



2025:CGHC:15837-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 229 of 2025

Shailendra Kumar Mishra S/o Late Jamadar Mishra Aged About 41
Years Currently Working As Constable Railway Protection Force Secr/
Bilaspur District - Bilaspur (C.G.)

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... Appellant(s)

versus

1 - South East Central Railway Through Its Inspector General Cum
Chief Security Commissioner Railway Protection Force South Eastern
Central Railway District - Bilaspur (C.G.)

2 - Senior Divisional Security Commissioner Railway Protection Force
South Eastern Central Railway District - Bilaspur (C.G.)

3 - Assistant Security Commisssioner Railway Protection Force South
Eastern Central Railway District - Bilaspur (C.G.)

4 - Assistant Security Commissioner Railway Protection Force South
Eastern Central Railway District - Mirzapur Uttar Pradesh

... Respondent(s)

For Petitioner(s) : Mr. Dheerendra Pandey, Advocate

For Respondent(s) : Ms. Annapurna Tiwari, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Arvind Kumar Verma, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

04.04.2025

1. Heard Mr. Dheerendra Pandey, learned counsel appearing for the appellant. Also heard Ms. Annapurna Tiwari, learned counsel for respondents No. 1 to 4, on I.A. No.01/2025 is an application for condonation of delay of 15 days in filing the instant appeal.
2. For the reasons mentioned in the application I.A. No.01/2025 i.e. application for condonation of delay, the same is allowed and delay is condoned. With the consent of learned counsel for the parties, the appeal is heard finally.
3. The present intra Court appeal has been filed against the order dated 20.12.2024 passed by the learned Single Judge in W.P.(S) No. 3870 of 2023 (***Shailendra Kumar Mishra vs. South Eastern Central Railway and Others***), whereby the writ petition filed by the writ petitioner/appellant herein was dismissed by the learned Single Judge.
4. Briefs facts of the case are that the writ petitioner was initially appointed in the Railway Protection Force (RPF) at Mirzapur, Uttar Pradesh and at present, he is posted as a Constable at Bilaspur Division, Chhattisgarh. An FIR was registered against the writ petitioner and Chandan Kumar Jaiswal for the commission of an offence punishable under Sections 7 & 7A of the Prevention of Corruption Act, 1988 (Amended in 2018) (for short 'the PC Act') and Section 120-B of the Indian Penal Code on 11.10.2022. They

were arrested on 12.10.2022. A charge-sheet was presented before the Special Judge, CBI, Lucknow. In the FIR, it was alleged that the co-accused Chandan Kumar Jaiswal demanded Rs.8,000/- on behalf of the writ petitioner from the complainant, namely, Gaurav Mishra, the owner of a Tea-Stall at Mirzapur Railway Station. The writ petitioner was placed under suspension from services vide order dated 12.10.2022 issued by the Senior Divisional Security Commissioner, Railway Protection Force (RPF), Prayagraj, Uttar Pradesh. The suspension of the writ petitioner was revoked vide order dated 17.11.2022 and the services of the writ petitioner were transferred to South East Central Railway, Bilaspur. The writ petitioner was released on bail vide order dated 20.12.2022. The article of charge was issued by the Assistant Security Commissioner, RPF, SECR, Bilaspur on 24.4.2023. The writ petitioner appeared before the Enquiry Officer on 28.4.2023 and moved an application for supply of the relevant documents and the same was rejected vide order dated 3.5.2023. In the departmental enquiry. there is one witness, namely, Ajay Kumar Rai, Assistant Security Commissioner, RPF, Prayagraj whereas in the criminal case, there are 23 witnesses. Being aggrieved by the same, the writ petitioner / appellant herein preferred WPS No. 2870 of 2023, which was rejected by the learned Single Judge vide order dated 20.12.2024, hence this present appeal.

5. Learned counsel for the appellant submits that learned Single Judge in a very mechanical manner has dismissed the writ petition. The impugned order dated 20.12.2024 is a non-speaking order,

which is liable to set-aside by this Court. The order impugned passed by the learned Single Judge is illegal and perverse and also impugned memorandum dated 24.04.2023 passed by the respondents is against the natural justice. The learned Single Judge passed order wrongly appreciating the document which was filed by the writ petitioner along with the writ petition. Therefore, order impugned passed by the learned Single Judge is liable to be set-aside. Further, the learned Single Judge ought to have seen that departmental proceeding and criminal case are based on the same set of facts and the evidence in both proceedings is common, the proceedings of the departmental enquiry should be stayed. Also, in the present case, the charges in the criminal case and the departmental enquiry are almost similar, therefore, the article of charge dated 24.4.2023 issued against the writ petitioner is liable to be quashed.

6. Learned counsel for the respondents opposes the submissions made by learned counsel for the appellant in the present appeal and submits that the learned Single Judge after considering all the aspects has rightly dismissed the writ petition filed by the writ petitioner / appellant herein, in which, no interference is sought for.
7. We have heard learned counsel for the parties and perused the impugned order and materials available on record.
8. From perusal of the records, it transpires that the learned Single Judge dismissed the writ petition preferred by the writ petitioner /

appellant herein observing that in the present case, in the criminal case there is an allegation of demand and acceptance of a bribe whereas the allegation in the departmental enquiry touches the discipline of the members of the Railway Protection Force. The article of charge was issued according to Rule 153 of the Railway Protection Force Act, 1987 by the Competent Authority and the departmental enquiry cannot be stayed for an indefinite period on account of the pendency of a criminal case. If after the conclusion of the departmental enquiry, the writ petitioner is found not guilty, his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest. Learned Single further held that in the present case, the writ petitioner has not sought relief for stay of proceedings of the departmental enquiry but he has sought relief for quashing the entire departmental enquiry initiated against him in his petition. The writ petitioner did not assign any valid ground to quash the entire departmental enquiry rather he has raised grounds and citations to stay the further proceedings of the departmental enquiry till the conclusion of the criminal case, in view of the same, the learned Single Judge dismissed the writ petition filed by the writ petitioner.

9. Taking into account the overall facts and circumstances of the case, we are of the firm view that the learned Single Judge has passed the impugned order with cogent and justifiable reasons as in a petition under Article 226 of the Constitution of India. Further, in an intra Court appeal, no interference is usually warranted unless palpable infirmities are noticed on a plain reading of the impugned

order. In the facts and circumstances of the instant case, on a plain reading of order, we do not notice any such palpable infirmities or perversities, as such, we are not inclined to interfere with the impugned order.

- 10.** In the result, the writ appeal lacks merit substance, is liable to be and is hereby **dismissed**.

Sd/-
(Arvind Kumar Verma)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice