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

Judgment reserved on: 31.07.2025
Judgment pronounced on: 12.09.2025

\+ **O.M.P. 150/2013**

DR THELMA J TALLOO .....Petitioner

Through: Mr. Yasobant Das, Senior Advocate with Mr. Arunav Patnaik, Mr. Nirbhay Nitya Nanda, Advocates

versus

JESUS AND MARY COLLEGE & ANOTHER .....Respondents

Through: Mr. Romy Chacko, Senior Advocate with Mr. Joe Sebastian, Mr. Akshat Singh, Mr. Ashwin Romy, Advocates for the Respondent No. 1.

Ms. Manisha Singh, Advocate for the Respondent No. 2.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

J U D G M E N T

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1. This is a petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for brevity "*the Act*") challenging the Award dated 23.10.2012 passed by the Appeals Committee constituted under Clause 9 of Annexure to Ordinance XII of the University of Delhi.

FACTUAL BACKGROUND

2. Dr. Thelma J. Talloo (hereinafter referred to as "*the petitioner*") is a former Reader in the Commerce Department with Jesus and Mary College (hereinafter referred to as "*the respondent No. 1*") affiliated with University of Delhi (hereinafter referred to as "*the respondent No. 2*").

3. The facts leading up to the filing of the present petition as per the petitioner are that in 1982, the petitioner was appointed as a lecturer in the Department of Commerce at respondent No. 1. The petitioner had strained relations with the principal of the respondent No. 1 and some members of the administration, owing to her strong and bold stance on various issues.

4. In the academic year 2007-08, three students of the Second Year B.A. (P) course, namely, Akansha Gulia, Saraswati Chabbra and Sneha Jaichand, who were close friends, began to disrupt classes by their behaviour and frequently absenting themselves. When the petitioner sought to discipline them, they mocked her in class and started spreading false allegations against her. Despite repeated showdowns, their harassment continued. At the end of the academic year, both Akansha Gulia and Sneha Jaichand had shortage of attendance.

5. On 27.03.2008, Akansha Gulia repeatedly called the petitioner on her mobile phone at home, offering bribes in return for attendance. The petitioner reprimanded her for such audacity, yet Akansha Gulia continued to call, offering items such as a new mobile phone, a new saree and cash.

6. During one of the calls, the petitioner was cooking in the kitchen and her daughter, Luvika Talloo, was attending the calls on speakerphone so that her mother could hear. Mr. Shambu Prasad Singh, a Senior Advocate and a family friend, was present in the house of the petitioner and witnessed the situation. Observing the distress of the petitioner, Mr. Singh suggested that the petitioner feign willingness to accept the bribe, to which the petitioner agreed.

7. When Akansha Gulia called again, the petitioner pretended to accept the bribe and asked her to come over. Mr. Singh, in turn, alerted the local police. However, Akansha Gulia never arrived. Unknown to the petitioner, Akansha

Gulia and Saraswati Chabbra had conspired to record the conversations on the phone of Saraswati Chabbra. The students later edited the recordings, deleting portions unfavourable to them, thereby giving the impression that the petitioner had demanded the bribe. Importantly, no call was ever initiated by the petitioner and all calls were made by Akansha Gulia.

8. Much later, through an RTI, the petitioner received an extract of the Governing Body resolution dated 09.04.2008, which recorded two complaints from Akansha Gulia and Saraswati Chabbra regarding the mobile phone conversation. No other complaints were placed before the Governing Body till that time.

9. On 11.04.2008, the principal of the respondent No. 1 summoned the petitioner, citing representations from students. The petitioner suspected this to be the handiwork of Akansha Gulia, Saraswati Chabbra and Sneha Jaichand. She also voiced her apprehensions regarding these students in writing to the principal of respondent No. 1 on 16.04.2008. However, the principal of respondent No. 1 appeared disinterested in her explanation and seemed inclined to exploit the situation.

10. On 30.04.2008, the petitioner was served with a Statement of Articles of Charge containing five articles of charge based on five complaints. This came as a shock to her, as until 09.04.2008, only the two complaints from Akansha Gulia and Saraswati Chabbra were on record. The inclusion of new complaints clearly revealed a conspiracy.

11. Among the complaints:

A. Akansha Gulia alleged bribery on the basis of the edited conversation.

B. Saraswati Chabbra also alleged demand of illegal gratification, though her attendance was nearly 100% due to sports concessions, making her claim false.

C. Sneha Jaichand, with low attendance, gave a statement claiming to have heard about the incident nine days later, which is also alleged to be fabricated.

D. Meghna Khanna, who had been caught cheating in her exams, gave a backdated complaint dated 12.03.2008 alleging she gifted pearls to the petitioner in lieu of attendance, but contradicted herself under cross-examination. Her attendance records disproved her story.

E. Kalpana John and Deepanjali Khurana gave complaints under pressure from the principal of the respondent No. 1, but did not pursue them.

12. However, none of these alleged complaints dated March 2008 were mentioned in the Governing Body minutes of 09.04.2008, confirming that they were procured later to strengthen the conspiracy against the petitioner.

13. Despite repeated requests, the petitioner was denied access to documents forming the basis of the charges. She wrote several letters, but to no avail. On 20.06.2008, she submitted a detailed reply to the charges, highlighting the fabricated nature of the complaints and warning of a conspiracy to oust her.

14. On 28.06.2008, the Governing Body decided to initiate an inquiry. Even before the Inquiry Committee was properly constituted on 02.07.2008, the petitioner was subjected to prolonged questioning on 01.07.2008, reflecting a predetermined bias. The Chairman of the Governing Body, while constituting the Inquiry Committee, even remarked that her denial "lacked substance", prejudging the case.

15. Thereafter, the inquiry proceeded in a manifestly unfair and biased manner. The Committee refused to share fair minutes of proceedings, recorded biased comments and disallowed the petitioner from presenting her

witnesses, including her entire class and Mr. Singh, who had personally overheard the incriminating conversation.

16. Matters escalated on 30.10.2008, when the petitioner was suddenly suspended from her position as Head of Department and reduced to subsistence allowance, revealing the vindictive intent of the authorities.

17. Despite intervention by this Court in W.P. (C) 7906/2008 directing supply of documents and fair opportunity to defend, the Inquiry Committee continued to obstruct her rights.

18. The Committee denied her legal representation, forcing her to cross-examine complainants herself and even humiliated her counsel. They refused to allow her witnesses and rejected representations signed by her students. Even after she suffered a heart attack in 2009, her requests for adjournment or representation by counsel were denied.

19. The inquiry was rushed and conducted with procedural improprieties. On 20.05.2010, the petitioner received the Inquiry Report holding four out of the five charges proved. She submitted a detailed representation, leading the Governing Body to reopen the inquiry. Yet, even after reopening, the Committee hurriedly concluded proceedings without allowing full cross-examination or defence witnesses and in its Report dated 19.08.2010, held three charges proved.

20. Despite her detailed representation, the Governing Body dismissed her from service on 06.07.2011.

21. The petitioner preferred an appeal under Clause 9(1) of the Annexure to Ordinance XII of Delhi University before the Appeals Committee. On 23.05.2012, the Appeals Committee, despite testimony from Mr. Singh, confirming that it was he who had suggested the trap, failed to give due weight to his statement.

22. On 23.10.2012, the Appeals Committee dismissed the appeal, merely reducing the penalty from dismissal to termination, so that the retiral dues of the petitioner would not be affected.

23. The Appeals Committee failed to properly evaluate the evidence, overlooked the challenge of the petitioner to the tainted inquiry and simply reiterated the findings of the Inquiry Committee.

24. Aggrieved by the award of the Appeals Committee, the petitioner is constrained to file the present petition under Section 34 of the Act.

SUBMISSIONS OF THE PETITIONER

25. Mr. Das, learned senior counsel appearing on behalf of the petitioner, has made the following submissions:

26. *Violation of Statutory Safeguards under Ordinance XII* : Clause 6 of the Annexure to Ordinance XII mandates that before terminating services of a teacher, the Governing Body must (i) furnish written grounds, (ii) provide an opportunity to reply, (iii) grant personal hearing if requested, and (iv) duly consider the case of the teacher before arriving at a final decision. In the present case, the Governing Body failed to issue a further show cause notice on the inquiry report, did not record independent findings and directly imposed dismissal, in contravention of Clause 6 and judicial pronouncements in ***Dr. M.S. Frank v. Delhi University & Ors., 2015:DHC:5697*** and ***Yoginath D. Bagde v. State of Maharashtra, 1999 (7) SCC 739***.

27. *Improper Constitution of the Inquiry Committee* : The Governing Body appointed its own members as the Inquiry Committee and thereafter accepted the report with the same members participating in the Governing Body meeting. This offends the principle that "no person can be a judge in

his own cause", as laid down in ***A.K. Kraipak & Ors. v. Union of India & Ors., (1969) 2 SCC 262*** and creates a clear case of bias.

28. *Fabricated and Unreliable Evidence* : The principal allegation rested on a manipulated phone recording between the petitioner and a student. The call was made from the phone of a student but recorded on the device of another student, raising grave doubts of tampering. No forensic verification was conducted. Nevertheless, both the Inquiry Committee and the Appeals Committee accepted the transcript as "natural and reliable", ignoring basic evidentiary safeguards.

29. *Failure to Consider Material Evidence* : The Appeals Committee disregarded crucial defense evidence, including the deposition of Senior Advocate Mr. Singh, who corroborated the version of the petitioner and had advised involving the police. Similarly, representations from students supporting the integrity of the petitioner and contradictions in the testimonies of the complainants were ignored, namely, Saraswati Chhabra admitting attendance was not an issue and Meghna Khanna denying shortage of attendance.

30. *Denial of Legal Assistance and Fair Opportunity* : The petitioner, being an academic and not trained in law, was compelled to cross-examine witnesses without legal assistance, while the Appeals Committee later faulted her for inadequacies in cross-examination. This denial of counsel, coupled with reliance on untested testimonies, constitutes a breach of natural justice.

31. *Limited and Flawed Exercise by the Appeals Committee* : The Appeals Committee erroneously adopted the stance that its role was merely to see whether principles of natural justice were broadly followed, rather than exercising original arbitral jurisdiction under Clause 9. It failed to provide

independent findings on Articles of Charge II and III, cursorily upholding them without reasoned analysis, thereby abdicating its statutory function.

32. *Arbitral Award Not Meeting Requirements of Law* : Under Section 34 of the Act, an arbitral award must be reasoned, consider all contentions and reflect judicial application of mind. The present award merely reproduces the conclusions of the Inquiry Committee without reasons, rendering it unintelligible and perverse. Reliance is placed on ***State of Orissa v. Samantary Construction Pvt. Ltd., 2015 SCC OnLine SC 856*** and ***Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd., (2019) 20 SCC 1***, which permit interference where awards suffer from perversity, patent error, or lack of reasoning.

33. *Disproportionate Penalty* : Even assuming that misconduct was established, dismissal was excessive and disproportionate to the alleged charges, violating Article 14 as laid down in ***Bhagat Ram v. State of Himachal Pradesh & Ors., (1983) 2 SCC 442***.

34. *Relief Sought - Modification of Award* : The petitioner has crossed the age of superannuation and seeks only removal of stigma. In exercise of powers under Section 34 of this Act, this Court may modify the arbitral award and substitute dismissal with voluntary retirement, in line with the decision of the Hon'ble Supreme Court in ***Gayatri Balaswamy v. ISG Novasoft Technologies Ltd., 2025 SCC OnLine SC 9861*****,** which recognized a limited power of modification under Section 34 of the Act.

35. *Equitable Considerations* : The petitioner has an unblemished record of 26 years. The dismissal has caused immense trauma, including serious health complications for her and her family. In these circumstances, equity and justice warrant interference with the impugned arbitral award to prevent perpetuation of grave injustice.

SUBMISSIONS OF THE RESPONDENT NO. 1

36. Mr. Chacko, learned senior counsel appearing on behalf of the respondent No. 1, has made the following submissions:

37. *Proof of Misconduct through Direct Evidence* : The petitioner was charged with demanding illegal gratification from students in return for academic favours. The charges were supported by cogent evidence, namely, recorded conversation with Akansha Gulia, admitted by the petitioner and testimonies of Saraswati Chhabra and Meghna Khanna, consistent and unshaken in cross-examination. The Inquiry Committee, after due process, found Charges I, II and III proved.

38. *Fair Inquiry and Opportunity of Defence* : The petitioner was supplied all documents and permitted to cross-examine witnesses pursuant to directions of this Court in W.P.(C) 7906/2008. She admitted the recorded conversation but failed to substantiate her claim of tampering when specifically asked. Thus, the petitioner was afforded full opportunity of defence and no violation of natural justice was made out.

39. *No Bias or Illegality in Constitution of the Inquiry Committee* : The Inquiry Committee was duly constituted by the Governing Body in accordance with Ordinance XII. The petitioner did not object to its composition during proceedings or in her writ petition. The Inquiry Committee as well as the Appeals Committee members did not participate in the final decision of the Governing Body. Thus, the allegations of bias are an afterthought and untenable.

40. *Reasoned Findings by the Appeals Committee* : The Appeals Committee independently assessed the evidence, including the transcript of the phone recording. It found the conversation natural and reliable and rejected the

explanation of the petitioner as unconvincing. It upheld the findings of the Inquiry Committee by a reasoned order, satisfying the mandate of law.

41. *Modification of Penalty Already Granted* : The Governing Body, on 07.11.2012, modified dismissal into simple termination, ensuring that the petitioner received all retiral dues. The petitioner accepted the benefits and having done so, cannot now seek further modification of the penalty.

42. *Limited Scope of Judicial Review under Section 34* : It is settled law that Section 34 of the Act does not permit re-appreciation of evidence or interference with findings of fact (***National Highways Authority of India v. Oriental Structural Engineers Pvt. Ltd., 2015 SCC OnLine Del 6524***). The arbitral award can be set aside only for conflict with public policy, patent illegality, or violation of natural justice (***National Highways Authority of India v. South Indian Bank Ltd. and Union Bank of India Ltd. & Anr., 2025:DHC:5126***). The present petition raises only factual disputes without demonstrating perversity, illegality, or prejudice.

43. *Disciplinary Proceedings Not Vitiated by Technicalities* : In domestic inquiries, strict rules of evidence do not apply and logically probative material is sufficient as held in the decisions of the Hon'ble Supreme Court in ***J.D. Jain v. Management of State Bank of India & Anr., 1982 (1) SCC 143*** and ***State of Haryana & Anr. v. Rattan Singh, 1977 (2) SCC 491***. Both the Committees comprised eminent individuals with unimpeachable integrity and no prejudice was suffered by the petitioner.

44. *No Violation of Constitutional or Statutory Protection* : The petitioner is not a public servant and thus, Article 311 of the Constitution has no application. Further, the respondent No. 1 is not a statutory body and hence, no violation of statutory provisions arises. Thus, the present petition is liable to be dismissed.

SUBMISSIONS OF THE RESPONDENT NO. 2

45. Ms. Singh, learned counsel appearing on behalf of the respondent No. 2, has made the following submissions:

46. *Scope of the Submissions* : The submissions of the respondent No. 2 are confined to the only legal contention urged on behalf of the petitioner, namely, that the Appeals Committee failed to give its own finding on the issues raised and merely adopted the findings of the Inquiry Committee.

47. *Independent Application of Mind by the Arbitral Tribunal* : The findings of the Appeals Committee clearly establish that it duly appreciated the contentions of the petitioner, considered the material placed on record and thereafter gave its own findings. Even where the Appeals Committee concurred with the conclusions of the Inquiry Committee, such concurrence was arrived at only after independent consideration of the rival submissions and on being satisfied that the findings of the Inquiry Committee were just and proper.

48. *Consideration of Quantum of Punishment* : The Appeals Committee did not mechanically affirm the punishment imposed but applied its mind to the overall circumstances. Taking a balanced view, the Appeals Committee converted the punishment of dismissal into that of a simple termination, thereby safeguarding the retiral dues of the petitioner. This itself demonstrates independent evaluation and exercise of discretion by the Appeals Committee.

49. *No Blind Borrowing of Findings* : In light of the above, it is stated that the Appeals Committee had not blindly borrowed the findings of the Inquiry Committee and the record demonstrates active application of mind and reasoned satisfaction by the Appeals Committee.

50. *Preclusion from Raising Fresh Objections* : Further, the petitioner, who was represented by counsel before the Inquiry Committee, did not seek any opportunity to lead fresh evidence. Having failed to avail such opportunity, the petitioner is now precluded from contending that the Appeals Committee should have permitted or considered fresh evidence and hence, the present petition is liable to be dismissed.

ANALYSIS AND FINDINGS

51. I have heard learned counsel for the parties and perused the material available on record.

52. The contours of jurisdiction under Section 34 of the Act are well settled. This Court is not an appellate forum and cannot reassess or reappreciate evidence as if sitting in appeal. Its role is supervisory and intervention is permissible only on the limited grounds expressly provided in Section 34 of the Act. The arbitral award can be set aside only for conflict with public policy, patent illegality, or violation of natural justice.

53. This principle has been laid down in the decision of the Hon'ble Supreme Court in ***Delhi Metro Rail Corporation Limited v. Delhi Airport Metro Express Limited, 2024 SCC OnLine SC 522***, wherein the Hon'ble Court endorsed the position in ***Associate Builders v. Delhi Development Authority, (2015) 3 SCC 49*** and ***Ssangyong Engineering and Construction Company Limited v. National Highway Authority of India, AIR 2019 SC 5041***, on the scope for interference with domestic award under Section 34 of the Act. The relevant paragraph reads as under:

> *"39. In essence, the ground of patent illegality is available for setting aside a domestic award, if the decision of the arbitrator is found to be perverse, or so irrational that no reasonable*

person would have arrived at it; or the construction of the contract is such that no fair or reasonable person would take; or, that the view of the arbitrator is not even a possible view. [Patel Engg. Ltd. v. North Eastern Electric Power Corpn. Ltd., (2020) 7 SCC 167 : (2020) 4 SCC (Civ) 149.] A "finding" based on no evidence at all or an award which ignores vital evidence in arriving at its decision would be perverse and liable to be set aside under the head of "patent illegality". An award without reasons would suffer from patent illegality. The arbitrator commits a patent illegality by deciding a matter not within his jurisdiction or violating a fundamental principle of natural justice."

<u>On Charge No. I - Demand of Cash, Mobile Phone and Saree from Aakanksha Gulia</u>

54. The principal charge against the petitioner concerns a recorded conversation between her and a student, which formed the foundation of the disciplinary action. The Appeals Committee examined this evidence in detail and observed:

"A perusal of the above transcript does show that the conversation proceeded on a very natural basis and the flow of the conversation does not indicate that it was altered or amended or certain portions omitted. It was also stated that the telephone on which the recordings was made did not belong to Aakanksha Gulia but belonged to Saraswati Chhabra. Aakanksha Gulia stated that the conversation on her phone was

recorded on Saraswati Chhabra's phone who was also a witness to the incident.

...

... However, insofar the transcript of the tape is concerned, it does appear to be natural and worthy of reliance. In our view, Charge No. 1 had been fully brought home and the findings of the Enquiry Committee and the action thereupon taken by the Governing Body and affirmed by the Vice Chancellor after taking a legal opinion are not such so as to warrant interference in this appeal. We have to keep in mind the fact that a domestic enquiry has to be procedurally fair, which, in this case, clearly was and consequently, no fault could be found by us in the conduct of the enquiry. The appellant's plea that the transcript was edited is not substantiated by perusing the flow of the conversation and even if it is assumed that the appellant's case of editing the portion of the tape in the end where she provided her residential address is correct, the reliance of the enquiry committee upon the conversation cannot be faulted. Similarly the appellant's plea that she was trying to trap the student Akanksha Gulia, is unnatural and seems to have been prepared to meet the damaging impact of the recorded conversation. Similarly the plea that a senior Counsel was present at about 11.30 A.M on a working day at home is puzzling and not acceptable. Thus the charge of demand of a Nokia Phone or money to increase the attendance is fully borne out. ..."

55. This Court finds no infirmity in the reliance on such material. In ***Rattan Singh (supra)***, the Hon'ble Supreme Court settled the principle that strict rules of the Indian Evidence Act, 1872, do not apply to domestic enquiries. What is required is some material which is logically probative for a prudent mind. The relevant paragraph reads as under:

> *"4. It is well settled that 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 text books, 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, fairplay 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. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain*

passages from American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence — not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the Flying Squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground."

56. In the present case, the recorded conversation, corroborated by witness testimony, constitutes probative material that reasonably supports the findings of guilt. The contention of the petitioner that the tape was edited or that she was attempting to trap the student was duly considered and rejected by the Appeals Committee as implausible.

57. Accordingly, this Court is of the view that the conclusion reached by the Appeals Committee is based on appreciation of evidence, application of mind and is plausible, as the finding of guilt on Charge No. I is based on evidence which satisfies the test of probative value as recognised in ***Rattan Singh (supra)***. Hence, the concurrent finding of the Inquiry Committee and the Appeals Committee on evidence cannot be re-appreciated under Section 34 of the Act.

On Charge No. II - Demand of an Inverter from Saraswati Chhabra

58. With respect to the second charge, the Appeals Committee recorded the following finding:

> *"5.1 Insofar as Article II of the charge sheet is concerned it related to the demand for illegal gratification made to the Student Saraswati Chhabra for improving her attendance. The Student's testimony for a demand of an inverter not having been controverted in cross-examination, the said charge was held proved by the enquiry committee and no fault can be found with this finding. Accordingly we agree with the Enquiry Committee that Charge 2 is also proved."*

59. The Inquiry Committee, in its Report dated 19.07.2010, had elaborated and analyzed the evidence in detail. It recorded the testimony of the complainant, Saraswati Chhabra, who categorically deposed that when she was in the First Year, the petitioner had demanded an inverter from her in exchange for attendance. Upon refusal, she was subjected to harassment in the Second Year, being denied attendance for trivial delays while other students were granted relaxation.

60. The Report further records that the witness was made available for cross-examination by the petitioner in several meetings. Ultimately, she was cross-examined at length on 17.12.2009. Despite this opportunity, the petitioner did not put any question to controvert the allegation of demand for an inverter. On the contrary, the witness reiterated in cross-examination that the demand had indeed been made and that her subsequent difficulties in securing attendance were retaliatory in nature.

61. The Inquiry Committee thus concluded:

"*This claim of Saraswati Chhabra for the demand of a "Invertor" by the DE was not refuted by the DE in the cross examination.*

In our opinion, the charge under Article II is substantiated and found to be correct and the DE is guilty of harassing Saraswati Chhabra by making various demands on her illegally for clearing her attendance. The DE by her act is guilty of serious misconduct, demanding illegal gratification for falsifying attendance records, dishonestly attempting to extort money and committing acts subversive of discipline and violating norms of good behaviour. The DE has acted in a manner detrimental to the interests and good name of the College/University."

62. This Court finds that the charge rests on direct testimony which remained unshaken in cross-examination. The proceedings reveal that the petitioner was afforded multiple opportunities to challenge the witness and to lead her own evidence, which she failed to utilise. The law is well settled that where testimony is unchallenged, it constitutes adequate proof of the charge. The findings of both Committees are thus based on cogent and uncontroverted material.

63. Accordingly, the finding on Charge No. II is supported by direct, probative and uncontroverted evidence. The conclusion of the Inquiry Committee, duly affirmed by the Appeals Committee, does not disclose any perversity or patent illegality warranting interference under Section 34 of the Act.

<u>On Charge No. III - Demand of String of Pearls and Diamond Earrings from Meghna Khanna</u>

64. On the third charge, the Appeals Committee observed:

"5.2 Article III of the charges is in respect of an illegal demand from the Student Meghna Khanna for a string of pearls (which was given by her) and diamond earrings which were not given. Meghna Khanna's mother dealt in diamonds and her testimony has withstood the prolonged cross examination. The Enquiry Committee rightly believed Meghna Khanna and we are satisfied that this finding was rightly recorded."

65. The Inquiry Committee recorded as under:

"The complainant/witness Meghna Khanna appeared before the Inquiry Committee on 26th July 2008 and deposed before the Inquiry Committee in the presence of DE. She stated that the complaint was made of her own free will and without any pressures from anybody, Meghna Khanna stated that the demands made as well as accepting gifts by the DE were common knowledge and many students who were victims to the harassment of DE were afraid to come forward to complain fearing the consequences. ... In her complaint Meghna Khanna has stated that the DE had been asking her to gift diamond earrings for the past about 1 year in return for favours such as attendance and internal assessment marks. Meghna Khanna further stated that although she was not short of attendance or required any favours from the DE, only out of fear from the DE, she gifted the DE a pearl string in March 2008 and that the DE took it. ...

The complainant Meghna Khanna was finally Cross Examined on 17th July 2010 by the DE where in the complainant again vehemently stood her ground and stated repeatedly that the

complaint had been made of her own will and based on facts and there was no duress or coercion from any quarter. In the Cross Examination by the DE, Meghna Khanna reiterated that she had given a pearl string to the DE on the college premises and that the DE had taken it.

Meghna Khanna maintained that although she was not short of attendance nor required any favours from the DE, she gave the pearl string out of pressure and fear of the DE. The DE had been pressing her. Meghna-Khanna, for the gift on the pretext that she, Meghna Khanna, was short of attendance and that she, Meghana Khanna had no way of confirming this, except for the word of the DE. During Cross Examination Meghna Khanna further stated that she felt that the DE could do any thing to the attendance record and therefore out of fear of the DE she gave the pearl string. In our opinion the DE through the Cross Examination was unable to disprove the allegation and complaint of Meghna Khanna.

In our considered opinion, the DE is guilty of accepting illegal gratification in the form of a pearl string with promise of favours like tampering the attendance and internal assessment, in return. The DE has committed serious misconduct, misused her position of authority and victimised the students. The DE has dishonestly extorted illegal gratification from the student. All these acts from the DE are subversive of discipline and violating the norms of proper conduct of the College/University. The DE has acted in a manner detrimental to the interests and good name of the College/University."

66. From the above, it is evident that the allegation of demand and acceptance of a pearl string was clearly established. The testimony of Meghna Khanna was consistent, voluntary and withstood prolonged cross-examination. The petitioner failed to discredit her evidence or to establish any element of coercion or fabrication. Both Committees concurrently accepted her version, finding the demand and acceptance of illegal gratification to be proved.

67. This Court finds no reason to interfere with this concurrent appreciation of evidence under Section 34 of the Act. The finding on Charge No. III, like the earlier two charges, stands firmly established and does not disclose any infirmity warranting judicial intervention.

On Charge No. IV - Demand of Silver Accessory from Deepanjali Khurana

On Charge No. V - Demand of Marks in Examination from Kalpana John

68. Charges IV and V against the petitioner were dropped by the respondent No. 1, since despite the prolonged spell of cross-examination, the concerned complainants, though initially present, could not ultimately be examined, and on account of their subsequent unavailability, the said charges were not pursued further.

On Additional Contentions of the Petitioner

69. The petitioner contended that Clause 6 of the Annexure to Ordinance XII of the University of Delhi was violated. Clause 6 is reproduced as under:

> *"6. The Governing Body shall not determine the engagement of the teacher whether summarily or otherwise without informing him in writing of the grounds on which they propose to take action and giving him a reasonable opportunity of stating his case in writing, and before coming to a final decision shall duly*

consider the teacher's statement and if he so desires give him a personal hearing."

70. However, this Court finds no such infirmity. The Statement of Articles of Charge dated 30.04.2008 was duly served upon the petitioner, a Reply dated 20.06.2008 was filed by the petitioner, several witnesses were examined before the Inquiry Committee and cross-examination by the petitioner was also permitted. The Inquiry Committee considered the representations made by the petitioner and her statutory appeal was heard by the Appeals Committee. Therefore, the record demonstrates substantial compliance with the requirements of the principles of natural justice.

71. The petitioner further contended that the Inquiry Committee was not validly constituted as the Governing Body appointed its own members as the Inquiry Committee and thereafter accepted the report with the same members participating in the Governing Body meeting. The Appeals Committee considered and rejected this argument in the following terms:

"5.4. The Appellant further contended through Counsel that the Governing Body acted both as a prosecutor and a Judge as the members of the Enquiry Committee who were members of the Governing Body placed their report before the Governing Body which was duly accepted by the Governing Body. There is nothing in the Ordinances which bars the members of the Governing Body to be members of the enquiry committee and this plea thus cannot be accepted.

5.5. Furthermore, none of the enquiry committee members were present in the meeting of Governing Body dated 20.10.2010. Thus this plea has no substance and is rejected."

72. This Court finds no error in the above reasoning. The Coordinate Bench of this Court in ***Union of India v. Reliance Industries Ltd. & Ors., 2022/DHC/005381*** (upheld by the Hon'ble Supreme Court in ***Union of India v. Reliance Industries Ltd. & Ors., SLP(C) No.594/2023, decided on 09.01.2023***) categorically held that bias must be demonstrated through cogent material and mere apprehension is insufficient. The relevant paragraph reads as under:

> *"31. Bias as distinct from the above, would be an issue which would have to axiomatically be established in fact. An allegation of bias would have to be alleged and proven. Viewed in that light, it is manifest that it would clearly fall outside the pale of a de jure disqualification. ... "*

73. In the present case, the petitioner has not produced any material to demonstrate personal interest, prejudice or malafides on the part of the members of the Inquiry Committee. Therefore, the allegation of bias is wholly unsubstantiated and stands rejected.

74. The petitioner further urged that the disciplinary proceedings stood vitiated as she was not permitted to be represented by a legal practitioner. This plea, in the considered opinion of the Court, is misconceived. The law on the issue is well settled. Unless the rules governing the inquiry specifically confer such a right, a delinquent employee cannot claim legal representation as a matter of right. In ***National Agricultural Coop. Mktg. Federation of India v. Alimenta S.A., (2020) 19 SCC 260***, the Hon'ble Supreme Court held:

> *"76. It is not disputed that before the Arbitration Tribunal, the Rule debars legal representation; hence the submission as to non-representation before the Tribunal, cannot be accepted.*

However, in appeal due to refusal to permit representation through a legal firm, Nafed was not able to point out the prejudice caused to it. In the absence of proof of prejudice caused due to non-representation by a legal representative and to show that it was disabled to put forth its views, we cannot set aside the award on the ground that it would have been proper to allow the assistance of a legal representative. Thus, we are not inclined to render the award unenforceable on the aforesaid ground."

75. Similarly, in ***Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni, (1983) 1 SCC 124***, it was clarified that while legal representation may be allowed in exceptional cases where the presenting officer is legally trained, it is not an absolute right.

76. In the present case, the proceedings of the Inquiry Committee dated 08.12.2008 record:

"Dr Thelma Talloo appeared before the enquiry committee with one person who identified himself as Advocate Abrahim Pattiyani. No other witnesses were brought. The committee informed Dr Talloo of its decision conveyed to her on the first sitting that she will be allowed to bring a peer, to defend herself, since advocate Abrahim Pattiyani is not a peer, and is a lawyer he is not allowed."

77. This record shows that the petitioner was permitted to bring a peer to assist her, in conformity with the applicable rules, but could not insist upon engaging legal counsel. She in fact conducted cross-examination of witnesses herself and has been unable to establish what prejudice, if any, was caused to her defence by the refusal to permit a lawyer.

78. Accordingly, the plea of denial of legal representation is unfounded. The proceedings afforded the petitioner a reasonable opportunity to defend herself, consistent with the principles of natural justice and the governing rules.

79. The impugned award dated 23.10.2012 reflects conscious application of mind. In ***State Bank of Bikaner and Jaipur v. Prabhu Dayal Grover, (1995) 6 SCC 279***, the Hon'ble Supreme Court held that where reasons are recorded and there is due application of mind, the order of the appellate authority cannot be interfered with. The Court observed:

> *"14. ... Assuming, that by necessary implication this Regulation also requires the appellate authority to give the reasons, still its order cannot be invalidated, as we find that it has discharged its obligation by considering the records and proceedings pertaining to the disciplinary action and the submissions made by Grover. In other words, the order clearly demonstrates that the appellate authority had applied its mind not only to the proceedings of the enquiry, but also the grounds raised by Grover in his appeal and on such application found that there was no substance in the appeal."*

80. The Appeals Committee, after affirming the guilt on grave charges of solicitation of illegal gratification from students, moderated the punishment in the following terms:

> *"While the charges established by the enquiry committee validly are of a serious nature which warrant that the appellant's employment with the college must cease but taking into account the long years of service rendered by the appellant and no previous punishments for misconduct, we are of the view*

that the extreme punishment of dismissal might be excessive and disproportionate to the established delinquency. We are also mindful of the fact that the Appellants would have served the college for about 15 more years. This matter cannot be treated as an industrial dispute where alteration of punishment by the Appellate Authority might be flawed in Law. Our jurisdiction is laid down in Clause 9(1) of Annexure to Ordinance XII which makes it evident that we can go into the facts of the case as well. Accordingly we are of the view that the interests of justice would be fully served if the dismissal is reduced to a simple termination so that the retiral dues of the appellant are not affected. The Appeal this stands dismissed subject to the reduction in the nature of a punishment."

81. Thus, the Appeals Committee upheld the guilt and considered the proportionality of punishment, substituting dismissal with termination to ensure that the retiral dues of the petitioner were not forfeited. The misconduct proved, namely solicitation of illegal gratification from students, is grave and strikes at the core of academic integrity and thus, the Appeals Committee recorded reasons for affirming each of the charges against the petitioner. The Appeals Committee, further, integrated justice with equity by converting dismissal to termination, which in fact operated in favour of the petitioner. Hence, the said consideration clearly shows appreciation of facts and evidence as well as application of mind by the Appeals Committee.

82. The plea of the petitioner that termination be substituted with voluntary retirement is misconceived. The Constitution Bench in ***Gayatri Balasamy (supra)***, has clarified that Courts do possess a limited power to "mould

relief" or "modify" an award, but only in exceptional cases and within narrow confines. The Court held:

> *"86. While exercising power under Article 142, this Court must be conscious of the aforesaid dictum. In our opinion, the power should not be exercised where the effect of the order passed by the Court would be to rewrite the award or modify the award on merits. However, the power can be exercised where it is required and necessary to bring the litigation or dispute to an end. Not only would this end protracted litigation, but it would also save parties' money and time.*
>
> *87. Accordingly, the questions of law referred to by Gayatri Balasamy [Gayatri Balasamy v. ISG Novasoft Technologies Ltd., 2024 SCC OnLine SC 1681] are answered by stating that the Court has a limited power under Sections 34 and 37 of the 1996 Act to modify the arbitral award. This limited power may be exercised under the following circumstances:*
>
> *87.1. When the award is severable, by severing the "invalid" portion from the "valid" portion of the award, as held in Part II of our Analysis;*
>
> *87.2. By correcting any clerical, computational or typographical errors which appear erroneous on the face of the record, as held in Parts IV and V of our Analysis;*
>
> *87.3. Post-award interest may be modified in some circumstances as held in Part IX of our Analysis; and/or*
>
> *87.4. Article 142 of the Constitution applies, albeit, the power must be exercised with great care and caution and within the*

limits of the constitutional power as outlined in Part XII of our Analysis."

83. In the present case, the Appeals Committee has already modified the relief by mitigating the penalty from dismissal to termination while safeguarding the retiral dues of the petitioner. To further substitute termination with voluntary retirement would amount to rewriting or modifying the award, which is impermissible even under ***Gayatri Balasamy (supra)***.

84. In view of the matter, the proceedings were fair, the findings are supported by evidence and the penalty has already been tempered by leniency. Hence, under Section 34 of the Act, no ground for setting aside or further modification of the award is made out by the petitioner.

CONCLUSION

85. For the said reasons, the petition filed under Section 34 of the Act challenging the Award dated 23.10.2012 passed by the Appeals Committee constituted under Clause 9 of Annexure to Ordinance XII of the University of Delhi, is hereby dismissed.

86. Accordingly, the petition, along with any pending application, is disposed of.

JASMEET SINGH, J

SEPTEMBER 12th, 2025 / *shanvi*

Click here to check corrigendum, if any