

10.07.2024
Sl. No.81
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15988 of 2024

Bidyut Kumar Pati
Vs.
The Union of India & Ors.

Mr. Ashok Kumar Jena,
Mr. Jatindra Barik

....for the petitioner.

Mr. Imran Siddiqui,
Mr. B. K. Singh

.....for Union of India.

The petitioner joined the Central Industrial Security Force (in short, CISF) as a Constable/General Duty on 2nd September, 2006. The petitioner while serving at the CISF Unit SMP, Kolkata on 26th May, 2022 was subjected to an enquiry proceedings. The said enquiry proceedings came to an end with the passing of the final order dated 14th February, 2023. The relevant portion of the said order is set out hereunder:

“04. Therefore, I the undersigned have taken a lenient view considering the length of service of the charge official and unblemished service record and in exercise of the power conferred on me vide Rule-32 read with scheduled-I and Rule-34 (vi) of CISF Rules, 2001 is hereby awarded the penalty of “**Censure**” to CISF No.062306920, HC/GD Bidyut Kumar Pati.

05. CISF No. 062306920, HC/GD Bidyut Kumar Pati of CISF Unit, DSP Durgapur may prefer his appeal against this order before the Commandant, CISF Unit DSP Durgapur being appellate authority, if he desires, within 30 days from the date of receipt of this order.”

The said final order was affirmed by the higher official. After passing of the final order and in absence of an appeal being preferred against the same, the said order could not have been reopened by way of a *suo motu* review that too by an officer junior in rank to the officer who had passed the order dated 14th February, 2023 and the officer who affirmed the same in review.

Rule 54 of CISF Rules, 2001 clearly provides that revision can be made by any authority superior to the authority making the order. Imposition or enhancing any penalty even by a superior authority in terms of the said Rule 54 is not permissible where no penalty has been imposed. Moreover, without giving a reasonable opportunity of making a representation against the penalty proposed in revision is also not permissible under the said rules.

In the instant case, *suo motu* review is sought to be made by an authority not superior to the authority that had passed the order or affirmed the same. There was no penalty imposed. It also appears that

no reasonable opportunity has been provided to the petitioner. The entire proceedings, therefore, is vitiated and cannot be cured being not in conformity with Rule 54 of CISF Rules, 2001.

In the aforesaid facts and circumstances, the Memo of Charge No.V-15014/CISF/DSP/Major-01/Disc./BKP/2024 212 dated 22nd February, 2024, being Annexure – “P-8” to the writ petition at page 57 and the final order dated 24th June, 2024 passed in terms of the charges contained in the said memorandum are set aside and/or quashed.

The respondents and each one of them are restrained from taking any step or further step or giving effect to the impugned memo and the final order dated 24th June, 2024.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly allowed.

Since the entire proceedings is found to be vitiated on the face of record, there is no necessity for filing an affidavit and as such, the writ petition is taken up and disposed of without the affidavit.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)

