

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.596 of 2023

Sri Narayan Ghosh,

Son of Lt. Bipin Chandra Ghosh, resident of Village & P.O.
Noabadi, P.S. Jirania, District West Tripura, Pin 799035.

..... **Petitioner(s)**

- V e r s u s -

- 1. The State of Tripura,**
Represented by the Secretary, Home Department,
Government of Tripura, Agartala.
- 2. The Director General of Police,**
Government of Tripura, Agartala.
- 3. The Inspector General of Police (TSR),**
Tripura.
- 4. The Commandant, 6th Battalion,**
Tripura State Rifles, (IR-II), P.O. Ramchandraghat, District
Khowai, Tripura.

.....**Respondent(s)**

For the Petitioner(s)

:

Mr. S. Kar Bhowmik, Sr. Advocate.

Mr. E.L. Darlong, Advocate.

Mr. S. Bal, Advocate.

For the Respondent(s)

:

Mr. S.M. Chakraborty, Adv. General.

Mr. M. Debbarma, Addl. G.A.

Mrs. P. Chakraborty, Advocate.

Date of hearing

:

19th March, 2025.

Date of delivery

:

19th May, 2025.

Of Judgment & Order

:

19th May, 2025.

Whether fit for reporting

:

YES	NO
√	

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER

Petitioner was working in Tripura State Rifles, 6th Bn. as
Lance Naik. Vide memorandum dated 27.05.2011, a departmental
proceeding was initiated against him after framing 4(four) Article of

charges in the said proceeding. First 3(three) charges basically contained the allegation that on 18.02.2011 at about 22:00 hours, he along with one Ananta Hari Jamatia posted at Aidangkur TSR post, absented themselves from their camp without prior information, keeping the camp personnel and Govt. properties of the post in insecured condition and also consumed liquor with civilian women in a civil house and therefore, committed offence punishable under Section 12(1) of TSR Act, 1983. Fourth charge against them was that on 20.02.2011, they were arrested being suspects in connection with Champahowar PS case no.07/2011 registered under Section 376(2)(g)/302/201/34 IPC allegedly being involved in rape and murder of one tribal lady of Aidangkur.

[2] The petitioner submitted duly his written statement in the said proceeding. The inquiry officer on completion of enquiry held that Article I, II and III of charges against the present petitioner were proved beyond all shadow of doubt. Thereafter, vide letter dated 20.10.2011, the Commandant, 6th Bn., TSR sent a letter to him proposing penalty of his dismissal from service and asked him to submit representation, if any, on the proposed penalty. He accordingly submitted the representation and thereafter, vide order dated 11.11.2011, final order was passed by disciplinary authority imposing penalty of dismissal from service upon him. In the said final order it was wrongly mentioned that such penalty was being proposed, however, thereafter, a

corrigendum was issued on 17.11.2011 rectifying that mistake and such penalty was imposed in final form.

[3] The petitioner filed an appeal against the said order which was also dismissed on 16.12.2011 and thereafter, he submitted a revision petition before the competent authority which was also dismissed on 18.02.2012. Being aggrieved thereby, he filed WP(C) No.234 of 2012 before this Court and said writ petition was disposed of on 12.01.2017 with a direction to the disciplinary authority to supply copy of the inquiry report to the petitioner in terms of Rule 15(2) of the CCS (CCA) Rules, 1965 read with Rule 40 of the Tripura State Rifles (Discipline, Control, Service Conditions etc.) Rules, 1986 and to provide the petitioner opportunity to submit representation, if any, and liberty was also simultaneously given to the petitioner to raise all defences as would be deemed appropriate in his representation. Further direction was given to the disciplinary authority to pass final order within a period of three months from the date of receipt of the representation from the petitioner.

[4] The copy of inquiry report was thereafter supplied to the petitioner and accordingly, he submitted a representation wherein he requested for supplying him the complete and legible set of documents submitted in the proceeding along with copies of day to day order/proceeding sheet. In that petition it was also mentioned that in connection with above said FIR, a criminal case bearing no.ST(T-I) 08 of 2013 was tried, facts of which were closely

connected with the instant departmental proceeding, and in that case he was acquitted vide judgment dated 05.09.2016 passed by learned Addl. Sessions Judge, West Tripura, Khowai. Simultaneously, he also prayed for allowing him to join the service and not to impose any major penalty of dismissal from service on him. He also stated that his wife and two minor children were dependent on him and the elder son was appearing in Madhyamik examination and younger daughter was aged about only 4 years.

[5] The disciplinary authority, thereafter, supplied him the copy of statement of witnesses and other relevant documents and asked him to submit his representation within 15 days and finally on considering the representation of the petitioner, the authority again passed the final order on 07.06.2017 (impugned herein) by imposing penalty of dismissal from the service upon him. In the said order it was also mentioned by the disciplinary authority that the petitioner might prefer an appeal before the appellate authority within a period of 45(forty-five) days from the date on which a copy of the order appealed against was delivered to him.

[6] The petitioner, thereafter, filed an appeal signed on 01.08.2017 and the appellate authority vide order dated 31.12.2017 dismissed the appeal. While dismissing the same, the appellate authority mainly showed two reasons; (i) the findings of EO as well as disciplinary authority were based on the evidence on record and, (ii) as per Rule 46(3) of the TSR (DCSC etc.) Rules, 1986, no appeal could be entertained after a period of 30 days

from the date on which a copy of order appealed was delivered to the appellant. The appellate authority came to the conclusion that the appeal was filed after lapse of 55 days after his dismissal from service. But the order was completely silent as to when the copy of such order was delivered to the appellant.

[7] Thereafter, the petitioner approached the Director General of Police, Tripura by filing a revision petition against said order on 29.01.2018 but according to the petitioner, that till filing of the instant writ petition on 19.09.2023, said revision petition was not disposed of. It is only when the Court enquired about the fate of the said petition on 20.02.2025 during hearing of this writ petition, the revisional authority disposed of the revision petition vide order dated 24.02.2025 simply observing that on perusal of the revision petition, no valid reasons were found there to consider the revision petition of the petitioner for re-instatement in service. In that backdrop, the writ petition has been filed for quashing the said orders of said disciplinary authority and appellate authority and for re-instatement of the petitioner in service with all consequential benefits and by another additional affidavit, the petitioner has also challenged the said order of revisional authority as non-speaking order.

[8] During hearing, Mr. S. Kar Bhowmik, learned senior counsel raises the followings issues:

(i) The charges framed in the criminal case and as framed in the departmental proceeding were similar in nature and almost same set of witnesses were examined in both the proceeding and therefore, the criminal prosecution should precede the departmental proceeding.

(ii) In the connected criminal case, the petitioner was acquitted by learned Addl. Sessions Judge, Khowai and thereafter, the prosecuting agency, CBI preferred CrI. App.No.31 of 2017 in the High Court which was also dismissed and therefore, the penalty as imposed in the departmental proceeding is liable to be quashed, for, the petitioner was acquitted in the connected criminal case.

(iii) Article of charge no.III in the departmental proceeding was a minor offence under Section 11 of the State Rifles Act, Tripura, 1983, (for short- the Act of 1983) even though said charge was not proved.

(iv) No attendance register was proved in the departmental proceeding to show that he was absent in the camp during the relevant time.

(v) Petitioner was not allowed to cross-examine the witnesses in the departmental proceeding and necessary documents were also not supplied to him and even he was not allowed to take any defence assistance to properly defend his case.

(vi) The inquiring authority did not discuss the evidence and did not show any reason in support of the findings on each Article of charges in violation of Rule 14(23)(i)(c) & (d) of CCS (CCA) Rules. Non-speaking order was passed in the appeal too.

(vii) One Dipak Kumar Tripura and another Kulal Debbarma were not cited witnesses in the departmental proceeding but they were examined later on in the said proceeding despite the fact that said Dipak Kumar Tripura was also a co-accused in the connected criminal case.

(viii) During the whole period of continuance of disciplinary proceeding, the petitioner was kept in quarter guard condition which according to Section 12 of the Act of 1983 itself is a minor punishment.

Mr. Kar Bhowmik, learned senior counsel also relies on some decisions which will be discussed later on in relevant paragraphs.

[9] Mr. S.M. Chakraborty, learned Advocate General submits that punishment as was imposed was proper as it was a disciplined force and he could not leave the camp unguarded and in unprotected condition and therefore, as per Section 10(i) of the Act of 1983, it was categorised as 'more heinous offence'. Mr. Chakraborty, learned Advocate General also submits that the inquiry report shows that there were sufficient evidences against the petitioner in respect of said three Article of charges and when

the petitioner went outside the camp without proper permission of the authority and even consumed alcohol, he is liable to be given major punishment. Moreover, according to learned Advocate General, it is always the prerogative of the disciplinary authority to decide the suitable punishment.

[10] Learned Advocate General also refers to Section 12 of Act of 1983 to show that the disciplinary authority has the authority to impose punishment of dismissal. According to learned Advocate General, the appellate authority also gave due consideration to the evidences as adduced and revisional authority also gave its reason for affirming the same and there is no straitjacket formula as to how any authority would express its reasoning. Therefore, learned Advocate General submits, the writ petition, being devoid of merit is liable to be dismissed.

[11] So far the plea taken by the petitioner that charges in both the departmental proceeding and criminal case were similar and more or less, same set of witnesses were examined in both the proceeding is concerned, Mr. S. Kar Bhowmik, learned senior counsel placed before the Court a comparative chart mentioning the charges in the criminal case and the departmental proceeding and the witnesses examined in both the said two proceedings by highlighting the names of the witnesses who were common in both the proceedings. Said comparative table is extracted hereunder:

CHARGE IN CRIMINAL CASE S.T(T-1) 08 OF 2013 dated 19.04.2013	CHARGE IN departmental proceeding vide No TSR-6/ DP-04 /2011/Estt/11/5418-19 dated 27.05.2011
<u>Firstly.</u> That you Sri Anantahari Jamatia and Sri Dipak Tripura being Rfn. and you Narayan Ghosh being the Lnk., All of TSR 6th Bn at Vill: Idangkur, P.S. Champahaur, Khowai, Tripura on 18.02.11 anytime between 10 pm to 11.30 pm at Vill: Idangkur, P.S. Champahaur, Khowai, Tripura all of you committed gang rape of Smt. X (name withheld) against her will by force, and thus you have committed an offence punishable under section 376(2)(g) of the I.P.C. and within my cognizance and I hereby direct that you be tried by this Court on the said charge. <u>Secondly:</u> That you Sri Anantahari Jamatia and Sri Dipak Tripura being Rfn. and you Narayan Ghosh being the Lnk., All of TSR 6th Bn at Vill: Idangkur, P.S. Champahaur, Khowai, Tripura on 18.02.11 anytime between 10 pm to 11.30 pm at Vill: Idangkur, P.S. Champahaur, Khowai, Tripura in furtherance of your common intention, all of you committed murder of Smt. X (name withheld) intentionally or knowingly causing her death and thereby committed an offence punishable U/S 302 r/w S.34 of I.P.C. and within my cognizance and I hereby direct that you be tried by this Court on the said charges. <u>Thirdly:</u> That you Sri Anantahari Jamatia and Sri Dipak Tripura being Rfn. and you Narayan Ghosh being the Lnk., All of TSR 6th Bn at Vill: Idangkur, P.S. Champahaur, Khowai, Tripura on 18.02.11 anytime between 10 pm to 11.30 pm at Vill: Idangkur, P.S. Champahaur, Khowai, Tripura in furtherance of your common intention, all of you hanged the dead body of Smt. X (name withheld) to a teak tree situated on a small hillock near your TSR camp to cause the evidence to disappear and also to screen the offender from legal punishment, and thus you have committed an offence	(a) "That the said No.97040845 LNK (GD) Narayan Ghosh and No.00060158 Rfn(GD) Ananta Hari Jamatia, E Coy, 6th Bn TSR (IR-II) while they were posted at Aidangkur TSR Post, on 18.02.2011 at about 2200 hrs they had absented themselves from their camp without prior permission of the competent authority which is a gross misconduct punishable under section 12(1) of TSR Act, 1983. (b) That the said No.97040845 LNK (GD) Narayan Ghosh and No.00060158 Rfn(GD) Ananta Hari Jamatia, E Coy, 6th Bn TSR (IR-II) while they were posted at Aidangkur TSR Post, they were detailed as Guard Commander and Front Sentry respectively of Aidangkur TSR Post for the day of 18.02.2011 from 0700 hrs, but on that day at about 2200 hrs they had absented themselves from their camp without prior permission of the Competent authority keeping the camp personnel and Govt. properties of the post as well in in-secured condition which is a gross misconduct punishable under section 12(1) of TSR Act, 1983. (c) That the said No.97040845 LNK (GD) Narayan Ghosh and No.00060158 Rfn(GD) Ananta Hari Jamatia, of E Coy, 6th Bn TSR (IR-II) while they were posted at Aidangkur TSR Post, on 18.02.2011 at about 2200 hrs they had absented themselves from their camp without prior permission of the Competent authority and consumed liquor with civilian women in a civil house which is prejudicial to good order and discipline of the Rifles punishable under section 12(1) of TSR Act, 1983."

punishable U/S 201 r/w S.34 of I.P.C. and within my cognizance and I hereby direct that you be tried by this Court on the said charges.	
<u>Name of all prosecution witnesses in CrI. Case</u> <u>PW.1-Shri Krishna Debbarma;</u> <u>PW.2-Shri Asangka Debbarma;</u> <u>PW.3-Smti. Shila Rani Debbarma;</u> <u>PW.4-Shri Shibjoy Debbarma;</u> PW.5-Shri Atul Debbarma; <u>PW.6-Smti. Nandarani Debbarma;</u> PW.7-Shri Pradip Debbarma; PW.8-Shri Ajit Debbarma; PW.9-Shri Badal Dey; PW.10-Dr. Ranendra Kumar Barman; PW.11-Dr. Dhananjoy Debbarma; PW.12-Shri Sajal Das; PW.13-Dr.Dipankar Prakash Bhowmik PW.14-Shri Dipak Debbarma; PW.15-Dr.B.K. Mahapatra; PW.16-Dr.Asha Srivastava; PW.17-Dr. Amod.K. Singh; PW.18- Shri Darshu Chakma; PW.19-Shri Biplab Bejoy Dutta; PW.20-Shri Suman Kumar Chakraborty; PW.21-Shri Nirmal Roy; PW.22-Shri Sashi Mohan Debbarma; <u>PW.23-Shri Animesh Debbarma;</u> PW.24-Shri Pranesh Kiran Chakma; PW.25-Shri Surinder Singh Gurung; PW.26-Shri Subrata Debnath; PW.27-Dr. T.D. Dogra; and PW.28-Shri N.G. Khamrang.	<u>Name of all prosecution witnesses in D.P.</u> 1. Rfn. GD. Anantahari Jamatia (Accused) 2. L/NK Narayan Ghosh (Petitioner) 3. Rfn. GD Ramchandra Rao 4. Rfn. GD. Thanda Kumar Jamatia 5. Rfn. GD. Dipak Kumar Tripura (Accused) 6. <u>Asanka Debbarma</u> 7. <u>Animesh Debbarma</u> 8. <u>Shila Rani Debbarma (mother)</u> 9. <u>Sri Krishna Debbarma (father)</u> 10. Nb/Sub GD-Kulal Debbarma. 11. <u>Nanda Rani Debbarma</u> 12. <u>Shibjoy Debbarma</u> 13. Digendra Debbarma 14. Hav. GD Hiran Debbarma 15. Hav. GD Haripada Debnath

[12] Above said chart clearly shows that the charges in the criminal case and in the departmental proceeding are quite different though allegation may be so that when the petitioner was absent in the camp, the alleged incident of rape, murder etc. occurred. Even in the list of witnesses as examined in criminal case and in the departmental proceeding, some of them were common but not all. Even, considerable number of witnesses who were examined in the departmental proceeding, were not examined in

the criminal case and therefore, the plea that criminal trial ought to have been preceded the departmental proceeding or that acquittal in the criminal case automatically entitles the petitioner to be exonerated from the departmental proceeding, are not acceptable.

[13] A series of decisions are relied on by Mr. Kar Bhowmik, learned senior counsel in this regard which are as follows:

(i) ***M. Paul Anthony vs. Bharat Gold Mines Ltd. and another; (1999) 3 SCC 679,***

(ii) ***Corporation of the City of Nagpur, Civil Lines, Nagpur and another vs. Ramchandra and others; (1981) 2 SCC 714,***

(iii) ***Abdulla A. Latifshah vs. Bombay Port Trust and others; 1990 SCC OnLine Bom 183,***

(iv) ***G.M. Tank vs. State of Gujarat and others; (2006) 5 SCC 446,***

(v) ***State Bank of Hyderabad and another vs. P. Kata Rao; (2008) 15 SCC 657,***

(vi) ***Gurpal Singh vs. High Court of Judicature of Rajasthan; (2012) 13 SCC 94,***

(vii) ***S. Bhaskar Reddy and another vs. Superintendent of Police and another; (2015) 2 SCC 365,***

(viii) ***Om Prakash Bhatnagar vs. Madhya Pradesh Electricity Board and others; (2020) 19 SCC 549,***

(ix) ***Ram Lal vs. State of Rajasthan and others; (2024) 1 SCC 175.***

[14] In *Ram Lal (supra)* which is latest in time amongst all these decision, it is held by the Hon'ble Supreme Court that if charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension and there may be deviation from the general principle that mere acquittal by criminal court will not confer on the employee a right to claim any benefit in the departmental proceeding. As already discussed above, the charges in the criminal case and in the departmental proceeding were clearly different, further discussion on the above said case references as cited are not being discussed, for, the benefit of acquittal in criminal trial cannot be given in the departmental proceeding in the case in hand.

[15] So far the plea raised by the petitioner that in the departmental proceeding, he was not allowed to take help of any defence assistant, in the judgment passed in said WP(C) No.234 of 2012, it was already observed by the Court that when the petitioner was asked to engage the defence counsel, by filing a written note to the inquiry officer on 27.05.2011, the petitioner had clearly stated that he himself would conduct his defence. Therefore, said plea cannot be allowed to be agitated again in this forum.

[16] Mr. Kar Bhowmik, learned senior counsel though submits that copy of day to day order was not supplied to the petitioner

during hearing of departmental proceeding but as stated above, this Court in said WP(C) No.234 of 2012 after considering all aspects directed the disciplinary authority to furnish him the copy of report of inquiring authority only. But, despite the same, after he submitted the petition before the disciplinary authority, some further documents were also supplied to him and nothing could be shown that it was obligatory for the disciplinary authority to furnish order of day to day proceeding to the petitioner. Therefore, such plea as taken cannot also be accepted. Mr. Kar Bhowmik, learned senior counsel also submits that during investigation made by the CBI in said criminal case, forensic psychological assessment test was done upon the present petitioner, Ananta Hari Jamatia, Dipak Kumar Tripura and Dipak Debbarma and regarding the present petitioner, their conclusion after the test was that the statement of petitioner regarding the death of said victim appeared to be correct though regarding the statement given by said Ananta Hari Jamatia was found to be deceptive and regarding Dipak Kumar Tripura, it was observed by the investigating agency that he was also hiding some information relating to the death of said woman. What learned senior counsel tries to show is that the conduct of the present petitioner in the said criminal investigation was appreciable and noteworthy as he was innocent and he disclosed the truth before the investigating officer. However this Court is of the view that such conduct of the petitioner in said criminal case is not relevant for decision in the instant writ petition.

[17] This Court has also considered the inquiry report, the decision of disciplinary authority as well as appellate authority and also the order passed by the revisional authority. From the inquiry report, it appears that the camp in-charge at that relevant point of time was one Kalul Debbarma who stated in the disciplinary proceeding that on 18.02.2011, in the night, he permitted all the TSR personnel of Aidangkur post to attend the marriage ceremony held in the house Digendra Debbarma and consequently, most of the TSR personnel went and took dinner there but he did not permit any TSR personnel to go elsewhere at that time. According to him, check roll call was conducted in the night and all the TSR personnel were found present in the post. Witness- rifleman Dipak Kumar Tripura and Asanka Debbarma also found the petitioner in the house of Ananta Hari Jamatia at that time. Rifleman Ramchandra Rao, on the other hand stated, that at about 09.30 pm their guard commander Narayan Ghosh enquired about the whereabouts of Ananta Hari Jamatia to him and thereafter, the petitioner returned to his barrack. However, the petitioner before the inquiring authority himself admitted that Ananta Hari Jamatia on that day at about 07.00 pm was found absent in the camp and the information was also passed to CHM of the camp and at about 09.45 pm he heard the voice of Ananta Hari Jamatia from the house of Asanka Debbarma and at about 10.00 pm he went to the house of Asanka Debbarma for calling Ananta Hari Jamatia to join his duty at 11.00 pm and at that time, he found Ananta Hari

Jamatia with 2/3 other women were consuming liquor together. He also stated that in absence of post in-charge and CHM of the post, he did not take their permission.

[18] The inquiry authority reflected the relevant portion of their evidences in his report, but without any sort of discussions of the evidences as surfaced, suddenly jumped to the conclusion that considering the statement of witnesses, the Article of charge nos.I, II and III levelled against the petitioner and Ananta Hari Jamatia were proved. There is no doubt that the inquiry report is bereft of any discussion and reasoning, and similarly the order of disciplinary authority passed on consideration of representation of the petitioner also does not contain any sort of discussion and reasoning regarding the points raised by the petitioner except a single sentence that the representation has been duly examined and considering all the facts and circumstances the disciplinary authority was of the view that proposed penalty of dismissal from service was commensurate with the misconduct by the charged official. The appellate authority also simply disposed of the appeal by passing two sentences that findings of inquiry officer as well as disciplinary authority were based on evidence on record and that as per Rule 46(3) of the TSR (DCSC etc.) Rules, 1986, the appeal was time barred. Then the revisional authority only observed that there was no valid reason to consider the revision petition.

[19] The Court is not oblivious of the settled principle of law that in a judicial review Court cannot act as an appellate authority, but the way by which the inquiry officer, the disciplinary authority, appellate authority as well as the revisional authority discharged their function while dealing with the issue, and arrived at their respective findings and conclusion without any least discussion, it compels this Court to have a look on the evidences as reflected in the inquiry report just for the interest of justice. This Court does not find a single piece of evidence against the present petitioner as reflected in the inquiry report that the petitioner consumed any alcohol at the relevant point of time but despite the fact, the inquiring authority found that the Article of charge no.III was proved against him.

[20] Mr. Kar Bhowmik, learned senior counsel also relies on a decision of Hon'ble Supreme Court in the case of **S.N. Mukherjee vs. Union of India; (1990) 4 SCC 594** wherein it was observed that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision. In **Jasram Jat vs. Inspector General of Police, Ajmer Range, Ajmer and others; [S.B. Civil Writ Petition No.759/2012 decided on 11.10.2023]**, the Rajasthan High Court also held that the order of punishment which is passed in a quasi-judicial proceeding must contain some reasons and mere recording of conclusion is not sufficient for compliance of

the requirement of principles of natural justice as well as Rule 14 of the CCA Rules. It was also further observed that merely recording one line conclusion that after going through the record, the charges levelled against the delinquent official are found fully proved is not sufficient enough.

[21] Anyway, even if the order of inquiring authority lacks of any discussion and reasoning, still it is the admission of the petitioner himself that on the relevant date and time he was absent for some period from his post/camp though he tried to give some explanation for the same. Further, some evidences as reflected above are also there to corroborate the fact that he was found out of his camp and was available in the house of some other person during that time. Therefore, there is no reason to disturb the findings of inquiry authority on charge no.I and II which are basically same and single charge. Though learned Advocate General argues that the petitioner committed offence under section 10(i) of the Act of 1983 by quitting his guard, picquet, party or patrol without being regularly relieved or without leave which is categorised as 'more heinous offence' in the Act, but no charge was framed against him in this regard. The specific charge was that he had absented himself for certain short period from the camp without permission. Absenting oneself from the camp for short period and quitting the guard or camp are different things. Section 11 of the Act describes the category of 'less heinous offences' and Clause (m) of Section 11 covers the cases where the delinquent

absents himself without leave, or without sufficient cause overstays leave granted to him. The present case or the allegation as levelled against the petitioner in the said charges at best attracts said Clause (m) of Section 11 and therefore, it comes within the category of less heinous offence. Even under Section 11 of the Act, when a TSR person remains under state of intoxication when on duty or on parade, or who being under arrest or in confinement leaves his arrest or confinement before he is set at liberty by lawful authority, or who is grossly insubordinate or insolent to his superior, or who without sufficient cause overstays leave for a higher period than the period for which the petitioner was out of camp, are also treated to be 'less heinous offence'. But, in the instant case, only for remaining out of the camp (but within the locality itself where the camp is located) itself that too only for a very short period has been treated to be within the category of very serious offence and highest grade of punishment like dismissal from service has been imposed on him. Without any hesitation it can be said that imposing of such severe penalty like dismissal from the service for commission of such a less heinous offence is severely harsh and highly disproportionate. Not only dismissal, rather any other form of punishment which ultimately results in termination of his service will be disproportionate in the facts of the present case.

[22] In view of above discussions, the writ petition is allowed. Consequently, the order dated 07.06.2017 passed by the

disciplinary authority, order dated 31.12.2017 passed by the appellate authority and the order dated 24.02.2025 passed by the revisional authority are all quashed. It is not desirable for the Court to decide the suitable punishment to be imposed upon the petitioner by itself unless there is a very special circumstance exist for the same and therefore, the same is left to the disciplinary authority. The matter is accordingly remitted to the disciplinary authority to award suitable penalty upon the petitioner in the light of the discussions made hereinabove and also considering all other attending facts and circumstances of the case. While deciding the penalty, the disciplinary authority should also take into consideration the period of such confinement in quarter guard condition, if any. The entire exercise shall be done within a period of 4(four) weeks of receipt of copy of this judgment. The charge of absenting himself from the camp is held to be proved in this case against the petitioner and therefore, the Department has been deprived of the service for the petitioner for the act contributed by himself. So, on his reinstatement, the petitioner will be entitled to consequential benefits and will be entitled to 50% of the back wages.

The writ petition is accordingly disposed of.

Pending application(s), if any, shall also stand disposed of.

JUDGE