

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 24017 of 2019

**Arjun Ghosh
Vs.
Union of India & Ors.**

For the petitioner : Sk. Mujibar Rahman
Mr. Shayak Mitra

For the Union of India : Mrs. Susmita Saha Dutta

Heard on : 06.02.2024

Judgement on : 06.02.2024

PARTHA SARATHI SEN, J.:

1. Both the writ petitioner and the respondents/Union of India and its officials are represented by their respective learned Advocates.
2. The subject matter of challenge in this writ petition is the finding of the enquiry officer vide its report dated 09.07.2016, the finding of the disciplinary authority regarding gravity of offence and quantum of punishment and the finding of the appellate authority dated 27.03.2019 as against the writ

petitioner whereby and whereunder the punishment of the petitioner from dismissal from service with effect from 01.11.2016 as awarded by the disciplinary authority has been affirmed by the said appellate authority and the revisional authority.

3. By filing the instant writ petition the writ petitioner has prayed for setting aside of the said findings with a further prayer for his reinstatement in the service of CRPF.
4. In support of the instant writ petition Mr. Mitra, learned Advocate for the writ petitioner at the very outset draws attention of this Court to the writ petition as filed before this Court. It is contended that after joining CRPF and after working there for a continuous period of 16 years the present petitioner had to face charge(s) of misconduct on the ground that he has provided a fake caste certificate to his employer prior to joining his service. Drawing attention to Rule 14 of the CRPF Rules, 1955, hereinafter referred to as the 'said rules' it is contended by Mr. Mitra that under the said rules the verification of the incumbent who has been enrolled in CRPF regarding his character, antecedents, connections and ages shall have to be verified at the earliest, however, there occurred inordinate delay of 16 years in verification of such caste

certificate and ultimately the present writ petitioner was dismissed from service on and from 01.11.2016.

5. It is contended further that during the pendency of the disciplinary proceeding the writ petitioner has produced another caste certificate issued by the self-same authority but the same has not been considered by the authority for the reason best known to them though the new caste certificate clearly indicates that the writ petitioner falls under the category in which he was employed. It is contended that for not considering the fresh caste certificate as supplied to the authority during the pendency of the disciplinary proceeding, the principle of natural justice has been violated for which the interference of the writ court is warranted. It is further argued by Mr. Mitra that since it was never the case of the authority that the present petitioner does not belong to a particular cast, the punishment as awarded by the authority is also excessive and exaggerated for which interference of the writ court is very much necessary.

6. Mr. Mitra, learned Advocate for the writ petitioner places his reliance upon a reported decision of a co-ordinate Bench, viz., *Subrata Mondal vs. The Union of India & Ors.* as passed in WP

No. 24693 (W) of 2012 disposed of on 16.12.2016 and reported in *2016 SCC Online Cal 7495*.

7. It is contended by Mr. Mitra in the said identical case, the Hon'ble co-ordinate Bench though not interfered with the finding of the authority but interfered with the proportionality of punishment keeping in mind that the writ petitioner of the said case belongs to a particular community in which he was admitted in CRPF. Mr. Mitra, thus, submits before this Court that an appropriate order may be passed for reinstatement of the present writ petitioner by setting aside the findings of the authorities.

8. *Per contra* Mrs. Saha Dutta, learned Advocate for the respondents/Union of India at the very outset draws attention of this Court to pages 14A, 15 and 18 of the affidavit-of-opposition as filed by the respondents. It contended by Mrs. Saha Dutta that in course of verification it reveals that the caste certificate bearing No. OBC/984/98 dated 14.07.1998 as submitted by the writ petitioner is subsequently found to be fake in course of verification and, therefore, the authority was very much justified to initiate the disciplinary proceeding against the present writ petitioner since production of a false/fake certificate for securing appointment tantamounts to

gross misconduct for which an enquiry has been prescribed in Rule 14 of CCS (CCA) Rules 1965. It is further submitted on behalf of the respondents/Union of India that in course of enquiry it is found that the charges as levelled against the present writ petitioner have got sufficient basis and, therefore, this Court being a writ court ought to be very slow in interfering with the factual findings of the authorities in the disciplinary proceeding in absence of gross violation of the principle of natural justice as gross violation of statutory regulations.

9. This Court has meticulously perused the entire materials as placed before this Court. This Court has also given its anxious consideration over the submissions of the learned Advocate for the contending parties. In a catena of judgments the Hon'ble Supreme Court as well as the various High Courts have considered the scope of a writ court under Article 226 of the Constitution of India. In the reported decision of *Union of India vs. P. Gunasekaran* reported in (2015) 2 SCC 610 the Hon'ble Supreme Court expressed the following view:

“The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation

of the evidence. The High Court can only see whether:

- a) The enquiry is held by a competent authority;*
- b) The enquiry is held according to the procedure prescribed in that behalf;*
- c) There is violation of the principles of natural justice in conducting the proceedings;*
- d) The authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- e) The authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f) The conclusion, on the very face of its, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- g) The disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- h) The disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*

i) The finding of fact is based on no evidence.”

10. The same view was taken in the reported decision was of High Court of judicature of ***Bombay – Vs. – Sashi Kant S Patil & Anr.*** reported in ***(2000) 1 SCC 416.***
11. Keeping in mind the proposition of law as discussed (Supra) and upon due consideration of the factual aspects as involved in this case it appears to this Court that there is a little scope on the part of the this writ court to reappraise the evidence as assessed by the enquiry officer and as apprised by the disciplinary authority and the appellate authority.
12. So far as the alleged violation of principle of natural justice is concerned, it appears to this Court that during the pendency of the enquiry proceeding, the petitioner has submitted a fresh Caste Certificate No. WB1004OBC201606765 dated 08.06.2016 claimed to have been issued by the SDO, Sadar, Nadia, West Bengal. Since in the articles of charges as framed against the present petitioner, there is allegation of misconduct for submission of a fake certificate, this Court finds no scope on the part of the enquiry officer to consider that the said new certificate dated 08.06.2016 is genuine or not as the same was not within the ambit of enquiry of the enquiry officer.

13. However, this Court is in agreement with the finding of the Hon'ble co-ordinate Bench as passed in the case of ***Subrata Mondal (Supra)*** that like the previous case, here also the CRPF authority suddenly woke up from their eternal slumber after 16 years of work by the petitioner without having verification and, thereafter started the disciplinary proceeding on the basis of the report obtained from SDO, Nadia vide its letter dated 22.01.2016.

14. In considered view of this Court, though a writ court has also a narrow scope to consider the proportionality of punishment but the disciplinary authority while imposing punishment upon the writ petitioner ought to have considered such delay and ought to have verified the genuineness of the subsequent caste certificate dated 08.06.2016 which *prima facie* shows that the present petitioner belongs to a particular category in which he worked for 16 years.

15. In view of the discussion made hereinabove, this Court in exercise of its plenary power directs the respondent authorities, more specifically, the respondent no. 7 to verify the genuineness of the subsequent caste certificate dated 08.06.2016 and in the event, the same is found genuine, the disciplinary authority is directed to impose minor punishment

under Section 11 of the CRPF Act, 1949 in accordance with law.

16. It is further directed that the process of verification as indicated hereinabove shall have to be completed within two months from the date of communication of this order and in the event, such certificate is found to be genuine, the process of imposing minor punishment shall have to be completed within a period of further three months from the day of passing of this order.

17. It is also made clear that in the event, the subsequent caste certificate dated 08.06.2016 is found to be fake or false, the respondent authorities have no obligation to alter the punishment as imposed upon the petitioner.

18. With the aforementioned observations, the instant writ petition being **WPA 24017 of 2019** is disposed of.

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

(PARTHA SARATHI SEN, J.)