वारा तिलौथू एवं सासाराम स्थित अपने आवास पर उन्हें बुलाकर खाना बनवाना एवं अन्य घरेलू काम कराया जाता है एवं रात में वही आवास पर रूकने का दबाव डाला जाता था, जिस कारण भयवश उन्हे तिलौथू एवं सासाराम स्थित आप के आवास पर रूकना पड़ता था। वहां आप के पति श्री के0के0सिन्हा के द्वारा उनके यौन शोषण का प्रयास किया गया।

3. देवन्ती कुमारी आंगनबाड़ी सेविका केन्द्र संख्या 78 द्वारा जांच पदाधिकारी को बताया गया कि 14 अगस्त 2009 को आप के द्वारा उन्हें अपने आवास पर केन्द्र से संबंधित पंजी के साथ बुलाकर सारे कागजात को जप्त कर लिये गये तथा कागजात वापस करने के लिए 10,000.00(दस हजार) रूपये की मॉग की गयी। इसके साथ ही आप के पति श्री के0के0सिन्हा के द्वारा फोन करके गलत नीयत से घर आने का दबाव भी दिया गया । देवन्ती कुमारी अनुसूचित जाति की महिला हैं और उन्होंने आप के एवं आपके पति की प्रताड़ना से तंग आकर दस हजार रूपया आपके पति श्री के0 के0 सिन्हा को उनके आवास पर जाकर दिया।

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साक्ष्य –1 ललिता देवी केन्द्र संख्या 36 एवं देवन्ती कुमारी केन्द्र संख्या 78 के द्वारा कमशः प्रखड प्रमुख तिलौथू एवं जिलाधिकारी,रोहतास को दिये गये आवेदन पत्र की छाया प्रति ।

साक्ष्य– 2 .इसके अलावे फरहत परवीन सेविका केन्द्र संख्या 72 चिन्ता कुमारी केन्द्र संख्या 40, मंजु देवी सेविका केन्द्र संख्या 67, रीमा कुमारी सेविका केन्द्र संख्या 39, रीना कुमारी सेविका केन्द्र संख्या 49, पुनम देवी सेविका केन्द्र संख्या 42, राधिका देवी सेविका केन्द्र संख्या 19, सुनीता देवी सेविका केन्द्र संख्या 73, बबीता कुमारी सेविका केन्द्र संख्या 41, सरिता कुमारी सेविका केन्द्र संख्या 53, असगरी खातुन सहायिका केन्द्र संख्या 76, पुनम कुंअर सहायिका केन्द्र संख्या 38 एवं कुमारी निशा केन्द्र संख्या 51 के बयान भी सी0डी0 में दर्ज किया गया है । इसके अलावे अन्य सेविकाओ/सहायिकाओं का बयान भी सी0डी0में दर्ज है।

<u>आरोप सं0–(3) मानवीय मुल्यों के विरूद्ध कार्य करना, अधीनस्थ कर्मियों के साथ दुर्व्यवहार करना एवं उनका आर्थिक शोषण करना :–</u> बाल विकास परियोजना तिलौथु की प्रायः सभी केन्द्रो की सेविकाएं/सहायिकाओं द्वारा आप के विरूद्ध उनके साथ दुर्व्यवहार, प्रताड़ना, जिसमें मानसिक एवं शारीरिक प्रताड़ना भी शामिल है, का आरोप लगाया गया। प्रायः सभी सेविका/सहायिका आप के द्वारा किये जा रहे आर्थिक शोषण एवं खास तौर पर आप के पति श्री के0के0सिन्हा के द्वारा कथित यौन शोषण के प्रयास से त्रस्त हैं। इस प्रकार आप के द्वारा बिहार सरकारी सेवक आचरण नियमावली, 1976 की धारा– 3–1 (i) एवं 3–1 (iii) का उल्लंघन किया गया है।

<u>आधार:–</u> मु0 पूनम कुंअर सहायिका केन्द्र संख्या 38 महाराजगंज को आपके द्वारा सासाराम स्थित अपने आवास पर बुलाकर जबरन काम कराया जाता था और उसके साथ आपके पति श्री के0के0सिन्हा द्वारा गलत व्यवहार भी किया जाता था और बात नहीं मानने पर उनके साथ मारपीट भी की जाती थी। मु0 पूनम कुंअर को आप के द्वारा जबरन अपने सासाराम स्थित मकान पर 25(पचीस) दिनों तक रखा गया था । जब पूनम कुंअर इलाज कराने के बहाने अपने घर चली आयी और पुनः लौट कर आप के आवास पर नहीं गयी तो आपके द्वारा उसे उपस्थिति नहीं बनाने दिया जाता है और नौकरी से हटाने की धमकी दी जाती है।

इसी प्रकार ललिता देवी सेविका केन्द्र संख्या 36 महाराजगंज ने भी यह आरोप जांच पदाधिकारी के समक्ष लगाया कि दिनांक 14.08.09 को दोपहर में खाना बनाकर खिलाने के बाद उसे रात का खाना बनाने के लिए आप के द्वारा रोक लिया गया था और जब रात को 11 बजे वो खाना खिलाकर घर जाने लगी तो आप के पति श्री के.0के0सिन्हा द्वारा उसे जबरन रोका गया तथा रात्रि में उसके साथ छेड़छाड़ किया गया जिससे उसके हाथ की चूड़ी टूट कर उसके हाथ में गड़ गयी, लेकिन वह किसी तरह भागने में सफल रही । ललिता देवी ने यह भी कहा कि घटना के तुरत बाद उस के पास श्री के0के0सिन्हा का फोन आया जिसमें उनके द्वारा प्राथमिकी दर्ज करने की धमकी दी गयी।

जांच पदाधिकारी को प्रायः सभी सेविकाओ द्वारा यह बताया गया कि आप के द्वारा प्रतिमाह उनलोगों से 1600.00 (एक हजार छः सौ) रूपये की मांग की जाती है तथा टी0एच0आर0 के दिन 5–6 सेविकाओं की पोषाहार पंजी जप्त कर सभी से 15000.00 से 20,000.00 रूपये की मांग की जाती है अन्यथा केन्द्र को रद्द करते हुए

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पति श्री के0के0सिन्हा के द्वारा उनलोगो को भद्दी गालियां भी दी जाती है। श्री के0के0सिन्हा के द्वारा सेविकाओ से खाना बनवाने, कपडा धुलवाने एवं झाडू लगवाने की बात तो प्रायः सभी सेविकाओं ने स्वीकार की । जांच पदाधिकारी को सेविकाओ ने यह भी बताया कि आप के द्वारा प्रत्येक मासिक बैठक में यह कहा जाता है कि कोई भी जन प्रतिनिधि यथा मुखिया, सरपंच, प्रमुख आदि अगर केन्द्र पर आकर पंजी वगैरह देखने के लिए मागते है तो उन्हे कोई पंजी देखने नहीं दिया जाय तथा धक्का मार कर भगा दिया जाय एवं उनके उपर दुर्व्यवहार करने का आरोप लगाकर मुकदमा दर्ज कर दिया जाय।

सेविकाओ द्वारा यह भी बताया गया कि लगभग 10 माह पहले जबसे आपके उक्त परियोजना में योगदान दिया हैं तब से उनलोगों के वेतन का भुगतान नहीं हो पाया है। वेतन की मांग करने पर आप के द्वारा यह कहा जाता है कि प्रति केन्द्र 500.00 (पांच सौ) रूपये के दर से पहले जमा कर दो तभी वेतन का भुगतान किया जायेगा।

साक्ष्य– अनुमंडल पदाधिकारी डिहरी के पत्रांक 1633 दिनांक 05.11.09 से प्राप्त जांच प्रतिवेदन सभी ब्यानो एवं सी0डी0 सहित।

उपरोक्त तथ्यों एवं आंगनबाड़ी सेविकाओ/सहायिकाओं के द्वारा दिए गए आवेदन पत्रों ,बयानो एवं परिस्थिति जन्य साक्ष्यों के आधार पर जांचोपरान्त यह प्रथम दृष्टव्या प्रतीत होता है कि आप एवं आप के पति श्री के0 के0 सिन्हा के द्वारा सेविकाओं/सहायिकाओं को तग करने, उनके साथ दुर्व्यवहार करने, उन्हे मानसिक, आर्थिक एवं शारीरिक रूप से शोषण किया जाता है।

साक्ष्य– अनुमंडल पदाधिकारी डिहरी के पत्रांक 1633 दिनांक 05.11.09 से प्राप्त जांच प्रतिवेदन सभी ब्यानो एवं सी0डी0 सहित।

गवाहो की सूचि

1. अनुमण्डल पदाधिकारी, डिहरी
2. प्रखण्ड विकास पदाधिकारी, तिलौथू
3. जिला प्रोग्राम पदाधिकारी, रोहतास
4. श्रीमती निलिमा सिन्हा,बाल विकास परियोजना पदाधिकारी,तिलौथु।
5. मुखिया श्रीमती मंजू देवी
6. मु0 पुनम कुंवर, सहायिका
7. श्री केवल कुमार
8. श्री सरयू चौधरी,
9. श्री जयराम सिंह, इलेक्ट्रीक मोटर मेकेनिक, तिलौथू
10. कुमारी ललित, सेविका
11. ललिता देवी, सेविका
12. देवन्ती कुमारी, सेविका एवं अन्य ग्रामीण
13. श्री के0के0सिन्हा(बाल विकास परियोजना पदाधिकारी, तिलौथु के पति)

(अनुराग कुमार)
जिलाधिकारी,रोहतास।

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5. Thereafter, the enquiry proceedings had commenced and the petitioner was also asked to submit her defence vide letter dated 10.12.2010, in reply whereof the petitioner had submitted her reply dated 21.12.2010 stating therein that the charges levelled against her are baseless and do not stand

proved. Subsequently, the Enquiry Officer had submitted the enquiry report dated 07.02.2011 finding all the charges levelled against the petitioner to have been proved. As far as charge no. 1 is concerned, the Enquiry Officer had come to the conclusion that the departmental instructions clearly provide that the residence should be at the Headquarters whereas the petitioner had kept her residence, both at Tilothu and Sasaram, however, she used to come to Tilothu from Sasaram occasionally and moreover the petitioner had failed to produce any concrete proof of regularly residing at Tilothu. As far as charge no. 2 is concerned, the Enquiry Officer has come to the conclusion that the statement of the Anganwadi Sevikas, in presence of the Block Development Officer and the District Programme Officer, was recorded by the Sub-Divisional Officer in writing as also a C.D. was prepared which was shown to the Presenting Officer and the petitioner, from which it is clear that the petitioner had demanded illegal amount for the distribution of meals/payment of remuneration etc. and the husband of the petitioner Shri K.K. Sinha used to call Anganwadi Sevikas/Sahayika at home and used to misbehave with them. The petitioner and her husband are also stated to have engaged in calling the Anganwadi Sevikas/ Sahayikas to their home where they used to get the

meal prepared, used to keep them at their house in the night as also used to beat them which is apparent from the evidence recorded in the C.D. The Enquiry Officer has also found from perusal of the records produced by the petitioner in her defense that she has somehow got the signatures of Sevikas made in the representations, thus from the entire evidence available on record, the Enquiry Officer has found the said charge no. 2 to have been proved. As far as charge no. 3 is concerned, the Enquiry Officer has come to the conclusion, from perusal of the evidence produced by the Presenting Officer as also upon viewing the C.D. that a case is definitely made out against the husband of the petitioner of engaging in sexual abuse/advances. However, the Enquiry Officer was of the opinion that it would be difficult to give any opinion and such matters should be inquired into by the State Government by the notified District Level Committee constituted for preventing sexual abuse of female at their work place. Nonetheless, the Enquiry Officer came to the finding that on viewing the C.D. containing the statement of the Sevikas, it appears that the husband of the petitioner has engaged in misbehavior with the Sevikas/ Sahayikas. Thus, the Enquiry Officer found that charge no. 1 & 2, levelled against the petitioner have stood proved.

The afore-said enquiry report dated 07.02.2011 was then examined by the disciplinary authority and it was found that the evidence / testimony of the Anganwadi Sevikas, who have levelled the allegation of taking bribe, is required to be recorded in presence of the delinquent so that she can cross examine the witnesses, hence the records of the departmental proceeding was sent back to the enquiry officer to do the needful. Thereafter, one by one 14 Anganwadi Sevikas were examined as witnesses in presence of the petitioner and her Advocate and the said Anganwadi Sevikas had reiterated their previous statements regarding bribe and torture/ill-treatment. The enquiry officer had then submitted an enquiry report dated 01.04.2011 finding the charges to have been proved.

6. The disciplinary authority had then issued a second show cause notice dated 29.04.2011 to the petitioner enclosing the copy of the aforesaid two enquiry reports to which the petitioner had submitted her reply dated 18.05.2011, inter-alia stating therein that none of the charges have stood proved, as against the petitioner herein. It appears that since the disciplinary authority, after considering the enquiry report, the materials on record and the reply of the petitioner had come to a conclusion that the petitioner is required to be dismissed from

service, the file was sent to the Bihar Public Service Commission for concurrence, however, the Bihar Public Service Commission by its resolution dated 28.03.2012 opined that the proposed punishment is disproportionate to the charges levelled against the petitioner. However, the respondents had then processed the file and had got approval of the Council of Ministers inasmuch as the Council of Ministers had resolved in a meeting held on 10.04.2012, vide Agenda No. 5, to grant approval to the proposal of dismissal of the petitioner. Thereafter, the impugned order of dismissal dated 27.04.2012 was passed, which was challenged by the petitioner before this Court by way of a writ petition bearing CWJC No. 1173 of 2015 and a coordinate Bench of this Court, by an order dated 18.01.2019, had disposed off the said writ petition, granting liberty to the petitioner to raise her objections before the competent authority by filing a review petition under Rule 24(2) of the Bihar CCA Rules, 2005. The petitioner had then filed a petition under Rule 24(2) of the Rules, 2005 before the appellate authority-cum-Principal Secretary, Social Welfare Department, Bihar, Patna on 07.02.2019, however, the same has been dismissed by a detailed order dated 31.05.2019 contained in Memo dated 18.06.2019, passed by the Additional Chief

Secretary, Social Welfare Department, Govt. of Bihar, Patna.

7. The learned counsel for the petitioner has submitted that the petitioner had prayed for handing over the evidence papers as also other documents on the basis of which the charges had been framed, as contained in Prapatra-'ka', but the same were not given to the petitioner. It is also the case of the petitioner that even the complaint on the basis of which the allegations have been levelled against the petitioner was not supplied to the petitioner. It is also submitted that only because the petitioner had exposed the corrupt practices going on in the district in question, she has been victimized. It is further contended that though the Bihar Public Service Commission did not give its concurrence to the punishment of dismissal, nonetheless, the respondents discreetly obtained approval, with regard to dismissal of the petitioner from her services, from the Council of Ministers. It is also the contention of the learned counsel for the petitioner that during the course of departmental proceeding, the witnesses named in the charge sheet were not produced and as far as those produced by the prosecution are concerned, the petitioner was not granted any opportunity to cross-examine them, hence the entire disciplinary proceedings stands vitiated in the eyes of law and the impugned order of

punishment dated 27.04.2012 is fit to be set aside. Lastly, it is submitted that the quantum of punishment is disproportionate to the charges levelled against the petitioner, hence at least, the matter be remanded back to the disciplinary authority to re-consider its decision regarding awarding punishment of dismissal from service.

8. Per contra, the learned counsel for the respondent-State has submitted that there is no irregularity in the procedure adopted by the respondents in conduct of the disciplinary proceedings, hence this Court would not sit in appeal and re-appreciate the evidence, thus, no interference is required with the order of punishment dated 27.04.2012. It is further submitted that the petitioner had jointed as Child Development Project Officer at Tilothu, Rohtas on 22.05.2009 and immediately thereafter, she started engaging in corrupt practices like taking bribe and indulging in indiscipline, irregularities, highhandedness, misbehavior etc. and had also engaged in insubordination. In fact a complaint was received by the Department of Social Welfare against the petitioner, whereafter the District Magistrate, Rohtas was requested to make enquiry. The Sub-Divisional Officer, Dehri, District-Rohtas had submitted his enquiry report finding the allegation of corruption

against the petitioner to be true, more particularly of not residing in the Headquarters, demanding and taking bribe and committing irregularities as also torturing and misbehaving with her subordinate staffs. Thereafter, memo of charge in prapatra- 'ka' was drawn up and a departmental proceeding was initiated vide resolution dated 07.05.2010 as also before that the petitioner was suspended vide order dated 21.04.2010. It is also submitted by the learned counsel for the respondents that the petitioner was given ample opportunity during the course of the enquiry proceedings, whereafter the Enquiry Officer had submitted the enquiry report dated 07.02.2011 finding the charge no. 1 & 2 to have been proved against the petitioner.

9. The learned counsel for the respondent-State has also submitted that the excesses of the petitioner was so profound and misbehavior with subordinates was so rampant that 16 Sevikas under the jurisdiction of the petitioner had given their written statement before the Sub-Divisional Officer against the petitioner as also against the husband of the petitioner alleging therein that the petitioner used to extort illegal money and take bribe and the husband used to engage in molestation. It is stated that the said statements of the Sevikas were sent to the Conducting Officer of the present case, whereupon the

Conducting Officer had sent all the written reports to the petitioner vide letter dated 16.03.2011 and all the statement of the said Anganwadi Sevikas were also made available to the petitioner, whereafter the petitioner had filed her reply dated 24.02.2011, however, she could not prove her innocence. It is further submitted that on 24.03.2011, 14 Anganwadi Sevikas had appeared before the Conducting Officer/Enquiry Officer of this case for giving their statement and for being cross-examined. The said 14 Anganwadi Sevikas were then examined before the Enquiry Officer and they stood firm on their statement made earlier, however, the petitioner and her husband refused to cross-examine the said witnesses as has also been recorded in the records. The enquiry reports dated 07.02.2011 and 01.04.2011, along with the records were sent to the disciplinary authority, whereafter a second show cause notice dated 29.04.2011 was issued to the petitioner and upon receipt of her reply, the disciplinary authority had found the charges to have been proved as against the petitioner herein and the proposal of dismissal of the petitioner from her services was then sent to the Council of Ministers for approval, which was approved by the Council of Ministers in a meeting held on 10.04.2012, whereupon the order of punishment of dismissal

was passed by the disciplinary authority vide resolution dated 27.04.2012. The petitioner had then filed a review petition, however, the same has also been dismissed by the impugned order dated 31.05.2019 as contained in Memo dated 18.06.2019.

10. I have heard the learned counsel for the parties and perused the materials on record. This Court finds that basically three charges have been levelled against the petitioner; one pertaining to the petitioner not residing at the Headquarters and in fact staying at Sasaram from where she used to occasionally come to her place of work at Tilouthu; second charge is with regard to the petitioner taking bribe and misbehaving with the Anganwadi Sevikas and her subordinate staffs inasmuch as when an inspection was made on 76 Anganwadi centers, 68 Anganwadi Sevikas had levelled allegations of misbehavior and financial exploitation etc. against the petitioner and her husband and as far as the third charge is concerned, it pertains to mental and physical torture of the Sevikas/Sahayikas by the petitioner and her husband as also regarding the husband of the petitioner engaging in sexually abusing the Sevikas/Sahayikas. As far as the first two charges are concerned, the Enquiry Officer in the enquiry report, on the basis of statement of several Anganwadi Sevikas totaling 14 in number, who were examined by the

prosecution during the course of departmental enquiry, as also on the basis of other materials on record and the evidence produced during the course of the said departmental enquiry had found the charge no. 1 & 2 to have been conclusively proved as against the petitioner herein. The Enquiry Officer had thus found, as far as charge no. 1 is concerned, that the departmental instructions clearly provide that the residence should be at the Headquarters whereas the petitioner had kept her residence, both at Tilothu and Sasaram, however, she used to come to Tilothu from Sasaram occasionally and moreover the petitioner had failed to produce any concrete proof of regularly residing at Tilothu. As far as charge no. 2 is concerned, the Enquiry Officer had come to the conclusion that the statement of the Anganwadi Sevikas, in presence of the BDO and the District Programme Officer, was recorded by the SDO in writing as also a C.D. was prepared which was shown to the Presenting Officer and the petitioner, from which it is clear that the petitioner had demanded illegal amount for the distribution of meals/payment of remuneration etc. and the husband of the petitioner Shri K.K. Sinha used to call Anganwadi Sevikas/Sahayika at home and used to misbehave with them. The petitioner and her husband are also stated to have engaged in calling the Anganwadi

Sevikas/Sahayikas to their home where they used to get the meal prepared, used to keep them at their house in the night as also used to beat them which is apparent from the evidence recorded in the C.D. Thus from the entire evidence available on record, the Enquiry Officer had found the said charge no. 2 to have been proved. As far as charge no. 3 is concerned, the Enquiry Officer had come to the conclusion, from perusal of the evidence produced by the Presenting Officer as also upon viewing the C.D. containing the statement of the Sevikas that the husband of the petitioner used to misbehave with the Sevikas/ Sahayikas and a case is definitely made out against the husband of the petitioner of engaging in sexual abuse/advances.

11. As regards the issue raised by the learned counsel for the petitioner to the effect that the charge sheeted witnesses have not been examined and the complaint petition, on the basis of which charges have been framed, has not been made available to the petitioner, this Court finds that even for the sake of argument, if it is deemed that the complaint petition was of any worth, the same has got no relevance in the present case inasmuch as the charges framed and levelled against the petitioner, as contained in Prapatra-'ka', are elaborate and depict the charges in an explicit manner and moreover this Court finds

that the charges have not been framed on the basis of any complaint petition but have been framed and levelled against the petitioner after due enquiry by the Sub-Divisional Officer, Dehri, the BDO, Tilouthu, the District Programme Officer and the District Magistrate, Rohtas, hence no prejudice has been caused to the petitioner, which the petitioner has admittedly failed to demonstrate, thus the said contention of the petitioner is rejected. As regards the contention of the Ld. counsel for the petitioner that the charge sheeted witnesses have not been called, this Court finds that the same is factually not correct inasmuch as all the Sevikas named therein like Devanti Kumari, Lalita Devi, Kumari Lalita, Poonam Devi etc. were examined by the prosecution before the Enquiry Officer, in presence of the petitioner and her Advocate and their evidence had also been recorded. At this juncture, this Court would refer to the well settled principle of law that the quality of evidence is important and not the quantity thereof, thus if the number of witnesses examined during the course of departmental proceedings are sufficient, in the wisdom of the prosecution as also the Enquiry Officer, to prove the charges levelled against the petitioner/ the delinquent, it is not necessary that all the charge sheeted witnesses should be examined and moreover, the

petitioner has also failed to show the prejudice caused to her on account of non-examination of certain charge sheeted witnesses. It is another aspect of the matter that the petitioner could very well have filed a petition before the enquiry officer for summoning relevant witnesses on her behalf for the purposes of their examination during the course of the departmental proceeding but she has failed to do so, hence no premium can be derived by the petitioner on this score, thus the aforesaid contention of the Ld. counsel for the petitioner is rejected.

12. Now, coming to the next issue raised by the learned counsel for the petitioner regarding the petitioner having not been granted opportunity to cross-examine the witnesses led by the prosecution during the course of the departmental proceeding, this Court for the purposes of its satisfaction had called for the record of the departmental enquiry and after going through the records at great length, it is of the considered view that thought the petitioner was granted opportunity to cross-examine the witnesses produced by prosecution, nonetheless, both the petitioner and her husband Shri K.K. Sinha, who was representing the petitioner as her advocate, had flatly refused to cross-examine the witnesses and had also refused to put their signature on the statement of the witnesses produced by the

prosecution and examined during the course of the aforesaid departmental proceedings, hence it is apparent that the petitioner and her husband had willfully created impediments during the course of the departmental enquiry by refusing to cross-examine the witnesses, which fact has been substantiated both by the Conducting Officer as also the Presenting Officer, hence the said contention of the petitioner also stands rejected being bereft of any merit. In this regard, it would be relevant to reproduce the relevant portion of the findings recording by the Revisional Authority i.e. the Additional Chief Secretary, Social Welfare Department in the order dated 31.05.2019 as contained in Memo dated 18.06.2000 herein below:-

जहाँ तक याचिकाकर्ता द्वारा विभागीय कार्यवाही के दौरान जॉचकर्ताओं तथा आरोप पत्र में नामि गवाहों को प्रस्तुत नहीं किये जाने एवं परीक्षण के लिए उपस्थित 14 सेविकाओं का प्रति परीक्षण करने अवसर उन्हें प्रदान नहीं किये जाने का दावे का प्रश्न है तो इस संबंध में विभागीय संचिका सं स0क0निग0-30-237/2009 में पोषित तथ्यों से उनका यह दावा सही प्रतीत नहीं होता है। क्योंकि इस संब में संचिका में उपलब्ध तथ्यों से स्पष्ट है कि इनके मामले में सर्वप्रथम संचालन पदाधिकारी द्वारा अप ज्ञापांक-309 दिनांक-07.02.2011 द्वारा जॉच प्रतिवेदन उपलब्ध कराया गया था जिसे तत्कालीन प्रधा सचिव के आदेश से विभागीय पत्रांक-1167 दिनांक-15.03.2011 के द्वारा उक्त जॉच प्रतिवेदन वापस कर हुए संचालन पदाधिकारी को रिश्वत का आरोप लगाने वाले आंगनबाड़ी सेविकाओं की गवाही आरोपि पदाधिकारी (याचिकाकर्ता) के समक्ष लिये जाने का आदेश दिया गया था। उक्त के आलोक में संचाल द्वारा याचिकाकर्ता-सह-आरोपित पदाधिकारी श्रीमती नीलिमा सिन्हा एवं उनके पति श्री के0के0 सिन्ह (आरोपित का पक्ष रखने हेतु अधिवक्ता के रूप में रखे गये) की उपस्थिति में सी0डी0 का परिचालन व याचिकाकर्ता के विरूद्ध रिश्वत लेने संबंधी आरोप लगाने वाली आंगनबाड़ी सेविका/सहायिकाओं की गवा कराने के उपरांत पुन: अपने पत्रांक-877 दिनांक-01.04.2011 के द्वारा विभागीय कार्यवाही का पुर्नजो प्रतिवेदन उपलब्ध कराया गया जिसलिए जॉच प्रतिवेदन में यह भी स्पष्ट रूप से अंकित है कि उक्त गवा के दौरान उपस्थित रहने के बावजूद श्रीमती सिन्हा अथवा उनके पति द्वारा उक्त बयानों पर हस्ताक्षर कर से इनकार किया गया। ऐसी स्थिति में याचिकाकर्ता-सह-आवेदिका का यह दावा असत्य साबित हो जाता कि विभागीय कार्यवाही के गवाहों की गवाही उनके समक्ष नहीं करायी गई।

याचिकाकर्ता के उपरोक्त दावा अंश के असत्य साबित हो जाने तथा विभागीय कार्यवाही अभिलेख में अंकित इस तथ्य से कि उक्त गवाही/विभागीय कार्यवाही के दौरान उपस्थित रहने के बावज याचिकाकर्ता-सह-आवेदिका एवं उनके पति द्वारा अभिलेख पर हस्ताक्षर नहीं किया गया से याचिकाकर्ता-स आवेदिका के इस दावे को भी सही माने जाने का कोई आधार नहीं रह जाता है कि उन्हें उपस्थित गवाहों प्रतिपरीक्षण करने का अवसर प्रदान नहीं किया गया क्योंकि जब उनके एवं उनके अधिवक्ता पति उपस्थिति में ही सारी गवाहियॉ हो रही थी तो उन्हें इन गवाहों का प्रतिपरीक्षण करने का पर्याप्त अवसर एवं अभिलेख आधारित इस तथ्य से कि उनके द्वारा पूरी कार्यवाही अपने समक्ष सम्पन्न होने के बावज अभिलेख पर हस्ताक्षर नहीं दिया गया है अपीलकर्ता के इन दावों की सत्यता स्थापित नहीं मानी जा सक है।

13. At this juncture, this Court would refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Union of India & Ors. vs. P. Gunasekaran,*** reported in ***(2015) 2 SCC 610***, paragraph nos. 12, 13, 14, 15, 16, 20 & 21 whereof are 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.

13. *Under Articles 226/227 of the Constitution of India, the High Court shall not:*

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

14. *In one of the earliest decisions in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723], many of the above principles have been discussed and it has been concluded thus:*

"7. … The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the

enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

15. *In State of A.P. v. Chitra Venkata Rao [(1975) 2 SCC 557]*

, the principles have been further discussed at paras 21-24, which read as follows: (SCC pp. 561-63)

> *"21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723] . First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner*

inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

22. Again, this Court in Railway Board v. Niranjan Singh [(1969) 1 SCC 502] said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In Niranjan Singh case [(1969) 1 SCC 502] this Court held that the High Court exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shutdown of an air compressor at about 8.15 a.m. on 31-5-1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their

compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal.

(See Syed Yakoob v. K.S. Radhakrishnan [AIR 1964 SC 477] .)

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."

16. *These principles have been succinctly summed up by the living legend and centenarian V.R. Krishna Iyer, J. in State of Haryana v. Rattan Singh [(1977) 2 SCC 491]. To quote the unparalleled and inimitable expressions:*

"4. … in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow

what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor textbooks, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good."

20. *Equally, it was not open to the High Court, in exercise of its jurisdiction under Articles 226/227 of the Constitution of India, to go into the proportionality of punishment so long as the punishment does not shock the conscience of the court. In the instant case, the disciplinary authority has come to the conclusion that the respondent lacked integrity. No doubt, there are no measurable standards as to what is integrity in service jurisprudence but certainly there are indicators for such assessment. Integrity according to Oxford Dictionary is "moral uprightness; honesty". It takes in its sweep, probity, innocence, trustfulness, openness, sincerity, blamelessness, immaculacy, rectitude, uprightness, virtuousness, righteousness, goodness, cleanness, decency, honour, reputation, nobility, irreproachability, purity, respectability, genuineness, moral excellence, etc. In short, it depicts sterling character with firm adherence to a code of moral values.*

21. *The impugned conduct of the respondent working as Deputy Office Superintendent in a sensitive department of*

Central Excise, according to the disciplinary authority, reflected lack of integrity warranting discontinuance in service. That view has been endorsed by the Central Administrative Tribunal also. Thereafter, it is not open to the High Court to go into the proportionality of punishment or substitute the same with a lesser or different punishment. These aspects have been discussed at quite length by this Court in several decisions including B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749] , Union of India v. G. Ganayutham [(1997) 7 SCC 463] , Om Kumar v. Union of India [(2001) 2 SCC 386], Coimbatore District Central Coop. Bank v. Employees Assn. [(2007) 4 SCC 669] , Coal India Ltd. v. Mukul Kumar Choudhuri [(2009) 15 SCC 620] and the recent one in Chennai Metropolitan Water Supply [Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108] ."

14. Thus, this Court finds that under Article 226 & 227 of the Constitution of India, neither evidence can be re-appreciated nor interference can be made with the conclusion of the enquiry proceedings, if the same has been conducted, in accordance with law nor this Court can go into the reliability/ adequacy of evidence or interfere if there is some legal evidence on which findings are based and on the contrary this Court can only consider whether enquiry has been held by the competent authority and whether the same has been held in accordance with the procedure established by law. Since in the present case this Court does not find any infirmity in the procedure followed

by the disciplinary authority as also it does not find that there has been any violation of the principles of natural justice, this Court does not find any reason to interfere with the disciplinary proceeding in question. Thus, there being no illegality in the conduct of the departmental proceedings, there is no occasion to interfere with the conclusion of the disciplinary authority.

15. The last argument advanced by the learned counsel for the petitioner is that the quantum of punishment is disproportionate to the severity of the charges leveled against the petitioner. In this regard, this Court finds that serious charges of not only extorting money but also taking bribe from the Anganwadi Sevikas/Sahayikas and subordinate officials have been levelled against the petitioner, which have also stood proved but similarly grave charges of inflicting mental and physical torture upon the Sevikas/Sahayikas have been levelled against the petitioner, which have also been found to be true, apart from the husband of the petitioner being charged of engaging in sexually abusing the Sevikas/Sahayikas, all of which in any view of the matter cannot be said to be trivial incidents, hence this Court is not persuaded to go into the issue of proportionality of punishment since the punishment of dismissal from service inflicted upon the petitioner, in the

considered opinion of this Court, is not shockingly disproportionate. As far as the order of dismissal of the petitioner from her services dated 27.04.2012, passed by the Secretary, Social Welfare Department as also the revisional order dated 31.5.2019, as contained in Memo dated 18.06.2019, are concerned, the same do not suffer from any infirmity and are well considered and reasoned orders, apart from being speaking ones, clearly setting out succinct and cogent reasons for coming to a decision regarding inflicting the punishment of dismissal from service qua the petitioner herein, hence this Court does not find any reason to interfere with the same.

16. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	06.08.2021
Uploading Date	09.01.2022
Transmission Date	