

Form J(2) **IN THE HIGH COURT AT CALCUTTA**
Constitutional Writ Jurisdiction
Appellate Side

Present :
The Hon'ble Justice Bibek Chaudhuri

WPA/21519/2004

Satya Pal Singh
-Versus-
Union of India & Ors.

For the Petitioner	: Mr. K.B.S. Mahapatra, Mrs. Rama Halder.
For the Union of India	: Mr. Swapan Kumar Nandy.
Heard On	: 02.08.2021, 19.08.2021, 15.09.2021.
Judgement on	: 15.09.2021.

Bibek Chaudhuri, J.-

The writ petitioner, a Head Constable of Central Industrial Security Force was posted at Dockyard of Calcutta Port on 26th June, 2003. On the allegation that he took illegal gratification from the track drivers that were entering inside the dock, a departmental enquiry was held and the Inspector of C.I.S.F. found two numbers of Indian currency notes of Rs. 20/- denomination each wrapped in a paper lying near a bush on the opposite side of the wall where the writ petitioner was in duty.

It was presumed that the writ petitioner threw away the said currency notes wrapping in a piece of newspaper in order to save himself.

On the basis of such complaint departmental enquiry was started. Charge was framed against the petitioner. After thorough departmental enquiry he was imposed penalty of reduction of pay of two stage from Rs. 4,400/- to Rs.4,200/- in the time scale of pay of ACP of Rs.4000-100-6000/- for a period of two years with effect from the date of issue of the order.

At the time of hearing it is contended by the Learned Advocate for the respondents that the petitioner has not exhausted all departmental remedy by filing a revision against the departmental order of imposing penalty under the provision of Rule 54 of the Central Industrial Security Force Rules, 2001 which came into effect from 9th June, 2003.

It is submitted by the Learned Advocate for the petitioner referring to an unreported decision passed in W. P. No. 9595 (W) of 2006 on 2nd May, 2006 that the provision for revision cannot be construed as adequate alternative remedy available to the petitioner under the provisions of the relevant statute.

In reply thereto, the Learned Advocate for the respondents relies upon an unreported decision passed in W. P. No. 1718 (W) of 2013 on 30th January, 2019 where a Coordinate Bench held that the provision of revision under Rule 54 of Central Industrial Security Force Rules is an alternative remedy under Sub-Section 2(a) and filing of the writ petition is a clear bar under Section 9

of the Central Industrial Security Force Act, 1968 without exhausting the departmental remedy by the petitioner.

The Learned Advocate has also cited a decision of the Hon'ble Supreme Court in the case of ***IVT (IB Valley Transport), VLT (Vijay Laxmi Pvt. Ltd.) CC (Coal Carriers) (JV) –Vs.- Chairman-cum-Managing Director, Mahanadi Coalfields Ltd. & Ors.*** reported in ***2015 (4) SLR 485 (SC)*** to show that in a case of a dispute arising on the methodology for calculation of wage compensation, the appellant was supposed to lodge his grievance to the Engineer-in-Charge for resolving the dispute under Clause 12 of the Minimum Wages and Mines and Establishment falling under the Government of India. The writ petitioner submitted his grievance to the Staff Officer (Mining). Therefore, it was held by the Hon'ble Supreme Court that the appellant failed to avail the departmental remedy provided under Clause 12 before filing the relief and, therefore, the writ petition was not entertained.

In view of the above discussion, I have no other alternative but to hold that at the present stage without availing the provision of revision by the writ petitioner in accordance with Rule 54 of Central Industrial Security Force Rules, the instant writ petition is not maintainable.

Therefore, the instant writ petition is **disposed of** directing the petitioner to file revision before the competent authority as per the aforesaid Rules within two months from the date of this order. The period between the date of initiation of the instant writ petition and the date of disposal will be excluded in counting

the period of limitation, if any, for the purpose of filing the instant revision. Even thereafter if the respondents authority find that the revision petition which may be filed by the petitioner is otherwise barred by limitation, it is open for the respondents authority to condone the delay on sufficient grounds to be pleaded by the writ petitioner.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Bibek Chaudhuri, J.)