



2026:DHC:6818-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 14.08.2026

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Judgment delivered on: 18.08.2026

CNR No. DLHC010376022026

+ **LPA 637/2026 & CM APPL. 54081-83/2026**

PARVEEN KUMAR

.....Appellant

Through: In person.

versus

EXPORT INSPECTION COUNCIL & ORS.

.....Respondents

Through: Mr.L.R.Khatana, Adv for R-1-4.
Mr.Kshitij Chhabra, SPC with
Mr.Priyanshu Chhabra, Adv for R-5.
Mr.Nirvi Kar Verma, SPC with
Mr.Varun Kumar, Adv for R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

1. Heard the appellant, who appears in person and Mr.L.R.Khatana, Advocate appearing for the respondent nos.1 to 4 and perused the records available before us on this appeal.



2. This intra-Court appeal seeks to challenge the order dated 10.03.2026 passed by the learned Single Judge, whereby *W.P.(C) 4788/2017* instituted by the appellant, wherein challenge to the order of penalty of dismissal from service dated 05.04.2016 and the appellate order dated 21.02.2017 rejecting the appeal against the dismissal order was made, has been dismissed.
3. The appellant, while serving as Technical Officer in the Export Inspection Agency, Delhi (hereinafter referred to as 'EIA'), by means of order dated 11.04.2014, was relieved from EIA, Delhi and was directed to join EIA, Chennai, Sub-Office at Tuticorin, on temporary basis on account of certain administrative exigencies faced by the respondents.
4. The Export Inspection Council (hereinafter referred to as 'EIC') is a statutory body created and established under Section 3 of The Export (Quality Control and Inspection) Act, 1963 (hereinafter referred to as 'the Act, 1963'). The EIA is established under Section 7 of the said Act, which prescribes for creation of machinery for quality control and inspection of commodities intended for export. EIAs are field organisations entrusted with the function of inspection and quality control of the commodities to be exported.
5. The appellant, however, did not join the Sub-Office at Tuticorin of EIA, Chennai pursuant to the order dated 11.04.2014, whereafter letters were issued to him on 06.05.2014, 13.05.2014, 23.05.2014, 27.05.2014 and 30.05.2014 directing him to report for duty. However, the appellant did not report for duty, rather sought voluntary retirement on 16.05.2014 and also submitted leave application and representations on the same day.
6. The leave application, however, was rejected on 23.05.2014 and the request for voluntary retirement made by the appellant was also rejected on



27.05.2014. Thereafter, by means of another letter/order dated 30.05.2014, the appellant was again directed to join at Tuticorin by 05.06.2014. On account of non-compliance of the order dated 11.04.2014 and for not reporting to duty, a memorandum of charge-sheet was issued against the appellant on 05.06.2014 containing two Articles of Charges. The first was for wilful disobedience of the order dated 11.04.2014 and his continued failure to report at Tuticorin despite several reminders. The second Article of Charge was that the communication dated 27.05.2014 seeking leave made by the appellant did not disclose the nature and particulars of leave sought by him in proper form, and further that despite clear notice that action would follow if the appellant did not report to duty by 30.05.2014, he remained absent unauthorisedly.

7. After submission of reply to the charge-sheet by the appellant, the Inquiry Officer and Presenting Officer were appointed *vide* order dated 10.02.2015, whereafter the disciplinary inquiry was conducted against the appellant. The Inquiry Officer submitted his report dated 01.10.2015, wherein both the charges were found proved against the appellant. On consideration of the inquiry report, the disciplinary authority, while concurring with the inquiry report, passed an order dated 05.04.2016 dismissing the appellant from service. The order of dismissal from service dated 05.04.2016 was challenged by the appellant by preferring a statutory appeal which too was dismissed by the Appellate Authority by means of the order dated 21.02.2017. These two orders, i.e., the order of dismissal dated 05.04.2016 and the order dated 21.02.2017 dismissing his statutory appeal became subject matter of challenge in *W.P.(C) 4788/2017* instituted by the appellant, which has been dismissed by the learned Single Judge by means



of the impugned order dated 10.03.2026.

8. The learned Single Judge, while considering various submissions and arguments raised by the appellant, has noticed that challenge to the order of transfer/posting dated 11.04.2014 was also made by the appellant by instituting *W.P.(C) 3873/2014*, which was dismissed by this Court by means of the order dated 14.01.2015, wherein it was held that the order dated 11.04.2014 was a valid temporary posting order which was issued to meet the administrative exigencies. The plea taken by the appellant of *mala fide* etc., was also not found established by this Court in its order dated 14.01.2015. The appellant challenged the order dated 14.01.2015 passed by the learned Single Judge of this Court by way of instituting *LPA 66/2015* which, too, was disposed of by the Division Bench of this Court *vide* order dated 31.07.2015, wherein it was specifically found by the Division Bench that temporary order is a recognised mode of transfer and further that since the appellant had not joined his posting, departmental proceedings for unauthorised absence were lawfully initiated.

9. The appellant raised various pleas before the learned Single Judge and *inter alia* submitted that the departmental proceedings were conducted under the authority of “Export Inspection Council of India”, which is not recognised by the Act, 1963 and in fact the statutory body created under Section 3 is “Export Inspection Council” and, therefore, the disciplinary proceedings suffered from a fundamental defect. The learned Single Judge did not agree with the said submission and observed in the impugned order that such submission cannot be accepted for the reason that the appellant’s service was within the statutory structure of the Export Inspection Council and Export Inspection Authority established under the Act, 1963 and the



disciplinary proceedings and other steps were initiated against the appellant by the competent authority. We are in complete agreement with such finding recorded by the learned Single Judge for the simple reason that in case the “Export Inspection Council” is described as “Export Inspection Council of India”, the same would not render the actions taken by the respondents illegal merely because of such a minor deviation in the use of the nomenclature. In any case, Export Inspection Council created under Section 3 is the council created under the Act, 1963 for the entire country and hence the submission made in this regard by the appellant has rightly been rejected by the learned Single Judge, with which we accord our concurrence.

10. It has also been submitted before us, as was contended by the appellant before the learned Single Judge, that the order of his temporary posting dated 11.04.2014 had precipitated on account of *mala fide* and was a result of retaliatory measure. In this regard, the learned Single Judge has rightly noted that the validity of the posting order dated 11.04.2014, on the ground that the same was issued with *mala fide* intentions, had already been adjudged by this Court while dismissing the *W.P.(C) 3873/2014* which was filed by the appellant and, therefore, such issue could not be reopened. The learned Single Judge has also noticed the fact that the order dismissing *W.P.(C) 3873/2014* which was filed challenging the order of posting dated 11.04.2014, was affirmed by the Division Bench of this Court while dismissing *LPA 66/2014*. Accordingly, we do not have any reason to take any view other than the view taken by the learned Single Judge in respect of the submission of the appellant that the order dated 11.04.2014 was issued with *mala fide* intentions.



11. We may also note that the submission of the appellant regarding alleged illegal appointment of Mr. Inder Singh as Inquiry Officer was not accepted by the Division Bench of this Court in *LPA 313/2024*, which did not accept the said challenge *vide* its judgment dated 22.01.2026.

12. Learned Single Judge has also considered the submission made on behalf of the appellant that he was denied an opportunity of personal hearing at the pre-inquiry stage as envisaged under Rule 11(4) of the CCS (CCA) Rules and has opined that such submissions are misplaced for the reason that the appellant had submitted written statement of his defence on 14.06.2014 and thereafter again submitted another reply on 27.07.2014, whereupon the regular inquiry was held. There is nothing on record which may indicate that the appellant did not participate in the inquiry. He even cross-examined the Respondent witnesses and also examined himself as defence witness. Further, the appellant also filed a response to the written brief submitted by the Presenting Officer and was even given opportunity to file response to the Inquiry Report, which he availed of and submitted his representation against the Inquiry Report. In these circumstances, learned Single Judge has recorded a finding that even if the appellant desired a separate oral hearing at the initial stage, the record does not disclose any prejudice which could be said to have been caused to the appellant so as to justify setting aside the entire departmental proceedings.

13. Having gone through the records and pleadings available before us on this intra-Court appeal, we are of the view that the principles of natural justice at each and every step of the departmental proceedings, which culminated in dismissal order of the appellant, was followed. The appellant has utterly failed to point out any flaw in the process and procedure followed



during the course of departmental proceedings. So far as the submission made by the learned counsel for the appellant in respect of certain factual aspects such as that in view of the pending request for leave he could not be treated as unauthorisedly absent, we may only observe that this is beyond the scope of judicial review undertaken by this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, to go into the factual aspects in respect of findings recorded by the disciplinary authority or the Inquiry Officer with cogent reasons. Unless such findings are shown to be perverse, no interference in findings of fact in such matters is permissible.

14. The appellant places reliance on ***Krushnakant B. Parmar v. Union of India, (2012) 3 SCC 178*** to submit that in a case where allegation of unauthorised absence from duty is made, the disciplinary authority is expected to prove that absence is wilful and in absence of such finding the absence will not amount to misconduct. So far as the legal proposition laid down in ***Krushnakant B. Parmar (supra)*** is concerned, there cannot be any quarrel, however, in the instant case, Article 2 of the Articles of Charges against the appellant, which related to charge of unauthorised absent has duly been proved by the Inquiry Officer on consideration of evidence and material available on record of the disciplinary proceedings, to which the disciplinary authority concurred, giving reasons. In this view, reliance by the appellant on ***Krushnakant B. Parmar (supra)*** seems to be misplaced.

15. Much emphasis has been laid by the appellant on the judgment in ***Raghubir Singh v. General Manager, Haryana Roadways, Hissar (2014) 10 SCC 301***. ***Raghubir Singh (supra)*** discusses the application of Doctrine of Proportionality and has observed that the said doctrine should be applied



to the fact situation of a particular case. Learned Single Judge has considered the said submission of the appellant based on ***Raghubir Singh (supra)*** and has opined that in ***Raghubir Singh (supra)***, a finding was recorded that the workman had faced ‘genuine constraints’ and, therefore, was absent from duty. The constraint faced by the workman in ***Raghubir Singh (supra)*** was that he was in judicial custody and was assured of his reinstatement upon acquittal. In the instant case, however, there is overwhelming evidence, which has been considered by the Inquiry Officer, Disciplinary Authority and thereafter by the learned Single Judge as well, to conclude that the absence from duty of the appellant was not on account of any ‘genuine constraints’, rather it appeared to be his choice that he did not want to join at EIA, Chennai in compliance of posting order dated 11.04.2014.

16. We may also note that the respondent, because of the nature of its functions, keep on facing administrative exigencies, calling upon them to pass temporary posting orders depending on such temporary requirements from all corners of the country from where export of commodities is made. It is on account of such exigencies that the officers, working in the organisation of EIC/EIA, are frequently required to attend to the duties temporarily at Centres from where such demands keep on pouring. In this view of the matter, we affirm the opinion expressed by the learned Single Judge that Doctrine of Proportionality as enunciated by Hon’ble Supreme Court in ***Raghubir Singh (supra)*** cannot be pressed into service by the appellant to impeach the order of dismissal.

17. Lastly, we may refer to a latest judgment of Hon’ble Supreme Court in ***Bhupinderpal Singh Gill v. State of Punjab, 2025 SCC OnLine SC 113***,



wherein it has been held that interference by this Court is warranted in the matters relating to disciplinary proceedings only to find out whether disciplinary proceedings have been conducted fairly and if not, whether an inference can be drawn that this has caused prejudice to the charged employee. The Hon'ble Supreme Court has further observed that consequences of violation of procedure has to be considered on a case to case basis, bearing in mind that judicial review is not intended to be an appeal in disguise. Applying the said principle laid by Hon'ble Supreme Court in ***Bhupinderpal Singh Gill (supra)***, what we find is that the appellant has not been able to point out any flaw in the manner in which the disciplinary proceedings against him were instituted and conducted, which may be said to have caused any prejudice to him. We have already noticed that challenge made to the posting order dated 11.04.2014 by the appellant had already failed. His challenge to appointment of Enquiry Officer had also failed before the learned Single Judge and thereafter before the Division Bench of this Court.

18. The appellant has cited various other judgments which are:

- (1) ***Union of India v. H.C. Goel*, 1963 SCC OnLine SC 16**
- (2) ***State of Assam v. Ranga Mohd.*, 1963 SCC OnLine SC 63**
- (3) ***Meghmala v. G. Narasimha Reddy*, (2010) 8 SCC 383**
- (4) ***Mohinder Singh Gill v. Chief Election Commr.*, (1978) 1 SCC 405**
- (5) ***State of Punjab v. V.K. Khanna*, (2001) 2 SCC 330**
- (6) ***Arjun Chaubey v. Union of India*, (1984) 2 SCC 578**
- (7) ***Mohd. Yunus Khan v. State of U.P.*, (2010) 10 SCC 539**
- (8) ***Roshan Lal Tandon v. Union of India*, 1967 SCC OnLine SC 70**
- (9) ***State of A.P. v. Nalla Raja Reddy*, 1967 SCC OnLine SC 85**



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However, we do not find that these judgments are of any help to the cause of the appellant for the reasons already given above.

19. We, thus, do not find any good ground to interfere with the impugned judgment dated 10.03.2026 passed by the learned Single Judge in *W.P.(C) 4788/2017*.

20. Resultantly, the appeal along with the pending applications is hereby dismissed.

21. No orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

AUGUST 18, 2026
S.Rawat