

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22890 of 2012

=====

Nagendra Ojha S/O Ram Ayodhya Ojha R/O Vill-Katsa, P.S.-Baniapur, Distt-
Saran At Chapra

... .. Petitioner/s

Versus

1. The Union Of India, through Addl. Secretary, Home Department, New Delhi.
2. The Addl. Secretary, Home , Govt. Of India, New Delhi
3. The Inspector General, Bihar , Sector , C.R.P.F., Patna Bihar
4. The Deputy Inspector General , C.R.P.F. Range, Head Quarter , Muzaffarpur Bihar
5. The Commissioner-95, Batalian C.R.P.F. Paharia Mandi, Pandeypur, Sarnath Road, Varanasi U.P.
6. The Assistant Commandant-Cum-Enquiry Officer, C.R.P.F.-95 Batalian C.R.P.F., Paharia Mandi, Varanasi

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Hari Shankar Roy, Adv.
For the U.O.I.	:	Mr. Awadhesh Kr. Pandey, Sr. CGC
		Mr. Anwar Karim, CGC

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 24-03-2025 Heard Learned Counsel for the petitioner and

Learned Counsel for the Union of India.

2. Learned Counsel for the petitioner submits that though *vide* order dated 02.07.2024, a direction was given to file the rejoinder to the counter affidavit, but he submits that there is no need for the same, and he is ready to argue without filing the rejoinder to the counter affidavit.



3. The present writ petition has been filed to quash the order dated 14.11.2011, 08.12.2012 and 18.09.2012, passed by the Disciplinary Authority, i.e., Commandant, Appellate Authority i.e., Deputy Inspector General and Revisional Authority i.e., Inspector General, Bihar Sector, C.R.P.F., Patna, whereby and whereunder a punishment order has been passed in the departmental proceeding against the petitioner, by which the petitioner was compulsory retired with effect from 14.11.2011.

4. Learned Counsel for the petitioner submits that the petitioner is innocent and has been unnecessarily punished in the departmental proceeding, is in gross violation of law. Counsel submits that on 08.07.2011, when the petitioner was working as a G.D. Constable, then under Section 11 of the C.R.P.F. Act, 1949, he was suspended from the force on the allegations of misconduct, indiscipline, failure to perform his duties, inordinate behavior with superiors and making false allegation against them. Counsel further submits that a disciplinary proceeding has been initiated, a charge memo has been served, and the Enquiry Officer conducted disciplinary proceeding and found all charges proved. The Disciplinary Authority thereafter passed the final order imposing the



punishment of compulsory retirement, as the Enquiry Officer found all charges proved against the petitioner. Counsel further submits that the said order has been challenged before the Appellate Authority but the Appellate Authority *vide* order dated 08.02.2012 has affirmed the order passed by the Disciplinary Authority and dismissed the appeal. Subsequently, the petitioner had challenged the said order in the Revision, but it had also been dismissed.

5. Counsel submits that there is a gross violation of Rule 27(4) of the C.R.P.F. Rules, 1955, in which it has been specifically stated that if the accused has pleaded guilty then the proceeding shall be closed for orders. Counsel further submits that in the present case, the Disciplinary Authority at paragraph 3 of its order has specifically discussed that initial enquiry was conducted, in which he had denied the charges and thereafter within 48 hours commencement of enquiry has been made, and the accused has been asked to enter a plea of “Guilty” or “Not Guilty” in which he has accepted all the charges. Counsel further submits that once the provisions of Rule 27(4) of of the C.R.P.F. Rules, 1955, is present then in that case the Enquiry Authority has to proceed to close the proceedings for orders. But the evidence continued to be



taken, which is in gross violation of the rule. Counsel further submits that since the proceeding has been passed in gross violation of rule 27(4) of the of the C.R.P.F., Rules, 1955, therefore, the enquiry order passed by the Enquiry Authority itself is bad in law as well as the Disciplinary Authority is also accepted the perverse finding of the Enquiry Authority and the punishment order is in gross violation of Rule 27(4) of the C.R.P.F., Rule 1955.

6. Counsel also submits that the petitioner has raised all the points before the Appellate Authority but the Appellate Authority has not considered those points and dismissed the appeal. Counsel further submits that thereafter, he has challenged the same in the Revision also but the Revision has also been rejected. Thereafter, the petitioner has moved before this Hon'ble Court raising all those points.

7. Learned Counsel for the Union of India, on the other hand, submits that the petitioner is admittedly an employee of the C.R.P.F., and after framing of charge, the proceeding was conducted completely in accordance with Rule 27 of the C.R.P.F. Rules, 1955. Counsel submits that the substance of accusation has been reduced in the form of written charge in a precise statement. It has been read out to



the accused and copy of the same has been given to him, prior to 48 hours from the initiation of the commencement of enquiry. At the time of commencement, the petitioner has been asked to plead “Guilty” or “Not Guilty”. Counsel submits that from the order of the Disciplinary Authority, it becomes crystal clear that the petitioner has pleaded guilty but following the principles of natural justice full-fledged enquiry has been provided to him. He was well intimated about the evidences, which was taken place in his presence. Despite the opportunity to cross-examine the witnesses, the petitioner did not exercise this right. Counsel further submits that the petitioner has neither requested to cross-examine the witnesses nor has he filed any application in spite thereof he has put his signature on the evidences, meaning thereby evidences of the witnesses took place with his consent and in his presence. Thereafter, when final order was passed, after end of the enquiry, then the petitioner had taken the plea first time before the appellate forum that opportunity had not been granted to him for cross-examination. Counsel further submits that this aspect has been well discussed by the appellate authority and separate finding on each of the points raised by the Appellate Authority has been discussed, and thereafter the



appeal has been dismissed. Similarly, the Revision was dismissed after considering and addressing the points raised by the petitioner in a well-reasoned order.

8. Counsel submits that it is a case in which there is concurrent finding of facts against the petitioner by the Disciplinary Authority, Appellate Authority and Revisional Authority. Counsel further submits that the petitioner has very limited scope to place before this Court and take the points on law only.

9. Counsel submits that the petitioner has taken the plea that there is a gross violation of Rule 27(4) of the of the C.R.P.F. Rules, 1955. Counsel submits that the said rule on which the petitioner is relying is very much clear that if the accused has pleaded guilty then the proceeding shall not be closed for orders rather the content of law is that if the accused has pleaded guilty and does not challenge the evidence on record, then only proceeding shall be closed for orders. Hence, the said Rule in the present case shall not apply.

10. After hearing the parties, and for the purpose of deciding this case, it is necessary to re-write the provisions relating to the procedure for conducting a departmental



enquiry which has been categorically mentioned in Rule 27(2), Explanation (c) of Chapter VI of the Central Reserve Police Force (CRPF), Rules, 1955, which are as follows:-

“(c) The procedure for conducting a departmental enquiry shall be as follows:-

(1) The substance of the accusation shall be reduced to the form of a written charge, which should be as precise as possible. The charge shall be read out to the accused and a copy of it given to him at least 48 hrs. before the commencement of the enquiry.

(2) At the commencement of the enquiry the accused shall be asked to enter a plea of "Guilty" or "Not Guilty" after which evidence necessary to establish the charge shall be let in. The evidence shall be material to the charge and may either be oral or documentary, if oral;

(i) it shall be direct;

(ii) it shall be recorded by the Officer conducting the enquiry himself in the presence of the accused;

(iii) the accused shall be allowed to cross examine the witnesses.



(3) When documents are relied upon in support of the charge, they shall be put in evidence as exhibits and the accused shall, before he is called upon to make his defence, be allowed to inspect such exhibits.

(4) The accused shall then be examined and his statement recorded by the officer conducting the enquiry. If the accused has pleaded guilty and does not challenge the evidence on record, the proceedings shall be closed for orders. If he pleads "Not guilty", he shall be required to file a written statement, and a list of such witnesses as he may wish to cite in his defence within such period, which shall in any case be not less than a fortnight, as the officer conducting enquiry may deem reasonable in the circumstances of the case. If he declines to file a written statement, he shall again be examined by the officer conducting the enquiry on the expiry of the period allowed.

(5) If the accused refuses to cite any witnesses or to produce any evidence in his defence, the proceedings shall be closed for orders. If he produces any evidence the officer conducting the enquiry shall proceed to record the evidence. If the



officer conducting the enquiry considers that the evidence of any witness or any document which the accused wants to produce in his defence is not material to the issues involved in the case, he may refuse to call such witness or to allow such document to be produced in evidence, but in all such cases he must briefly record his reasons for considering the evidence inadmissible. When all relevant evidence has been brought on record, the proceedings shall be closed for orders.

(6) If the Commandant has himself held the enquiry, he shall record his findings and pass orders where he has power to do so. If the enquiry has been held by any officer other than the Commandant, the officer conducting the enquiry shall forward his report together with the proceedings, to the Commandant, who shall record his findings and pass orders, where he has power to do so.”

11. From bare perusal of the said law, it is crystal clear that Rule 27(2), Explanation (c) of Chapter VI of the Central Reserve Police Force (CRPF), Rules, 1955 provides the step wise procedure for conducting a departmental enquiry in which steps are as follows:-



(1) The substance of the accusation shall be reduced to the form of a written charge, which should be as precise as possible. The charge shall be read out to the accused and a copy of the same shall be given at least 48 hours before the commencement of the enquiry.

(2) At the commencement of the enquiry the accused shall be asked to enter a plea of “Guilty” or “Not Guilty” after which evidence necessary to establish the charge shall be let in. The evidence shall be material to the charge and may either be oral or documentary, if oral,

(i) it shall be direct;

(ii) it shall be recorded by the Officer conducting the enquiry himself in the presence of the accused;

(iii) the accused shall be allowed to cross-examine the witnesses.

(3) When documents are relied upon in support of the charge, they shall be put in evidence as exhibits and the accused shall, before he is called upon to make his defence, be allowed to inspect such exhibits.

12. The opportunity shall thereafter be granted to the accused to cross-examine after the examination of the



witnesses.

13. The specific provision has been made that if the accused has pleaded guilty and does not challenge the evidence on record, the proceeding shall be closed for orders.

14. Here in the present case, it is true that the Disciplinary Authority in its order, particularly at paragraph 3 indicates that the accused has pleaded guilty. However, it is also true that the Disciplinary Authority had recorded in the same paragraph that with a view to fulfill the principles of natural justice, the petitioner has been granted opportunity, and the Enquiry Officer has decided to prove those things with the help of witnesses. The said witnesses have been produced before the delinquent, and the examination- in- chief took place in his presence. The petitioner put his signature on the said documents, before the Enquiry Officer but did not opt to cross-examine the witnesses, meaning thereby that the accused has pleaded guilty but opted to challenge the evidence on record whereas closing of proceeding shall be made only if the accused has pleaded guilty and does not challenge the evidences on record.

15. It is due to this reason, this Court reached on the conclusion that the contention made by Counsel for the



petitioner that if the accused pleads guilty then proceeding has to be closed for orders is incorrect, granting opportunity to the petitioner for cross-examination, by way of taking evidence of the witnesses is not the violation of Chapter VI, Rule 27 (2) of Explanation (c) (4).

16. At this juncture, Counsel for the petitioner has relied on the judgment passed in the case of **Prithvi Pal Singh Vs. The Union of India & Ors.**, reported in **2014 SCC OnLine J&K 179**, dated 13.02.2014 and submits that if the accused has pleaded guilty then proceeding has to be closed for orders. Counsel further relied on the Judgment of the Hon'ble Supreme Court of India in **Channabasappa Basappa Happali Vs. The State of Mysore**, reported in **1971 (1) SCC 1**, where it has been held that since the appellant admitted all the relevant fact on which the decision could be given against him, therefore, it cannot be said that the enquiry was in breach of any principle of natural justice.

17. Upon perusal of the judgment passed in the case of **Prithvi Pal Singh** (Supra), paragraph No. 24 is very much relevant, which states as follows:-

“24. It needs to be noted that in his application, submitted on 24.03.2004



as also in his statement recorded by the inquiry officer on that day, petitioner had admitted his having left the station without due sanction of the leave as also having remained absent without leave after that. But at the same time he had also repeatedly stated the reasons that constrained him to leave the station without leave and remain absent without leave. Such a statement, therefore, could not have been taken as clear admission of guilt. It was rather an admission coupled with explanation. In face of such a statement of the petitioner, the Inquiry Officer, after recording the statement on 24.03.2005, was duty bound in terms of sub-rule (4) of Rule 27(c) to ask the petitioner to produce the witnesses and documents in support of his explanation. To be fair to the petitioner the Inquiry Officer would have done good by asking the petitioner to produce evidence in proof of his explanation and by assisting him in that regard. This he was duty bound in terms of sub-rule (4) of Rule 27(c) of the Rules after.”

18. It is not applicable in the present case. In the said paragraph, the Hon'ble Court held that the statement could not be taken as a clear-cut admission of guilt. Whereas



in the present case, the petitioner was granted further opportunity for examination and there is also lacking of guilt with explanation about the evidence and, thus, providing opportunity by Disciplinary Authority to proceed in departmental proceeding is completely in accordance with the law.

19. Here in the present case, the delinquent has participated in the enquiry. He has shown his presence during the examination- in- chief but not opted to cross-examine the witnesses. Therefore, this Court holds that there is no need for any interference with the orders passed against the petitioner.

20. Accordingly, the present writ petitions stands dismissed.

(Dr. Anshuman, J.)

Aman Kumar/-

U			
---	--	--	--

