

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4067 OF 2021

Bikram alias Vikram Singh Chahar

...Petitioner

Versus

Director General,
Railway Protection Force,
Raisina Road, Rail Bhavan,
Rail Mantralaya & Ors.

...Respondents

...

Mr. Vinod P. Sangvikar for the Petitioner.

Ms. Smita Thakur i/b Mr. Suresh Kumar for Respondent.

...

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATE : 14 MARCH 2023.

P.C.:

1 The Petitioner was appointed by the Respondents and at the relevant time was working as Head Constable. Disciplinary Enquiry was initiated against the Petitioner. The Petitioner was held guilty. The punishment of removal from service is passed against the Petitioner. Appeal and Revision filed against the same are dismissed.

2 Mr. Sangvikar, the learned Advocate for the Petitioner submits that infact the Petitioner is in service for 28 years. He had applied for five days leave. However, because of the illness of other members of the family i.e. mother, father and himself, the Petitioner could not join the duties for five

months. The Petitioner thereafter reported for the duty. After reporting for the duty the Petitioner filed a complaint about corruption of Respondent No.4-senior and out of revengeful attitude, the disciplinary enquiry was initiated against him. The learned Counsel submits that circumstances prevailing are not considered properly. According to the learned Counsel the proper opportunity was also not granted to the Petitioner. The learned Counsel submits that it was because of the circumstances beyond the control of the Petitioner, he could not attend the service during the period from 12 July 2017 to 3 February 2018. The medical certificates of father of Petitioner were also placed on record but the same are also not considered in correct prospective.

3 We have also heard the learned Counsel for the Respondents.

4 The scope of judicial review under Article 226 of the Constitution of India in respect of matters arising out of the departmental proceedings is in a narrow compass. This Court would be more concerned with the adherence to the decision making process.

5 It is observed in the order that five notices were given to the Petitioner but the Petitioner did not report to the duty. The Petitioner had remained unauthorisedly absent from 12 July 2017 to 03 February 2018. His leave application was only for a period of five days from 12 July 2017 to 16 July

2017. Prosecution witnesses were examined. It is not the case that opportunity was not given during disciplinary proceedings.

6 It has been observed that the Petitioner has produced the medical certificate dated 3 February 2018 issued at Agra. On the said medical certificate the Petitioner's signature also appears and on the same day, the Petitioner also reported at Solapur thereby creating suspicion about the said medical certificate.

7 We would certainly have considered issue of proportionality of the punishment of removal from the service, had it been the isolated case of absenteeism. It appears from the order that previously also on 14 occasions, disciplinary action for his unauthorized absence were initiated and he has been penalized thereunder. The Petitioner has been penalized 4 times in various departmental enquiries for his previous acts of commission and omission.

8 Considering the cumulative facts, it is not possible to accept the contention of the learned Advocate for the Petitioner. The Writ Petition as such is dismissed. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)