

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

WRIT PETITION NO. 9625 OF 2021

P.S. Shivlal

.....Petitioner

V/s.

The Senior Commandant CISF
and Ors.

....Respondents

Mr. Pankaj Vijayan a/w. Mr. P.N. Lakshmi Sagar i/by. Intralegal,
for the Petitioner.

Ms. Shehnaz V. Bharucha a/w. Mr. Ashutosh Gole i/by. Mr. A.A.
Ansari, Advocate for the Respondents.

**CORAM : NITIN JAMDAR, ACJ &
SANDEEP V. MARNE, J.**

DATED : 15 June 2023.

P.C. :

By this petition, Petitioner challenges order dated 20 May 2019 passed by the Disciplinary Authority imposing the penalty of reduction of pay by one stage for one year with cumulative effect. He also challenges order dated 23 October 2019 passed by the Appellate Authority rejecting the Appeal, and Order dated 24 July 2020 passed by the Revisional Authority rejecting the revision petition.

2. The first two charges related to Petitioner's conduct of not stopping two vehicles on two occasions for checking when deployed at the entry gate of RCFL Plant. In the third charge it was alleged that Petitioner was visited with four punishments in the past and that he failed to show any improvement. The Departmental Enquiry was held in which Petitioner participated and cross-examined all the prosecution witnesses. The Enquiry Officer submitted his Report holding that all the three articles of charge were proved. After supplying copy of the Enquiry Report to the Petitioner and giving an opportunity to him to represent against same, the Disciplinary Authority passed an order dated 22 February 2019 holding the Petitioner guilty of misconduct alleged and imposed penalty of reduction of pay by one stage from Rs.35,300/- to Rs.34,300/- for a period of one year with cumulative effect. Petitioner's Appeal and Revision have been rejected by orders dated 23 October 2019 and 27 April 2020.

3. The learned Counsel for the Petitioner would submit that the findings recorded in the inquiry are perverse. That the charge leveled against the Petitioner did not amount to any misconduct as the allegation was in respect of 'unfamiliar' and not 'unauthorised' vehicles. He would submit that the Enquiry Officer violated the provisions of Rule 36(16) of the Central Industrial Security Force Rules, 2001 by examining three additional prosecution witnesses (C-1 to C-3) after conclusion of entire enquiry. However he fairly concedes to the position that this point

was neither raised in his Appeal/Revision nor the same is pleaded in the present petition. He would however submit that since this is a law point, the same can be raised at any stage.

4. In disciplinary proceedings, the scope of judicial review by Courts is in a narrow compass. This Court cannot sit in appeal over the findings recorded in the disciplinary proceedings and substitute the same with its own opinion. This Court would be more concerned with the procedure followed while conducting the enquiry. It is only in cases where the findings recorded in disciplinary enquiry are perverse or is based on no evidence at all, that this Court can interfere with the same.

5. In the present case, no case of perversity is made out by the Petitioner. The findings recorded in the disciplinary proceedings are based on evidence on record. The acts of letting the vehicles pan through the gates is not disputed by Petitioner. Whether those vehicles posed a security threat or not is something which only Disciplinary Authority can determine. This Court would not be in a position to take a different view only on the ground that the evidence on record can lead to some other conclusion. The principles of natural justice were fully adhered to while conducting the disciplinary proceedings against Petitioner. The penalty imposed on the Petitioner also commensurate with the misconduct alleged. It is not that Petitioner is removed/compulsory retired from service. An insignificant penalty of reduction of pay by

one stage for one year with cumulative effect is imposed for the misconduct which is proved against the Petitioner. Thus there is no case of any disproportionality made out by the Petitioner.

6. Coming to the point of Rule 36(16) being violated, by examination of additional witnesses after conclusion of enquiry, we find that Petitioner did not object to examination of such additional witnesses. Rather he cross-examined them. He did not raise this issue before the Disciplinary Authority nor in his Appeal or Revision. As fairly conceded by the learned Counsel for the Petitioner, this point has not even been pleaded in the present petition. Therefore the findings recorded in the enquiry proceedings cannot be adjudged as illegal on the basis of a contention which was never raised before the Disciplinary Authority. Therefore the contention of violation of Rule 36(16) sought to be raised by the Petitioner during the course of oral submissions deserves summary rejection.

7. Resultantly, we do not find any ground for interference with the findings recorded in the disciplinary proceedings. The Writ Petition being devoid of merits is rejected with no orders as to costs.

SANDEEP V. MARNE, J.

ACTING CHIEF JUSTICE