

HIGH COURT OF TRIPURA
AGARTALA

WA No.67 of 2022

1. The Union of India,

Represented by the Secretary,
Ministry of Home Affairs,
Government of India,
Having his office at North Block,
New Delhi- 110001.

2. The Secretary,

Ministry of Home Affairs,
Government of India,
Having his office at North Block,
New Delhi- 110001.

3. The Director General, Central Reserve Police Force,

Having his office at Block No.1,
CGO Complex,
Lodhi Road,
New Delhi- 110003.

4. SDG, NEZ Guwahati.

5. The Inspector General of CRPF,

Tripura Sector,
Ushabazar,
Agartala, West Tripura.



----Appellant(s)

Versus

Sri. Ajay Debnath,

S/o late Indra Mohan Debnath,
Resident of village- 79 tilla,
Sarat Palli,
P.O-Kunjaban,
P.S-New Capital Complex,
Sub-Division- Agartala,
District- West Tripura.

----Respondent(s)

For Appellant(s)	:	Mr. B. Majumder, C.G.C.
For Respondent(s)	:	Mr. Somik Deb, Senior Advocate. Ms. R. Chakraborty, Advocate.
Date of hearing and delivery of judgment & order	:	19th September, 2024.
Whether fit for reporting	:	NO

**HON'BLE MR. JUSTICE ARINDAM LODH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

JUDGMENT & ORDER (ORAL)

(Arindam Lodh, J.)

This is an intra-court appeal against the judgment and order dated 01.02.2022, passed by learned Single Judge of this Court in WP(C) No.615 of 2021. The facts of the case, as projected by learned Single Judge, are reproduced here under:

"By means of this petition, the petitioner who is serving as the constable under the Central Reserve Police Force has laid the facts that a departmental proceeding under Section 11(1) of the Central Reserve Police Force Act was initiated against him, on the charge that by producing a doubtful document as regards his educational qualification he had entered the service. The said certificate was held to be fake by the school authority. But in the meantime, the petitioner had served the CRPF for thirteen years. The disciplinary authority, on the basis of the enquiry report and following the process, dismissed the petitioner from service by the order dated 17.07.2019 (Annexure-2 to the writ petition). The petitioner being aggrieved thereof, preferred a departmental appeal which was also dismissed by order dated 25.09.2019 (Annexure-3 to the writ petition). Thereafter, the petitioner filed revisional petition under Rule 29 of the Central Reserve Police Force Rules, 1955. The revision petition had been considered and disposed of by an elaborate order passed on 16.07.2021 (Annexure-4 to the writ petition). By the said order, the order of penalty passed by the disciplinary authority has been reversed with direction to reinstate the petitioner with full back wages from the date of dismissal."

[2] It comes to light that the Additional Director General, North Eastern Region Head Quarters, Central Reserve Police Force had taken up the matter for review of the order dated 16.07.2021 (Annexure-4 to the writ petition). Having perused the records, the Additional Director General, NEZ, Guwahati by order dated 06.03.2021 declared the order passed by the Revisional Authority as not tenable in law and set aside the order of the Revisional Authority, whereunder the petitioner was

reinstated in service. Being aggrieved by the said order dated 06.03.2021, the petitioner i.e. the respondent herein, had filed a writ petition before this Court. While disposing of the said writ petition, learned Single Judge having heard the learned counsel for the parties had observed and decided thus:

"But the pertinent question that emerges from the challenge is whether the CRPF Act or Rules provides any provision for review. There is no controversy at the bar that there is no such provision in the statute, as germane to the services of the petitioner. As such, now the controversy melts down to one single point that whether Rule 29(d) creates any authority for a superior officer to review the order passed by the revisional authority or to examine the legality or regularity of the said order.

This is a threshold question of jurisdiction. Unless a person wields jurisdiction, even if a meritorious case falls as he cannot exercise that jurisdiction. This is the fundamental tenet of the rule of law.

From repeated readings of Rule 29(d), it cannot be held that this rule has provided any authority to review any order under the CRPF Act and Rules. It only provides the authority of revision.

As such, this court does not have any hesitation to hold that the Addl. Director General, North Eastern Region Head Quarters, Central Reserve Police Force has exercised the power of review without jurisdiction and sanction of law. As such, the decision he has taken is ex facie illegal and is bound to be interfered with. Accordingly, the impugned order dated 02.03.2021 (Annexure-6 to the writ petition) stands quashed and set aside. The petitioner shall be reinstated in service w.e.f. 06.03.2021 within a period of one month from today and he will be entitled to the back wages in terms of the revisional order. However, this order shall not create any impediment for the respondents to challenge the legality and irregularity of the order before the appropriate forum, if it is permitted by law."

"In terms of the above, this writ petition stands allowed."

[3] Being aggrieved by and dissatisfied with the said order dated 01.02.2022 passed in WP(C) No.615 of 2021, the Union of India has preferred the instant intra-court appeal before this Court.

[4] We have heard Mr. B. Majumder, learned C.G.C appearing on behalf of the appellants and Mr. Somik Deb, learned Senior counsel

assisted by Ms. R. Chakraborty, learned counsel appearing for the respondent.

[5] At the very outset, Mr. Majumder, learned C.G.C. appearing for the appellants has tried to persuade this Court that the learned Single Judge has failed to interpret Rule 29(d) of the CRPF Rules. According to learned C.G.C., Rule 29(d) of the CRPF Rules, 1955, is an enabling clause wherein any of the Superior Authority can review any order passed by the Revisional Authority. However, learned C.G.C. could not apprise this Court whether reasonable opportunity was provided to the writ petitioner, the respondent herein.

[6] We have perused Rule 29(d) of the CRPF Rules, which reads as under:

"29.(d) ¹[The Director General ²[or ³[special Director-General or the Additional Director-General heading the Zone]] or the Inspector-General] or the Deputy Inspector General may call for the records of award of any punishment and confirm, enhance, modify or annul the same, or make or direct further investigation to be made before passing such orders:

Provided that in a case in which it is proposed to enhance punishment, the accused shall be given an opportunity to show cause either orally or in writing as to why his punishment should not be enhanced."

[7] In the instant case, the Commandant being the Disciplinary Authority had passed the order of dismissal on the basis of the inquiry report furnished by the Inquiring Authority. The petitioner preferred a statutory appeal before the Appellate Authority i.e. Deputy Inspector General of CRPF. The Appellate Authority had confirmed the order passed by the Disciplinary Authority. The writ petitioner preferred

¹ Subs. By G.S.R. 476, dated 22nd April, 1980.

² Ins. by G.S.R. 784, dated 16th September, 1988 (w.e.f. 8-10-1988).

³ Subs. By G.S.R. 95(E), dated 13th February, 2012, for "Additional Director-General" (w.e.f. 21-2-2012).

petition before the Revisional Authority i.e. Inspector General of CRPF who in turn reversed the order of the Appellate Authority.

[8] After perusal of the records as well as the judgment and order passed by learned Single Judge, it comes to fore that the Revisional Authority, having scrutinized the records in detail, passed an elaborate order declaring the petitioner as not guilty of committing the misconduct as charged against him i.e. production of fake 8th pass certificate and directed reinstatement of the writ petitioner with full back-wages. All on a sudden, the Additional Director General of CRPF had taken up the matter *suo moto* and without issuance of any show cause notice upon the writ petitioner set aside the order of the Revisional Authority and thus, restored the order of the Disciplinary Authority.

[9] On perusal of the order passed by the Additional Director General of CRPF, and having gone through the order passed by the learned Single Judge, we find that the learned Single Judge has committed no error in holding that there is no provision of review under the CRPF Rules. Rule 29 of CRPF Rules does not empower or does not make any provision to review. Moreso, no reasonable opportunity was provided to the petitioner before restoring the order of dismissal passed by the Disciplinary Authority, and to say it otherwise, the Additional Director General had committed wrong in setting aside the order of the Revisional Authority whereby and whereunder it was directed that the writ petitioner was to be reinstated in service with full back-wages. Needless to say, such exercise of power offends the principles of natural justice and violates the doctrine of Articles 14 and 16 of the Constitution of India. In view of this, we do not find any ground to interfere with the judgment and order passed by learned Single Judge. Accordingly, we

confirm and upheld the judgment and order dated 01.02.2022 passed in WP(C) No.615 of 2021. The order of reinstatement with full back-wages as directed by learned Single Judge is hereby confirmed, and we direct the respondent-appellants to comply and implement the order passed by learned Single Judge within a period of 30(thirty) days from the date of receipt of a copy of this order.

Interim order passed earlier stands vacated.

The instant appeal, accordingly, stands dismissed in terms of the above observations and directions.

JUDGE

JUDGE



SUJAY
GHOSH
Dinashree

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