

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

**WP(C) No. 701 of 2023 with
MC(WP(C) No. 298 of 2023**

Pravat Kumar Nayak

.....Petitioner/s

- Versus -

Union of India & 5 Ors.

.... Respondent/s

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order

23.05.2024

[1] Heard Mr. M. Devananda, learned senior counsel assisted by Ms. N. Jyotsana, learned counsel for the petitioner and Mr. BR. Sharma, learned CGC for respondent Nos. 1 to 5 along with Mr. Binod Sawan, 2-i-c (Legal) CRPF and Mr. Amarjit Naorem, learned counsel for the UPSC.

[2] The petitioner is DIG (IRLA No. 3137). Vide memorandum dated 06.09.2022 issued by the DIG (CR & VIG), an enquiry was initiated under Rule 16 of CCS (CCA) Rules, 1965 and he was given 15 days time to reply. The memorandum is with respect to various unauthorized transactions made by the petitioner from some of his subordinates.

[3] Vide order dated 02.08.2023 passed by the DIG (CR & VIG) DTE, the petitioner was found guilty.

[4] Being aggrieved by the same, the petitioner submitted a representation before the Director General, CRPF and without considering the same, the impugned order of withholding the increment of pay for a period of 3 years without cumulative effect was passed.

[5] The petitioner challenged the order of withholding of 3 increments by way of the present writ petition mainly on the ground that the complaint is anonymous and should have been rejected as the prescribed procedure was not followed and the petitioner was not provided with supporting documents upon which the memorandum of charge was framed including the reports of the documents relied in the preliminary enquiry.

[6] On the other hand, Mr. BR. Sharma, learned CGS, submits that the enquiry is initiated upon a sourced information from the internal vigilance cell of the CRPF and in the memorandum, all the details of the transaction have been explained and the documents are in the possession of the petitioner i.e. details of his bank transaction. By supplying or non-supplying of the documents, the nature of the memorandum and the enquiry will not be affected.

[7] Mr. Amarjit Naorem, learned counsel for the UPSC, submits that the relief prayed for by the petitioner has nothing to do and this Court may pass appropriate order as the petitioner has challenged the procedure adopted in the enquiry.

[8] Mr. M. Devananda, learned senior counsel, has relied upon the judgment of the Hon'ble Supreme Court in the case of **Chandrama Tewari vs. Union of India** reported as (1987) SCC Supl. 518 wherein it was held that copies of the relevant material including the statement of witness recorded in the preliminary enquiry or during investigation and other documents relied in the enquiry are to be furnished to the charged employee.

[9] During the pendency of the present writ petition, a fresh advise has been rendered by the UPSC to the CRPF authority and accordingly, vide order dated 12.03.2024, the penalty under the impugned order is cancelled and it is in the process of passing appropriate order of penalty as per fresh advise of the UPSC.

[10] In the present case, it is an admitted fact that only memorandum of charge without supporting documents including the preliminary enquiry report was furnished to the petitioner and as on date, there is no penalty except for the finding of guilt for minor charge.

[11] In view of the allegation of violation of statutory rules and principle of natural justice of non-furnishing of the relevant documents, the proceedings initiated as per the memorandum dated 06.09.2022 is set aside only on this point and without passing any opinion on the merit of the case. However, liberty is granted to the CRPF authority to initiate fresh enquiry on the allegations made in the memorandum of charge, if so advised.

[12] Writ petition is disposed of.

[13] Furnish a copy of this order to the learned counsel appearing for all the parties.

JUDGE

Kh. Joshua Maring

KH. JOSHUA
MARING



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KH. JOSHUA
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