

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

WRIT PETITION NO.10027 OF 2023

Devidas Sanap

... Petitioner

V/s.

Union of India & Ors.

... Respondents

Dr. Uday P. Warunjikar a/w. Mr. Sumit Kate for the Petitioner.

Mr. Ashok Shetty a/w. Mr. Ashok Varma for Respondent Nos. 1 to 5-
UOI.

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**CORAM : A. S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ.**

DATE : 21st DECEMBER 2023

P. C.:-

1. Heard the learned Counsel for the parties.
2. The challenge raised in the present Writ Petition is to the issuance of chargesheet dated 10.07.2023 by the 4th Respondent and proceeding to hold disciplinary inquiry against the Petitioner under Rule 153 of the Railway Protection Force Rules, 1987. The principal ground of challenge raised by the Petitioner is that at an earlier point of time he was subjected to disciplinary proceedings which ended in an order of minor punishment of censure being passed against him on 21.04.2023. Despite aforesaid, it is submitted that the very same

incidents on the basis of which the said proceedings were initiated have again been taken as the basis for initiation of the present proceedings under Rule 153 of the Railway Protection Force Rules, 1987 for imposing major punishment. It is urged that the Petitioner cannot be subjected to double jeopardy.

3. On the other hand the learned Counsel for the Respondents has sought to demonstrate the distinctness of the basis for imposing the minor punishment of censure on 21.04.2023 while the incidents referred to in the impugned chargesheet were different. Placing reliance on the decisions in (a) *Chief of the Army Staff & Ors. Vs. Major Dharam Pal Kukrety*, (1985) AIR 703; (b) *Union of India & Anr. Vs. Kunisetty Satyanarayana*, (2006) SCC Online SC 1254; (c) *The Executive Engineer, Bihar State Housing Board Vs. Ramesh Kumar Singh & Ors.* (1996 AIR 691); (d) *Neeraj Singh S/o Dr. Tribhuwan Singh Vs. Union of India & Ors. in Civil Writ Petition No.9307 of 2019* it is submitted that there is no question of the Petitioner being subjected to double jeopardy in view of the distinct nature of charges levelled.

4. We have heard learned Counsel for the parties and we have perused the documents on record. We find on a perusal of the proceedings leading to imposition of minor punishment of censure on 21.04.2023 that the basis for initiation of those proceedings was the breach of Rule 18 of the Railway Services (Conduct) Rules 1966 (for short, “the Rules of 1966”). It was stated that while purchasing immovable property it was necessary for an employee of the Railway Administration to obtain necessary permission. Since, the same was not done, the punishment of censure was imposed on the Petitioner. This punishment had been accepted by the Petitioner.

5. Coming to the subject chargesheet that has been issued on 10.07.2023 it can be seen that the statement of imputation refers to breach of Rule 13 of the Rules of 1966 read with Rule 3 (1)(i) thereof. It is stated that under Rule 13 it was necessary to indicate the source of funds on the basis of which movable/immovable property had been purchased. On the premise that this has not been done, the Petitioner has been issued the chargesheet. At this stage it is not necessary for us to go into the legality of the imputation of charges. Suffice it to observe

that the basis for imposing the minor punishment of censure is distinct from the basis for initiation of the present departmental proceedings. For this reason, the aspect of the Petitioner being subjected to double jeopardy is not attracted.

6. The learned Counsel for the Respondents is justified in submitting that challenge to the issuance of chargesheet at this stage ought not to be entertained. Since the disciplinary authority had the jurisdiction to initiate departmental proceedings there was no reason to prevent the Respondents from conducting the inquiry. According to him it would be open for the Petitioner to raise all permissible defences and prove his innocence. As held by the Hon'ble Supreme Court in ***Neeraj Singh (supra)*** at this stage there is no infringement of any legal right since only a chargesheet had been issued to the Petitioner.

7. Hence, for the aforesaid reasons we are not inclined to interfere in exercise of writ jurisdiction. It is clarified that the Petitioner is free to raise all permissible defences while contesting the disciplinary proceedings. All points on merits are kept open for being raised in the disciplinary proceedings.

8. The Writ Petition stands dismissed. However, in case any adverse order is passed against the Petitioner in the disciplinary proceedings, the same shall not be acted upon for a period of 15 days from its communication.

(FIRDOSH P. POONIWALLA, J.)

(A. S. CHANDURKAR, J.)