

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

Judgment Reserved on : January 20, 2015
% *Judgment Delivered on : January 30, 2015*

+ **W.P.(C) 4058/2014**

SHANKAR KUMAR (CONSTABLE) Petitioner
Represented by: Mr.Raman K.Singh, Advocate

Versus

UNION OF INDIA & ORS.Respondents
Represented by: Mr.Debajyoti Behuria, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J.

1. Working as a Constable with CISF since the year 2000 and posted in the year 2004 at the Kandla Port Trust Complex, New Kandla, District Kutch (Gujarat) a charge memo was served upon the petitioner on March 29, 2005 alleging as under:-

“Force No.002240158 Const. (Under suspension) Shankar Kumar, CISF, Unit KPT Kandla, during posting on his duty in the Crime Control & Information Department of the Unit on 06.12.2004 at around 2145 hours one Tata Sumo was allowed to go out of the gate without any security check by the Const. (under suspension) D.P. Bhai, posted on his duty of Out Checking of Security Check at North Gate. The above incident was dealt with

very lightly by the above Constable (under suspension) Shankar Kumar. The above under suspension constable understood that his duty is over by giving information of this incident to the North Gate Shift Incharge. Had the above suspended constable been seen that correct guidelines have not been received by the North Gate Shift Incharge, then it was incumbent upon him to immediately inform any other higher officer, so that appropriate steps could be taken well in time, but he did not do so and he gave information of this incident to the Inspector/Exe. D.Ekka only at 0245 hours. The above act of the force member shows his grave dereliction of duty. Hence, it is charged.”

2. The petitioner denied the charge resulting in an inquiry officer being appointed who after recording evidence submitted a report on September 13, 2005 holding that the charge was established and after furnishing the inquiry report to the petitioner for his response, considering the same, vide order dated November 30, 2005 the Disciplinary Authority levied the penalty of reduction of pay by one stage in the time scale of pay for a period of one year with further direction that during said year the petitioner would not earn any increment and on the expiry of the period of reduction the same shall have the effect of postponing his future increments of pay.

3. The petitioner did not avail the right of appeal available to him against the aforementioned order. However, exercising power under Rule 54 of the CISF Rules, the Reviewing Authority issued a show cause notice to the petitioner on February 23, 2006, highlighting that one facet of the gravamen of the charge of not immediately reporting the matter to the shift in-charge being proved required the penalty to be enhanced to one of dismissal from service. The petitioner gave his response to the said show cause notice, and considering the

same, the Reviewing Authority vide order dated April 20, 2006 confirmed the proposed penalty dismissing the petitioner from service against which the petitioner preferred an appeal which was rejected by the Appellate Authority on September 30, 2006 against which revision filed before the Revisional Authority was rejected on October 31, 2013.

4. The petitioner preferred a writ petition registered as W.P.(C) No.6801/2006 in the High Court of Jharkhand at Ranchi in which show cause notice was issued. The writ petition was ultimately dismissed as withdrawn on February 29, 2012 because the said High Court lacked territorial jurisdiction. Instant writ petition was thereafter filed in this Court. It may be highlighted that the writ petitioner challenged the order dated April 20, 2006 and September 30, 2006 by filing W.P.(C) No.1781/2013 which was disposed of by this Court directing that the petitioner should file a revision petition before the Revisional Authority, which the petitioner did resulting in the order dated October 31, 2013 being passed.

5. In an inchoately worded prayer (i), the petitioner has prayed that order dated October 31, 2013 passed by Director General, CISF and order dated November 30, 2005 issued by the Commandant, CISF which has levied the punishment of reduction by one stage in the time scale of pay be quashed, during arguments in the appeal learned counsel for the petitioner restricted submissions to the legality of the order dated April 20, 2006 passed by the Reviewing Authority and the order dated September 30, 2006 passed by the Appellate Authority and the order dated October 31, 2013 passed by the Revisional Authority.

6. Thus, the concern in the present discussion would relate to the three orders. Such part of the report of the inquiry officer and testimony of the witnesses as would be relevant to discuss the issue would be noted.

7. The reasons given by the Reviewing Authority for imposing the major penalty of dismissal from service read as under:-

“5. On going through the charge memorandum as well as the evidences adduced during the departmental enquiry, it is seen that the charged Constable Shankar Kumar was deployed for duties in the CIW of the Unit. On the intervening night of 6/7.12.2004 he was detailed for duties in the Port area to watch the activities of the civilians as well as CISF personnel deployed for duties. During the course of his duty at about 2145 hrs he had noticed from Marine Bhawan STD booth that one TATA Sumo vehicle came to the North Gate from Port area and Const. D P Bhai who was deployed for duty at North Gate out checking was talking with the driver of TATA Sumo vehicle. But Const D P Bhai without physical checking of the vehicle as well as the documents had allowed the said vehicle to go outside the Port area. Seeing this situation, Const. Shankar Kumar had reached at the gate and asked Const. D P Bhai as to why he had allowed the TATA Sumo vehicle without checking. In reply Const. D P Bhai told him that he was performing his duties correctly and he should not interfere in his duties. Then the charged Constable Shankar Kumar reported the matter to the shift in-charge at North Gate SI/Exe M L Verma but he had also given his reply negatively and did not interfere in the matter. As a result, the charged Constable Shankar Kumar had reported the matter to Inspector/Exe. D.Ekka at about 0245 hrs who was functioning as in-charge of CIW of the Unit and at the time he was on night checking duty.

6. *With reference to the above pleas of Const. Shankar Kumar the case records have been perused and from the*

evidences adduced during the departmental enquiry, none of the above plea of the individual is sustainable. It is not correct to say by the individual that the charge levelled against his is baseless. Because, before initiating the disciplinary proceeding, a fact finding enquiry was conducted and it was seen that a prima-face case existed against him and then only he was dealt under a major penalty proceeding. The pleas of the individual at (ii) to (iv) above, are also untenable. When he had noticed the illegal activities of the duty personnel at the North Gate out checking, in the case he was invariably supposed to inform the same to his superior authority. In case, the OIC CIW could not be contacted by him, then he could have informed the matter to any gazette officer who so ever available in the Unit. Had it been done so, the illegal activities of the duty Constable as well as the shift in-charge could have been detected immediately. But Const. Shankar Kumar did not do so for the reasons best known to him and reported the matter to Inspector/Exe. D.Ekka at about 0245 hrs of the night which clearly reveals his carelessness towards his entrusted duties. With regard to the plea of the individual at (v) above, it is seen that when the charge levelled against the individual has been proved in a duly conducted departmental enquiry, in that case, it is the competent authority to decide the quantum punishment after taking, into account of the gravity of offence in the case.

7. On careful consideration of the case records, it is seen that the charge as levelled against Const. Shankar Kumar has been provided in a duly conducted departmental enquiry and I find no procedural infirmity in conducting the departmental enquiry. Being a member of the disciplined Armed Force of the Union of India, he is expected to maintain absolute integrity and devotion towards his entrusted duties, but he had failed on all these aspects. Since, Const. Shankar Kumar has noticed the illegal activities of the duty personnel at North Gate, in that case, he could have reported the matter to the superior

authorities of the Unit immediately for taking necessary action in the matter but he failed to do so and acted in a manner which is highly unbecoming on his part. Therefore, the undersigned being the reviewing authority in the case, in exercise of the powers conferred upon me under the provisions of Rule 54 of CISF Rules, 2001 I do hereby confirm the proposal as made in the show cause notice an No. 002240152 Const. Shankar Kumar of CISF, KPT Kandla is dismissed from service with effect from the date of receipt of this order.

8. No 002240152 Const. Shankar Kumar of CISF, KPT Kandla may prefer an appeal petition against the aforesaid order, if he desires so, to the Inspector General, CISF, West Sector, Mumbai within 30 days from the date of receipt of this order.

8. Relevant for a discussion of the aforesaid reasons would be to note the pleas taken by the petitioner in the reply which he submitted to the show cause notice in which he highlighted:-

(i) That the charge levelled against him is baseless. He was detailed for Crime and Intelligence duty on the intervening night of 6/7.12.2004 and for the criminal activities at North Gate, he had informed to the incharge of CIW during the course of his duty itself.

(ii) That first of all he had informed about the criminal activities of the Constable at North Gate out checking to the shift in-charge SI/Exe M L Verma. Since, the shift in-charge did not take any positive action in the matter, then he had tried to contact with the OIC CIW at his quarter, but he could not be contacted.

(iii) That he was not provided any cycle for performing duties throughout the Port areas, as a result he could not contact immediately with OIC, CIW.

(iv) That it was the standing instruction of Inspector/Exe. D.Ekka that any type of information should be informed to him before giving the information to any other higher authority.

(v) Lastly, he has prayed to consider the above facts and to render him justice.”

9. Addressing the arguments on behalf of the petitioner Sh.Raman K.Singh, Advocate has contended that despite the fact that petitioner accepted the punishment awarded by the Disciplinary Authority, there was sufficient material available on record to satisfy the Reviewing Authority that despite having no effective means of communication or conveyance i.e. cycle, the petitioner did his best by informing all concerned about Tata Sumo being permitted to cross the North Gate by Constable D.P.Bhai on duty on that date. It has been further submitted that the petitioner had clean record. The port area is very large and the petitioner, with a view to inform Inspector/Exe. D.Ekka and inform him about the Tata Sumo being allowed to cross the North Gate without checking. The petitioner had been ordered to be dismissed from service and in the given facts and circumstances, the punishment awarded to him being shockingly disproportionate to the charge proved against him, may be set aside.

10. Refuting the arguments, Sh.Debajyoti Behuria, Advocate appearing on behalf of respondent submitted that Reviewing Authority was well within its right to enhance the punishment. The impugned order being passed after complying with the requirement of Rule 54, need not be interfered with by this Court in exercise of writ jurisdiction as sufficiency of punishment awarded to the petitioner for the charge proved against him, has already been examined by the Appellate Authority as well as the Revisional Authority.

11. With a view to appreciate the contentions raised at the Bar, first it is necessary to bring on record certain facts emerging from the statement of Inspector/Exe. D.Ekka who was examined as PW-1 by the Inquiry Officer :-

- (i) *On December 06, 2004, he received an information from reliable sources about the apprehension/likelihood of theft being committed from some area of West Gate I & II and area of New Port.*
- (ii) *He contacted and alerted all the members posted at all the gates and also shared the information with the superior officers (Assistant Commandant and Deputy Commandant).*
- (iii) *On that date, he was on patrolling and ambulance duty with the superior officers (Assistant Commandant and Deputy Commandant) from 9:45 hrs to 1:45 hrs on December 07, 2004.*
- (iv) *While on night checking duty on the night intervening July 06/07, 2004 at about 01:45 hrs proceeded to West Gate II and from there to port and oil jetty area for checking.*
- (v) *During his checking duty, he reached North Gate and Sub-Inspector M.L.Verma and officials on duty at North Gate were*

instructed to perform their duty properly and allow the vehicles to leave only after thorough checking and thereafter he left for port area.

- (vi) During checking, at about 2.45/2.50 a.m., he met Constable Shankar Kumar (petitioner) near godown No.23. Constable Shankar Kumar informed him that constable on duty at North Gate (OUT) was not performing his duties diligently and that one Tata Sumo has been allowed to cross the gate on 21:45 hrs by Constable D.P.Bhai without checking. The petitioner Constable Shankar further informed him that he brought this matter to the notice of sub-Inspector M.L.Verma in-charge of the night shift but both of them asked him to be concerned about his duty and they know their duty.*
- (vii) After checking the port area when Inspector/Exe. D.Ekka crossed North Gate for going to oil jetty for checking, he confronted questioned Constable D.P.Bhai about TATA Sumo being allowed to go out without checking. Ct. D.P.Bhai informed Inspector/Exe. D.Ekka that driver of Tata Sumo was known to him, he was checking all the vehicles before letting them cross the OUT Gate.*
- (viii) Since there was no report from Birth No.6 about any theft, he did not make any report about the incident under the belief that it was common thing. Hence, he did not take it (report of petitioner) seriously.*
- (ix) Another reason for not taking a serious view was that Constable Shankar Kumar did not inform the registration number of the Tata Sumo or any objectionable matter being taken in Tata Sumo.*

- (x) *On December 07, 2004 at about 15:00 hrs, M/s. Express Transport Private Limited Company complained about the theft being committed from Container No.3805038.*
- (xi) *Spot was inspected and during search some stolen articles were recovered and handed over to the company. Thereafter he proceeded on casual leave for 15 days with effect from December 09, 2004 to December 30, 2004.*
- (xii) *On return from leave, he came to know that certain articles were recovered by the police from outside the port area also and the vehicle used for taking the stolen goods also included one Tata Sumo which was seized and appeared to be the same Tata Sumo in which theft was committed on the night on December 06, 2004.*
- (xiii) *Walkie-talkie was not functioning properly in that area and communication system had collapsed in that area.*

12. Questions No.1 to 3 put by the Presenting Officer to Inspector/Exe.

D.Ekka and the answers given by him need to be extracted:-

Ques.1 : Did you inform about the information received on 06.12.20014 about the apprehension of theft in the port area to the officers on duty at the North Gate and the night shift Incharge.

Ans. : Yes

Ques.2 : At what time, Ct.Shankar Kumar Bath informed you that Ct.D.P.Bhai at 21:45 hrs allowed TATA Sumo to leave out gate unchecked.

Ans. : During night checking at about 2.45 – 2.50 am on 04.12.2004 near Warehouse No.23.

Ques.3 : In respect of incident dated December 06, 2004 at 21:45 hrs what could be the possible reason for delay in Constable Shankar Kumar in reporting the matter to him?

Ans. : During that time at 21:45 hrs, I along with senior officers was on patrolling and ambulance duty at Kuccha Plot Perimeter Wall, West Gate -I & II near Warehouse.'

13. On being cross-examined by the petitioner, Inspector/Exe. D.Ekka PW-1 admitted that only the petitioner was deputed for CIW in the ABCD area in night shift and he was not provided with cycle. He also admitted that on that night, being on patrolling duty, he was not available at his residence.

14. The statement of charged Officer, that is, the petitioner, bring on record the following facts :-

- (i) On December 06, 2004 while on duty in ABCD area which was very large, during patrolling he noticed one vehicle make Sumo came from port side and stopped at North Gate.*
- (ii) Driver of that Sumo talked to Constable D.P.Bhai who was on checking duty at the North Gate (OUT), talked to Constable D.P.Bhai and left without getting the vehicle checked.*
- (iii) The petitioner immediately reached North Gate but by that time Sumo had already left the OUT Gate. He questioned Constable D.P.Bhai as to why he allowed Sumo to leave without checking. Constable D.P.Bhai replied that **“ye humari duty hai tum apna kaam karo”**. He immediately informed night shift in-charge sub-Inspector M.L. Verma who was on duty at North Gate. SI M.L. Verma said **“ye dekhne ke liye main hun, hum apna kaam kar rahe hain tum apna kaam karo”**. On not being satisfied with the reply given by SI M.L. Verma, he tried to contact Inspector/Exe.*

D.Ekka by calling at his residence but could not. Since he was not having any conveyance, he started on foot searching for Inspector/Exe. D.Ekka in port area to report the incident immediately. While performing his duty diligently and with full dedication, he could manage to locate Inspector/Exe. D.Ekka at 2.40 am i.e. within his duty hours. The incident was reported to him. Inspector/Exe. D.Ekka being on patrolling and ambulance duty, was not present at his residence, hence, could not be contacted.

15. The petitioner was also questioned by the Inquiry Officer as to whether he had walkie-talkie to which he replied that walkie-talkie were provided for use but they were not functioning properly leading to lot of problem in communication. In the reply to question No.3 that if Inspector/Exe. D.Ekka was not available whether some other officer was available and if so why information was not given to him, the petitioner has replied that one vehicle in which P.Sewadasan visited Kandla Port passed from sufficient distance from him. Further Inspector/Exe. D.Ekka had given instructions that any incident pertaining to crime be reported to him first before informing any other person. As per his orders, the petitioner informed about the incident to his In-charge i.e, Inspector/Exe. D.Ekka.

16. The question which needs consideration is whether the penalty imposed by disciplinary authority i.e. reduction of pay by one stage from ₹3350/- to ₹3275/- for a period of one year and that during the period of reduction he will not earn increment of pay and on expiry of the period, the reduction will have the effect of postponing his future increments of pay' was shockingly low and secondly whether the penalty imposed by the superior authority, which has

been further confirmed by Inspector General/WS and Deputy General/CISF is disproportionately severe.

17. Undisputedly, the authority superior to disciplinary authority, in exercise of power under Rule 54 of CISF Rules, 2001, is vested with the power to enhance the penalty imposed. Thus, the issue is of disproportionality of the enhanced penalty with reference to the gravity of the offence.

18. From the statement of prosecution witnesses, following facts are established:

- (i) Port area is very large and means of communication were not functioning. Walkie-talkie though provided was not working properly.*
- (ii) The petitioner, on seeing that Ct.D.P.Bhai had allowed one TATA Sumo to leave without checking, immediately contacted him but Ct.D.P.Bhai asked him to do his duty.*
- (iii) Sub-Inspector M.L.Verma, Night-Shift Incharge was contacted by the Petitioner and he also asked the petitioner to mind his own business.*
- (iv) The petitioner tried to contact Inspector/Exe. D.Ekka by calling on phone at his resident but there was no reply.*
- (v) Thereafter he tried to find location of Inspector/Exe. D.Ekka to apprise him about one TATA Sumo being allowed to cross out gate without checking. He was walking on foot and only at about 2.45 – 2.50 am (within his duty hours) he could locate Inspector/Exe. D.Ekka near Warehouse and informed him about TATA Sumo being allowed to cross North Gate (OUT) without checking.*
- (vi) At that time, Inspector/Exe. D.Ekka was accompanied by senior officers for ambulance and patrolling duty and was present at Kuccha Plot, Perimeter Wall, West Gate-I and II near Warehouse.*

(vii) Inspector/Exe. D.Ekka while passing through North Gate confronted Ct.D.P.Bhai on duty at that gate, about one TATA Sumo being allowed by him to pass without checking which he admitted but gave an excuse that TATA Sumo Driver was known to him assuring that he was doing his duty diligently.

(viii) Inspector/Exe. D.Ekka did not take the matter seriously as till that time there was no report of theft and number of TATA Sumo was also not given to him by the petitioner.

(ix) The report regarding theft from M/s.Express Transport Company from its Container No.3805038 was received on December 07, 2004 at about 3.00 pm.

19. Thus, the entire evidence led only to one conclusion that it was only the petitioner who was doing his duty diligently. From his location at ABCD area of Kandla Port where he was on duty, he could only notice one TATA Sumo being allowed to pass from North Gate without checking. May be due to distance, he was unable to note down the registration number of TATA Sumo but the fact remains that Inspector/Exe. D.Ekka when confronted Ct.D.P.Bhai on duty at the North Gate, the incident was confirmed but diluted by him explaining that Driver was known to him. Thus, there was no difficulty in locating the TATA Sumo which was allowed to pass through North Gate without checking. As a Constable, the petitioner could not have done anything more than what he has done. He cautioned the constable on duty at North Gate, informed Night Shift In-charge and reported to Inspector/Exe. D.Ekka who was accompanied by senior officers. The petitioner also tried to check Inspector/Exe.D.Ekka at his resident and as Constable he was duty bound to follow the instructions of his superior that first the incident should be brought to his (Inspector/Exe. D.Ekka) notice which he obeyed first by calling at his

resident and then looking for him in the port area and ultimately reporting the incident to him in the presence of superior officers.

20. The charge against the petitioner was that the incident had been taken very lightly by him i.e. after informing the Night Shift Incharge, he considered it to be end of his duty whereas if he was not guided properly, he should have informed superior officers immediately so that necessary action could be taken in the matter. At the cost of repetition, we note that right from the stage when the petitioner noticed TATA Sumo leaving North Gate without checking, he took all necessary steps to ensure that the matter is brought to the notice of all concerned. It is admitted case of the respondent that port area is very large and not even a cycle was provided to the petitioner and walkie-talkie was not functional. In the circumstances, the lapse, if any, was on the part of the persons who were on duty at North Gate or on the part of the Inspector who preferred not to take any action when the matter was reported to him by the petitioner. Inspector/Exe. D.Ekka PW-1 believed Ct.D.P.Bhai that the driver of TATA Sumo was known to him and took no action as he did not consider it to be taken seriously. Infact there was absolutely no delay on the part of the petitioner in giving information to all his superior officers. Once it is emerging on record that Inspector/Exe. D.Ekka was accompanied by his superior when petitioner informed him at about 2.45 – 250. am, obviously the information stood conveyed to all concerned in hierarchy. What else the petitioner was required to do or could have done, has not been detailed by the Reviewing Authority while enhancing the punishment to that of dismissal from service.

21. It is settled legal position that in exercise of power of judicial review the Court would not normally substitute its own conclusion on the quantum of punishment unless the punishment imposed by the authority is shocking to the conscience of the Court, in the sense that it was in defiance of logic or rationality on the very face of it.

22. In AIR 1953 SC 454 Bhagat Ram v. State of Himachal Pradesh, the Apex Court held :

'It is equally true that the penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution.'

23. In (2013) 6 SCC 602 S.R.Tewari v. Union of India & Anr., the Apex Court while reiterating the law laid down in AIR 1987 SC 2386 Ranjit Thakur v. Union of India on disproportionate punishment, held as under:

"18. The question of interference on the quantum of punishment, has been considered by this Court in a catena of judgments, and it was held that if the punishment awarded is disproportionate to the gravity of the misconduct, it would be arbitrary, and thus, would violate the mandate of Article 14 of the Constitution.

In Ranjit Thakur v. Union of India and Ors. MANU/SC/0691/1987 : AIR 1987 SC 2386, this Court observed as under:

But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on the aspect, which is otherwise, within the exclusive province of the Court

Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction. In the present case, the punishment is so stringently disproportionate as to call for and justify interference. It cannot be allowed to remain uncorrected in judicial review.

(Emphasis added)

(See also: Union of India and Anr. v. G. Ganayutham (dead by Lrs.) MANU/SC/0834/1997 : AIR 1997 SC 3387; State of Uttar Pradesh and Ors. v. J.P. Saraswat MANU/SC/0231/2011 : (2011) 4 SCC 545; Chandra Kumar Chopra v. Union of India and Ors. MANU/SC/0424/2012 : (2012) 6 SCC 369; and Registrar General, Patna High Court v. Pandey Gajendra Prasad and Ors. MANU/SC/0444/2012 : AIR 2012 SC 2319).

19. In B.C. Chaturvedi v. Union of India and Ors. MANU/SC/0118/1996 : AIR 1996 SC 484, this Court after examining various its earlier decisions observed that in exercise of the powers of judicial review, the court cannot "normally" substitute its own conclusion or penalty. However, if the penalty imposed by an authority "shocks the conscience" of the court, it would appropriately mould the relief either directing the authority to reconsider the penalty imposed and in exceptional and rare cases, in order to shorten the litigation, itself, impose appropriate punishment with cogent reasons in support thereof. While examining the issue of proportionality, court can also consider the circumstances under which the misconduct was committed. In a given case, the prevailing circumstances might have forced the accused to act in a certain manner though he had not intended to do so. The court may further examine the effect, if the order is set aside or substituted by some other penalty. However, it is only in very rare cases that the court might, to shorten the litigation, think of substituting its own view as to the quantum of punishment in place of punishment awarded by the Competent Authority.

20. In V. Ramana v. A.P.S.R.T.C. and Ors. MANU/SC/0539/2005 : AIR 2005 SC 3417, this Court considered the scope of judicial review as to

the quantum of punishment is permissible only if it is found that it is not commensurate with the gravity of the charges and if the court comes to the conclusion that the scope of judicial review as to the quantum of punishment is permissible only if it is found to be "shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards." In a normal course, if the punishment imposed is shockingly disproportionate, it would be appropriate to direct the Disciplinary Authority to reconsider the penalty imposed. However, in order to shorten the litigation, in exceptional and rare cases, the Court itself can impose appropriate punishment by recording cogent reasons in support thereof."

24. Reverting to the case in hand, the petitioner has not challenged the punishment awarded to him by the disciplinary authority i.e. 'reduction of pay by one stage from ₹3350/- to ₹3275/- for a period of one year with the further order that during the period of reduction he will not earn increment of pay and on expiry of the period, the reduction will have the effect of postponing his future increments of pay'. Thus, the limited scope within which the case of the petitioner is to be examined is whether the punishment awarded to the petitioner is shocking and disproportionate even if it is accepted that the charges leveled against him were proved. The guiding principles at the time of awarding of punishment in disciplinary proceedings would be nature of charge, evidence, misconduct, nature of duty assigned to the charged official and the organization to which he belongs.

25. The petitioner herein belonged to CISF – a disciplined force and we understand that there exists no room for being careless and negligent. We have already given the sequence of events which lead to only one conclusion that on being confronted by the petitioner for allowing TATA Sumo to leave North

Gate without checking not only Ct.D.P.Bhai but even Night Shift Incharge Sub-Inspector M.L.Verma asked him to mind his own business and concentrate on his duty. The petitioner, undeterred by what was said by Night Shift Incharge Sub-Inspector M.L.Verma, spared no effort to report the matter to Inspector/Exe. D.Ekka which could be done at about 2.45 – 2.50 am. In case of inaction by his superiors against Ct.D.P.Bhai who permitted TATA Sumo to leave North Gate (OUT) without checking, the petitioner could have done nothing beyond that. In the facts and circumstances, despite the service record of the Petitioner being satisfactory, in view of the nature of charge against the petitioner, which we feel was ridiculous, the punishment of dismissal awarded to him was harsh and disproportionate to the charge stated to be proved against him and warrants interference by this Court in exercise of power of judicial review.

26. The writ petition is allowed. The order dated April 20, 2006 which has been upheld by Inspector General/WS and Director General/CISF are quashed. The respondents are directed to reinstate the petitioner with all consequential benefits including seniority.

27. No costs.

(PRATIBHA RANI)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

JANUARY 30, 2015/rb/st