

GAHC010279642023



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/7400/2023**

HC/GD ANOOP KUMAR UIN 10070074 REGD NO. 050402993  
AT PRESENT4E WORKING AT 33RD BN SSB KEWTI,  
CHHATTISGARH, PIN- 494665.  
SON OF LATE SITA RAM,  
RESIDENT OF WARD NO. 4, AMBEDKAR NAGAR,  
P.O.- PUKHRAYAN, P.S.- BHOGNIPUR,  
DISTRICT- KANPUR (DEHAT), UTTAR PRADESH, PIN- 209111.

VERSUS

UNION OF INDIA AND 3 ORS  
REPRESENTED BY THE SECRETARY,  
GOVERNMENT OF INDIA,  
DEFENCE DEPARTMENT,  
NEW DELHI.

2:THE DIRECTOR GENERAL  
FHQ SSB

NEW DELHI.

3:COMMANDANT  
33RD BN SSB  
RANGIYA  
DISTRICT- KAMRUP

ASSAM.

4:SECOND-IN-COMMAND (SPL OPS)

SPL OPS BRANCH  
FHQ

**Advocate for the Petitioner : MR. A K ROY**

**Advocate for the Respondent : DY.S.G.I.**

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 05-01-2024**

Heard Mr. A.K. Roy, learned counsel appearing for the petitioner and Mr. R.K.D. Choudhury, learned counsel, appearing on behalf of the respondent Nos. 1 to 4.

2. The instant writ petition is taken up for disposal at the motion stage itself taking into account the order dated 21.03.2018, passed by a Coordinate Bench of this Court in a batch of writ petitions, i.e. WP(C) 4510/2011 and other connected writ petitions.

3. The fact involved in the instant case is that on 06.05.2009, when the petitioner was working as a CT/GD under the 33<sup>rd</sup> Battalion of SSB, Rangia, a group of persons called the Inspector/GD, Sri H.P. Upreti from the base camp to a nearby tea stall and from there they abducted and took him to Goabari Market. On getting the information about the same, a group of SSB jawans, including the petitioner herein, under the command of SI/GD Sri Suchendra Singh Rahi went there and found that Inspector/GD Shri H.P. Upreti was severely injured and was encircled by a group of persons, who were beating Shri H.P. Upreti and taking him somewhere else from Goabari Market. Thereupon, SI/GD Shri Suchendra Singh Rahi and other jawans including the petitioner herein approached the crowd and tried their best to convince the group to release Shri H.P. Upreti, but the crowd did not listen and became violent. Under such circumstances, the jawans, including the petitioner resorted to lathi charge and also

fired live ammunitions into the air. It is the specific case of the petitioner that he neither fired any ammunition nor did he use any weapon. However, it is on account of intervention of the jawans including the petitioner that Inspector/GD Shri H.P. Upreti was released.

4. Thereupon, after the incident, the Commandant, 33<sup>rd</sup> Bn. Rangia, filed an FIR with the Nagrijuli Outpost on 06.05.2009, which was subsequently referred to the Tamulpur Police Station and a case was registered as Tamulpur Police Station Case No. 60/2009, under Sections 147/148/149/365/427/325/336 IPC.

5. Be that as it may, on 04.06.2009, the respondent No. 3, i.e. the Commandant, 33<sup>rd</sup> Bn. SSB, Rangia, issued a Central vide No. 1/33 Bn/Estt/DE/Goabari/09/7301-19 proposing to hold an enquiry under Rule 14 of the CCS (CCA) Rule 1965, read with Rule 27 of the Central Reserve Police Force Rule, 1955. Pursuant to the said enquiry, wherein the petitioner had also duly participated, the disciplinary authority had issued an order, being Order No. I/33 Bn/Estt/DE/Goabari/09/13215-21 dated 12.09.2009, imposing the penalty of stoppage of increment for three year with cumulative effect upon the petitioner as well as the other jawans involved in the aforesaid incident.

6. From the record of the writ petition it reveals that the other jawans, who were also inflicted the same penalty, had approached this Court by filing various writ petitions, amongst others, WP(C) 4510/2011. A Coordinate Bench of this Court, vide the judgment dated 21.03.2018 passed in WP(C) 4510/2011 and other connected writ petitions observed as under:

*“36. In view of the above, the conclusion that this Court can arrive at is that the Charge No.1 that the petitioners could have acted in a more restrained and peaceful manner at the best can be said to have not been wholly proved. In the aforesaid premises, as the conclusion of this Court is that the Charge No.1 that the petitioners could have acted in a more restrained and peaceful manner has not been wholly proved, the Charge No.2 that the petitioners had fired from their respective weapons had been proved and that the Charge No.3 that they had acted in an immoral manner is found to be unsustainable and contrary to the allegations made against the petitioners.*

*37. What remains for the disciplinary authority is to impose a punishment based only upon the Charge No.2 and partially to the extent of Charge No.1. As the punishment of withholding of three increments with cumulative effect had been passed by taking into account all the three charges, therefore, it is deemed appropriate that as only one of the charges in whole and the other charge in part have been found to have been proved, therefore, it would be appropriate for the disciplinary authority to revisit the quantum of punishment issued upon the petitioners. In doing so, the respondent authorities shall consider as to what proper punishment would now required to be imposed on the petitioners considering the fact that the punishment of withholding of three increments with cumulative effect was passed in respect of all the three charges and now that they are required to pass the punishment only in respect of the second charge in whole and the first charge in part.*

*38. The aforesaid exercise be undertaken by the disciplinary authorities within a period of one month from the date of receipt of a certified copy of this Judgment and Order and the fresh order that would be passed in compliance of this order shall prevail over the earlier order of punishment dated 12.09.2009."*

7. From a perusal of the above, it appears that it was observed by the Coordinate Bench that the punishment, which was so imposed, was disproportionate to the charge and, as such, the disciplinary authority was directed to revisit the quantum of punishment imposed upon the petitioners therein. It was further observed that the disciplinary authority shall consider as to what proper punishment would now be required to be imposed on the petitioners therein considering the fact that the punishment of withholding of three increments with cumulative effect was passed in respect of all the three charges and now that they are required to pass the punishment only in respect of the second charge in whole and the first charge in part.

8. It has been submitted by the learned counsel appearing on behalf of the petitioner that pursuant to the said judgment dated 21.03.2018 passed by the Coordinate Bench of this Court, the petitioners therein have been given the benefit of regular increment and the outstanding arrears also have been paid to them. Under such circumstances, the petitioner herein therefore submitted a representation on 19.12.2022 to the Director General, FHQ, SSB, New Delhi, who is the respondent No. 2 to the instant writ petition, requesting the said authority to give similar treatment to the petitioner in view of the judgment and dated 21.03.2018, passed by this Court in

WP(C) 4510/2011 and other connected writ petitions. However, the respondent No. 4, vide a Fax Message dated 29.08.2023 had rejected the request so made by the petitioner herein vide his representation dated 19.12.2022 on the ground that the judgment dated 21.03.2018 was passed only in respect to the petitioners therein and as the petitioner herein had not approached this Court, he cannot be granted the said benefit. It is under such circumstance, the petitioner therefore has approached this Court by filing the instant writ petition.

9. The fact that the petitioner herein is similarly situated with the petitioners in WP(C) 4510/2011 along with other writ petitions is not in dispute. Under such circumstances, it is the opinion of this Court that the petitioner herein is also entitled to similar consideration, as had been directed by the Coordinate Bench of this Court in the judgment dated 21.03.2018, more particularly, at paragraphs 36, 37 and 38 thereof, which have already been quoted hereinabove.

10. Under such circumstances, this Court therefore directs the respondent authorities to revisit the quantum of punishment imposed upon the petitioner herein in terms with the observations as made by the Coordinate Bench of this Court in its judgment dated 21.03.2018, passed in WP(C) 4510/2011 and other connected writ petitions, more specifically, at paragraphs 36, 37 and 28 thereof and thereupon pass appropriate orders.

11. With the above observations and directions the writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**