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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE CIVIL JURISDICTION***

***WRIT PETITION NO. 7155 OF 2018***

Uttam Yeul

... Petitioner

V/s.

The Director General, CISF and Ors.

... Respondents

Mr. Sandeep V. Marne for the Petitioner

Ms. Anjali Helekar a/w. Mr. Prasanjit Khosla for the Respondents

***CORAM : NITIN JAMDAR &  
M.S. KARNIK, JJ.***

***DATE : 23 JANUARY 2020.***

**P.C. :-**

Having heard the learned Counsel for the parties we are of the opinion that the matter needs to be remanded to the Revisional Authority. Thus, our observation in this order should be treated as *prima-facie*.

2. The Petitioner has challenged the orders passed by the Disciplinary Authority dated 27 November 2017, by the Appellate Authority dated 5 February 2017 and by the Revisional Authority dated 14 May 2018. The Petitioner was working as a Head

Constable in the Central Industrial Security Force. The Petitioner has been compulsorily retired from the service. This order has been confirmed in the Appeal and the Revision.

3. A charge-sheet was issued against the Petitioner under Rule 36 of the Central Industrial Security Force Rules, 2001 on 12 August 2017 under the following charges :-

### **CHARGE-I**

*“No. 844507761 HC/GD Uttam Yeul has been charged that on 13/07/2017, at around 05:43, while returning from completing his “C” shift duty, a surprise checking to check the personnel belongings and bus was carried out by Sh.P.S. Rawat, Assistant Commandant, Sh. Rajesh Kumar, Assistant Commandant, and CIW personnel at unit line. During the surprise checking, HC/GD Uttam Yeul was seen throwing something out of the bus window, which when opened, a sum of Rs.210 (Indian Currency) was recovered. This act of the member of the force indicates that he is involved in illegal gratification, which amounts to gross misconduct.*

### **CHARGE-II**

*No. 844507761 HC/GD Uttam Yeul, has been punished 03 times for various indiscipline activities during his services period so far. In spite of being punished on 3 occasions and given chances to improve, he failed to mend his conduct. Such attitude of the individual clearly reflects about his habitual attitude for unbecoming of a member of the force.”*

4. After the enquiry was held, the Petitioner was found to be guilty of the charges and he was removed from the services. The Appellate Authority after considering the documents available and considering the length of the service and liability towards family took a lenient view and modified the penalty with compulsory retirement and full pensionary benefits. Thereafter, the Petitioner's revision was rejected on 14 May 2018 by the Inspector General Western Sector.

5. The learned Counsel for the Petitioner advanced the sole contention of parity of treatment. It is contented that another Constable - Sachin G. Kanade was also charged with the same charges, however, in his case the same Revisional Authority in a subsequent decision has taken a view that he needs to be re-instated in the service. The learned Counsel for the Respondents states that there are various distinguishing features in the said case.

6. We do find that there are various facets to be identical in the case of the Petitioner and Sachin Kanade. Charge No. I in respect of the Petitioner is the same in respect of Sachin Kanade, which is as below :-

*“No. 071360027 Const/GD Kanade Sachin Gangaram has been charged that on 13.07.2017 approximately at 0543 hrs., while returning from completing his “C” shift duty, a surprise checking to check the personnel*

*belongings and bus was carried out by Sh. P.S. Rawat, Assistant Commandant, Sh. Rajesh Kumar, Assistant Commandant, and CIW personnel at unit lines. During the surprise checking Shri Rajesh Kumar, Assistant Commandant saw that Const/GD Kanade Sachin Gangaram throw a small roll of paper out of the window of the Bus. After the paper packet was retrieved and opened, a sum of Rs.40/- (Two notes of Rupees 20-20), Indian currency was found inside the paper roll. This act of the member of the force indicates his indulging in illegal gratification, which amounts to gross misconduct. Hence, the charge.”*

The time and date of the incident is the same which may indicate that both were travelling in the same bus. In fact, in the case of Sachin Kanade, he was carrying a mobile phone. If the charges are identical, there may be justification in the contention of the Petitioner for identical treatment should also be given to him.

7. We however do not conclude this issue as there are other facts. The claim of the parity was not made before the Authority as this order was passed subsequently. The Revisional Authority would be therefore in a position to consider the same. We are inclined to set aside the order passed by the Revisional Authority and restore the revision of the Petitioner before the Revisional Authority for consideration of the above aspect. We note that it is only this contention of parity that will be considered by the Revisional Authority as it is the only argument advanced before us by the Petitioner.

8. In the result, the order passed by the Revisional Authority dated 14 May 2010 is quashed and set aside. The Revision of the Petitioner stands restored to the file of the Revisional Authority i.e. Respondent No.2 – Inspector General, Western Sector, who will decide the same in the light of what we have observed above.

9 The Writ Petition is disposed of in above terms.

**M.S. KARNIK, J.**

**NITIN JAMDAR, J.**

**Jyoti P.** Digitally signed  
by Jyoti P. Pawar  
**Pawar** Date: 2020.02.01  
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