

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8581 of 2012

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ARUN KUMAR At Present Resident Of S/O Yogendra Pandey, Village P.O. Nazirpur, P.S. Rahika, Distt- Madhubani, Bihar

... .. Petitioner/s

Versus

1. THE UNION OF INDIA
2. The Director General, Central Reserve Police Force, New Delhi
3. The Inspector General Of Police, Central Reserve Police Force, Patna , Bihar
4. The Deputy Insepctor General Of Police, Central Reserve Police Force, Jhapaha, Muzaffarpur Range, M
5. The Commandant, 160 Batallion, Central Reserve Police Force, Sector - 20, Chhanni Himmat, Jammu J a
6. The Assistant Commandant, 160 Batallion , Central Reserve Police Force, Sector - 20, Channi Himmar,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate Mr. Onkar Kumar, Advocate Mr. Prabhajot Singh, Advocate Ms. Rushali, Advocate
For the UoI	:	Mr. Dr. Kirshna Nandan Singh, ASG Mr. Alok Kumar, CGC Mr. Amarjeet, Advocate
Amicus Curiae	:	Mr. Kaustubh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 17-03-2025

Heard learned counsel for the petitioner, learned counsel for the Union of India and learned *Amicus Curiae*.

2. The present writ petition has been filed for the quashing of the order dated 20.07.2010, passed by respondent No. 5, namely, the Commandant of the 160th Battalion, Central Reserve Police Force, whereby the petitioner was compulsorily retired from his service as Hawaldar in the Central Reserve



Police Force, with effect from 20.07.2010. The petitioner has further prayed for the quashing of the appellate order dated 08.01.2011, passed by respondent No. 4, namely, the Deputy Inspector General of Police, Central Reserve Police Force, rejecting the appeal against the order dated 20.07.2010 and quashing of the order dated 15.04.2011, passed by respondent No. 3, namely, the Inspector General of Police, Central Reserve Police Force, and the order dated 20.09.2021, passed by respondent No. 2, namely, the Director General, Central Reserve Police Force, New Delhi.

3. Learned counsel for the petitioner submits that the petitioner was selected and appointed as Constable (General Duty) and was directed to report to Group Centre C.R.P.F., Mokamaghat, on 08.04.1991. Thereafter, the petitioner underwent training at Mokamaghat, and after being posted at various locations, he was finally posted under Group Centre C.R.P.F., Muzaffarpur in September 2002. He was then assigned to the 160th Battalion of C.R.P.F., Muzaffarpur Range. Subsequently, the petitioner was posted to Jammu and Kashmir along with his 160th Battalion and has been serving there ever since.

4. Learned counsel for the petitioner further submits



that the petitioner was promoted to the rank of Hawaldar (General Duty) through an office order dated 02.10.2009, and his seniority was determined from 21.08.2009, which is the date the letter from the Directorate was issued. While serving as Hawaldar, the petitioner had some differences with Sub-Inspector Ratan Singh. Meanwhile, the petitioner was selected as Mess Commander, but Sub-Inspector Ratan Singh preferred another candidate for the position. This led to a grudge between Ratan Singh and the petitioner.

5. Learned counsel for the petitioner further submits that on 26.03.2010, Sub-Inspector Ratan Singh filed a complaint against the petitioner, alleging misbehavior and assault. Based on this complaint, with false allegations, the petitioner was suspended by respondent No. 5 on the same day, i.e., 26.03.2010, and his headquarters was set at the headquarters of the 160th Battalion, C.R.P.F. An Assistant Commandant was appointed to conduct a preliminary investigation into the allegations. The officer submitted his report after the inquiry, but the report was never supplied to the petitioner. On 04.04.2010, the petitioner was served with a memo of charges, which included a list of witnesses and documents.

6. Learned counsel further submits that the memo of



charges included two allegations against the petitioner: (1) that on 26.03.2010, during duty hours, the petitioner had consumed liquor, and (2) that he had misbehaved with his senior officer, Sub-Inspector Ratan Singh. The Disciplinary Authority, through a letter dated 18.04.2010, appointed an Assistant Commandant as the Enquiry Officer for the departmental proceedings against the petitioner. The Enquiry Officer directed the petitioner to appear before him on 20.04.2010. The departmental proceedings thus commenced on 20.04.2010. The petitioner appeared before the Enquiry Officer on 20.04.2010 and denied the allegations against him.

7. Learned counsel further submits that a total of seven witnesses were examined during the inquiry. However, the petitioner was not provided any opportunity to defend himself properly, as no Presenting Officer was appointed during the departmental proceedings. The Enquiry Officer reached a conclusion in the absence of a Presenting Officer, which is a violation of service prudence. Furthermore, on 16.05.2010, the petitioner requested specific documents/papers, which were not provided to him until after the conclusion of the departmental proceedings. Since the requested documents were not provided before the proceedings concluded, the petitioner could not fully



defend himself, and the Enquiry Officer's conclusions were made in this context.

8. Learned counsel for the petitioner further submits that the petitioner submitted his show-cause notice, and based on its consideration, the final order was passed on 20.07.2010, imposing compulsory retirement from service. The petitioner appealed against this order on 04.08.2010, and sent a reminder to respondent No. 4 for the disposal of the appeal. When no order was passed, the petitioner approached this Court through CWJC No. 19644 of 2010, which was disposed of on 13.12.2010, with a direction to respondent No. 4 to dispose of the appeal of the petitioner.

9. Learned counsel for the petitioner further submits that, vide order dated 08.01.2011, respondent No. 4 rejected the petitioner's appeal and confirmed the punishment of compulsory retirement. The petitioner then filed a revision against this order before respondent No. 3, but his revision was rejected vide order dated 15.04.2011. Subsequently, the petitioner filed a representation against the Original Order, the Appellate Order, and the Revisional Order before respondent No. 2, but his representation was also rejected by respondent No. 2 on 20.09.2011. The petitioner has now moved before this Hon'ble



Court for quashing of the Original Order, the Appellate Order, and the Revisional Order.

10. Learned counsel for the petitioner further submits that a copy of the preliminary inquiry report has not been provided to the petitioner. According to Standing Order No. 20/2001, it is explicitly stated that the report of the preliminary inquiry cannot be used in the departmental inquiry without being furnished to the delinquent.

11. Learned counsel for the petitioner further submits that the case involves a gross violation of natural justice, as the requested documents were not provided to the petitioner prior to the conclusion of the departmental proceedings. This failure deprived the petitioner of the opportunity to defend himself adequately.

12. Learned counsel for the Union of India submits that the due procedure has been followed in conducting the departmental proceedings against the petitioner. He further submits that it is true that the preliminary inquiry was concluded to ascertain the truth of the allegations, but the report of preliminary inquiry has not been used in the departmental proceedings. He further submits that neither the charge memo, nor the order of punishment, nor the appeal order, nor the



revisional order mention that the departmental proceedings are based on the preliminary inquiry. Therefore, Standing Order No. 20/2001 is not relevant in the present case.

13. Learned counsel for the Union of India further submits that from the order passed by the disciplinary authority it is crystal clear that the principles of natural justice have been fully adhered to, and due opportunity has been granted to the petitioner and final order has been passed completely in accordance with law. During cross-examination, the petitioner was also given due opportunity to present his case. All proceedings were conducted in the presence of the petitioner and after granting him due opportunity. Hence, there is no need for any interference with the said orders. He further submits that disciplinary proceedings were initiated against the petitioner, a Hawaldar, who attacked his superior, and this has been proven by the evidence and materials on record. The findings of fact in the original proceedings, as well as the appeal and revision proceedings, are concurrent. Therefore, there is no need for interference with the orders under challenge.

14. Learned *Amicus Curiae* submits that the present proceedings were conducted in the presence of the petitioner, during which seven witnesses were examined. Though there



were some contradictions in the pleadings during cross-examination, these contradictions have been addressed. Therefore, there is no need for interference with the proceedings.

15. After hearing the parties, it transpires to this Court that the departmental proceedings were conducted in full compliance with the law. The issue raised by the petitioner's counsel regarding the applicability of Standing Order No. 20/2001, which states that the report of the preliminary inquiry cannot be used in the departmental inquiry without furnishing a copy to the delinquent, has been addressed. The charge memo does not mention the preliminary inquiry. Furthermore, it is evident from both the final order passed by the disciplinary authority and the findings of the inquiry officer that the findings of the preliminary inquiry were not used in the conduct of the disciplinary proceedings.

16. Hence, this Court is of the firm view that Standing Order No. 20/2001 does not apply in the present case because the preliminary inquiry is not part of the departmental proceedings. In this case, the principles of natural justice have been followed at every stage. The findings are based on the evidence of the doctor, as well as other witnesses, showing that



the petitioner was intoxicated and caused injury to his superior.
The injury was documented by the doctor, as indicated in the
medical report.

17. In light of these facts, this Court is not inclined to
interfere with the writ petition. Accordingly, it is dismissed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18/03/2025
Transmission Date	NA

