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**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.**

**CWP-15104-1998 (O&M).
Reserved on: 04.03.2025.
Date of Decision: 11.03.2025.**

TARSEM SINGH

... Petitioner

Versus

UNION OF INDIA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Karan Nehra, Advocate,
for the petitioner.

Mr. Arnav Kumar, Advocate,
for the respondents.

VINOD S. BHARDWAJ, J.

1 Challenge in the present petition is to the order dated 03.12.1997 (Annexure P-3) whereby the petitioner was removed from the Central Reserve Police Force (hereinafter referred to as 'CRPF') by respondent No.4- Commandant, 126th Battalion, CRPF C/O 56 A.P.O. as also the order dated 16.07.1998 (Annexure P-6) whereby the appeal filed by the petitioner against the order of removal had been dismissed by respondent No.3- Deputy Inspector General of Police, CRPF, Bhopal (Madhya Pradesh).

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2 Briefly summarized the facts of the present case are that the petitioner joined CRPF as Constable/Driver on 16.11.1991 and underwent General and Technical Trade training till 22.09.1992. On successful completion of his training, he was posted at Mohali, Punjab from September, 1992 to October, 1994 and then at Guwahati, Assam from October, 1994 to April, 1997. Petitioner's services were recognized by the senior officers and he was awarded one "Good Police Service in Punjab Medal", two "Good Duty Awards" and four "Kilometre Awards".

3 In April, 1997, petitioner's battalion moved from Guwahati to Smailpur, Jammu and Kashmir. It is alleged that no proper lighting arrangements were made in the accommodation that had been allotted to the petitioner and other members Inder Dev Yadav NK/D No. 840520118, Ram Pal Yadav C/D No. 923260123, and Mata Pher C/D No. 913263504. On 04.05.1997, the petitioner and other three abovementioned personnel attended the evening Roll Call at 7:00 PM, took their dinner and consumed liquor. Thereafter, all of them went to bed after watching programme/serial of the television. At about 10:30 PM, Subedar Major S.P. Sharma and B.H.M. Virender Yadav went to the accommodation of the petitioner to conduct a surprise check. However, due to darkness, they fell on the cot of Ram Pal Yadav, one of petitioner's associates. Suspecting foul play, Ram Pal Yadav gave fist and leg blows to the Subedar Major and B.H.M., however, the situation was brought under control on intervention of the petitioner and his

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other associates. A check Roll Call was again called at 10:30 PM and the petitioner along with his associates were got medically examined.

4 On the following day, the petitioner and his associates were placed under suspension vide office order dated 05.05.1997 for leaving the camp without due permission of the competent officer, taking liquor, creating nuisance/affray in the M.T. Section as well as misbehaving with senior officers. A departmental inquiry was then ordered vide order dated 02.07.1997 and the Inquiry Officer vide his inquiry report dated 15.10.1997, held all the delinquents guilty of all the charges. On 04.11.1997, a show cause notice was sent to the petitioner and other delinquents to present their defence within 15 days of the service of inquiry report.

5 Vide office order dated 03.12.1997, respondent No.4-Commandant, 126th Battalion, CRPF C/O 56 A.P.O. removed the petitioner from the service of CRPF while awarding other punishments to the petitioner's associates. The relevant part of the order is extracted hereunder:

“4. Therefore, again after carefully considering each and every aspect of the inquiry proceedings and considering the report of the Inquiry officer, I conclude that the offence committed by NK/Dvr. Inder Dev Yadav, Sep/Dvr. Tarsem Singh, Sep/Dvr. Ram Pal Yadav and Sep/G.D. Matapher are against the discipline of the force. Thus, all the abovesaid accused employees deserve severe punishments. Hence, in execution of power conferred on me under sec.11(1) of the CRPF Act read with rule 27(A) of the CRPF Rules, 1955, I award punishments to

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these four employees/personnels as follows as shown against their names: -

1) No. 840520118 NK/Dr. Inder Dev Yadav is awarded punishment of reduction in Rank from NK/Dr. to NK/Dr in the pay salary of Rs. 3050-75-3950-80-4590 for two years from the date of issue of this office order. The above reduction in rank shall affect his future seniority and deferment of increments of pay. His suspension period from 5.5.97 to 3.12.97 is to be treated as non-duty period also.

2) No. 913268516 Sep/Dr. Tarsem Singh

Sepoy/Dr. Tarsem Singh is awarded punishment of removal from service from the date of issue of this office order and his suspension period from 5.5.97 to 3.12.97 is to be treated as non-duty.

3) No. 923260123 Sep/Dr. Ram Pal Yadav

A) Sepoy/Driver Ram Pal Yadav is awarded punishment of stoppage of increment of pay for one year from the date of issue of this office order. The above stoppage of increment of pay shall defer his future increments.

B) Awarded punishment of 28 days detention in quarter guard from the date of issue of this office order. His suspension period from 5.5.97 to 3.12.97 is to be treated as non-duty.

4) No. 913263504 Sep/GD Matapher

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A) Sepoy/GD Matapher is awarded punishment of stoppage of pay increment for one year. The above pay increment shall not affect his future deferment of increments.

B) Awarded punishment of 28 days detention in Quarter Guard from the date of issue of this office order and the period of his suspension from 5.5.97 to 3.12.97 is to be treated as non-duty.”

6 Against removal from the service, the petitioner preferred a representation/appeal dated 15.12.1997 to respondents No.2 and 3 but no decision was taken. Aggrieved thereof, the petitioner preferred CWP No. 3236 of 1998 before this Court and vide order dated 05.03.1998, this Court directed respondent No.3 to decide the petitioner's appeal within a period of three months from the date of receipt of certified copy of the said order.

7 Vide order dated 16.07.1998, respondent No.3- Deputy Inspector General of Police, CRPF, Bhopal (Madhya Pradesh) dismissed the appeal of the petitioner while upholding the order passed by the Disciplinary Authority.

8 Aggrieved thereof, the present petition had been filed.

9 Learned Counsel for the petitioner does not dispute the aspect of petitioner's guilt regarding the events that took place on 04.05.1997. However, he prayed that a lenient view might be taken by this Court since the petitioner has been without avenue of income for more than last 2 decades and that some notional benefits without any back wages be granted to the petitioner. Counsel relies on the judgment of Hon'ble Supreme Court in the

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matter of **Radhakrishna Dash v. Administrative Tribunal, (1988) 2 SCC 229.**

10 He further submits that even though he and other similarly placed employees were charged together and the charges are stated to have been proved against them as well, however, while a punishment of removal from service is imposed upon the petitioner, a very lenient view has been taken with other delinquent employees. They have been given punishment of reduction of pay and stoppage of increments. The punishing authority has thus arbitrarily discriminated between similarly placed employees.

11 He places reliance on the judgment of the Hon'ble Supreme Court in the matter of **Naresh Chandra Bhardwaj Vs. Bank of India and others, reported as 2019 (2) SCT 769**, to contend that when charges of misconduct are identical or they were foisted with more serious charges, there has to be an absolute parity in punishment as well and the matter may be remitted to the disciplinary authority. The relevant extract of the judgment reads thus:-

“6. It is trite to say that the domain of the courts on the issue of quantum of punishment is very limited. It is the disciplinary authority or the appellate authority, which decides the nature of punishment keeping in mind the seriousness of the misconduct committed. This would not imply that if the punishment is so disproportionate that it shocks the conscience of the court the courts are denuded of the authority to interfere with the same. Normally even in such cases it may be appropriate to remit the matter back for consideration by the disciplinary/appellate

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*authority. However, one other cause for interference can be where the plea raised is of parity in punishment but then the pre-requisite would be that the parity has to be in the nature of charges made and held against the delinquent employee and the conduct of the employee post the incident. It is the latter aspect which is sought to be advanced by learned counsel for the appellant by relying upon the judgment in **Rajendra Yadav v. State of Madhya Pradesh & Ors., 2013(2) S.C.T. 732: (2013) 3 SCC 73** On this very aspect learned counsel for the respondents drew out attention to a subsequent judgment in **Lucknow Kshetriya Gramin Bank (Now Allahabad, Uttar Pradesh Gramin Bank) & Anr. v. Rajendra Singh, 2013(4) S.C.T. 118: (2013) 12 SCC 372** which had taken note of the earlier judgment referred to aforesaid.*

7. There is really no difference in the proposition, which is sought to be propounded except that in the latter judgment the principles have been succinctly summarised in the last paragraph of the judgment, which read as under:

"19. The principles discussed above can be summed up and summarized as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The Courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be

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awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the Court.

19.4. Even in such a one when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The Court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para (d) above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct was identical or the co-delinquent was foisted with more serious charges. This would be on the Doctrine of Equality when it is found that the concerned employee and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge sheet in the two cases. If co-delinquent accepts the charges, indicating remorse with unqualified apology lesser punishment to him would be justifiable"

(emphasis supplied)

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8. *The principle, thus, culled out is that remitting a matter on the issue of quantum of punishment would be as set out in para 19.5 aforesaid, Le, where a co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This is based on the principle of equality but then there has to be an absolute parity.”*

12 A prayer is thus made that the punishment be reduced from removal from service to that of compulsory retirement.

13 Per contra, learned Counsel for the respondents relies on the written statement filed on behalf of respondents No.1 to 4 to argue that the petitioner was rightly terminated from the service of CRPF since he played the lead role in instigating his associates to attack the senior officials and behaved more violently and that the orders passed by the Disciplinary Authority as well as the Appellate Authority merit no interference. The relevant part of the written statement is extracted hereunder:

xxx xxx xxx

(v) That on 4/5/97 at 2130 hours CT/DVR Tarsem Singh, NK/DVR Indradev Yadav, CT/DVR Ram Pal Yadav and CT/GD Matapher left the campus/line without prior permission/sanction of leave by the competent authority and consumed country made liquor outside the campus and returned at 2230 hours. On return, they started crying. Accordingly, S.M. S.P. Sharma and B.H.M. Birender Singh Yadav went to the M.T. line for checking. There were sufficient lightings available in the M.T. line. The above accused have recognized the S.M. and B.H.M. and beaten

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them by calling their names. Besides above, CT/DVR Tarsem Singh was more violent in the check roll call and abused the senior officers of the unit. Accordingly, they were medically examined and found in a state of mild intoxication.

xxx xxx xxx

(ix) (a) That as per the statements of S.M. S.P. Sharma mentioned at page No.127 of D.E. proceedings he has clearly stated that CT/DVR Tarsem Singh was more violent and leading other three personnel in the said incident.”

14 He further submits that even though the chargesheet against all employees was for same charge, however, the appellate Authority noticed distinct role and allegations against each employee and hence, imposed the different punishments. Reference is made to the following extract of the order passed by the appellate Authority: -

“4, On carefully study of the appeal, departmental inquiry proceedings/parawise comments of the Commandant 126 Battalion, the undersigned has found argument of the appellant untenable. In fact, as per part -II of the Departmental inquiry, which deals with the mis-behaviour and misconduct of these employees, they not only consume liquor but used in subordinate language and force against their superior officers. As per the written statement of the prosecuting witness in the departmental inquiry and the question answers by the Inquiry Officer/accused, this fact comes to light to that the behaviour of Sepoy/Driver Tarsen Singh was more serious and in-disciplined in comparison to others behaviour in this case. He was actively

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involved in the case and therefore it was not proper to award him similar punishment.

5. *The undersigned has after examining the case found that the punishment awarded to Sepoy/-river Tarsem Singh is commensurate with his mis-behaviour and therefore there is no justification to interfere with the order no. P-VIII-5/97-St.II dated 03.12.97 passed by the Disciplinary Authority. The appeal dated 05.12.97 of Force no. 913268516 Sepoy/Driver Tarsem Singh is dismissed on merit.”*

15 He thus submits that in view of specific role which is distinct from others, the punishment of removal has been rightly imposed.

16 He also relied upon the judgment of Hon’ble Supreme Court in the matter of **SBI v. Ajai Kumar Srivastava, (2021) 2 SCC 612** to argue that the power of judicial review exercised by Constitutional Courts is limited to correcting errors of law or procedural errors leading to manifest injustice or violations of principles of natural justice and is not akin to adjudication of case on merits as an appellate authority. The relevant part of the judgment is extracted hereunder:

“22. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this

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Court in State of T.N. v. T.V. Venugopalan, (1994) 6 SCC 302 and later in State of T.N. v. A. Rajapandian, (1995) 1 SCC 216 and further examined by the three-Judge Bench of this Court in B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 wherein it has been held as under: (B.C. Chaturvedi case, SCC pp. 759-60, para 13)

“13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the court/tribunal. In Union of India v. H.C. Goel, (1964) 4 SCR 718: AIR 1964 SC 364] this Court held at SCR p. 728 (AIR p. 369, para 20) that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.

23. It has been consistently followed in the later decision of this Court in H.P. SEB v. Mahesh Dahiya, (2017) 1 SCC 768 and recently by the three-Judge Bench of this Court in Pravin Kumar v. Union of India, (2020) 9 SCC 471.

24. It is thus settled that the power of judicial review, of the constitutional courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against

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the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.”

(Emphasis supplied)

17 I have heard the learned counsel appearing for the parties and have gone through the documents as well as the judgments relied upon by the respective parties.

18 It is evident from a perusal of the same that identical allegations have been levelled against all the four employees i.e. Naik/Driver Inder Dev Yadav; Sepoy/Driver Tarsem Singh; Sepoy/Driver Ram Pal Yadav and Sepoy/G.D. Mata Pher. The relevant extract from the Enquiry report is reproduced as under: -

Naik/Driver Inder Dev Yadav, Sepoy/Driver Tarsem Singh and Sep/Driver Ram Pal Yadav reached MT lines, after taking liquor outside on 04.05.97 at about 2230 hrs. and started making noise there. Hearing something unusual at this hour of night in MT Lines BHM Virender Yadav went towards MT lines along with S.M. S.P. Sharma as soon as both senior officials reached the

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doorsteps of MT Lines to enquire about, NK/Driver Inder Dev Yadav Sep/Driver Tarsem Singh and Sep/Driver Ram Pal Yadav started beating SS.M. S.P.S Sharma with blows and when B.H.M. Virender came in between, the blows of all the three accused employees fell on the Head and chest of B.H.M. Due to which B.H.M. was pushed out of the door.

When, S.M. S.P. Sharma gained consciousness after sometime after having been beaten, then he found the three accused persons still ready for further beating. S.M. S.P.Sharma who was bleeding from mouth and eyes due to beating got up and went to the adjutant R.K. Sharma for making report alongwith B.H.M.

The Adjutant directed B.H.M. to blow whistle for making the check roll call. All the three accused Driver and accused Sep/G.D. Mata Pher were also present at the check roll call. After inquiring into all aspects the adjutant directed all the four accused employees and S.M. B.H.M. to the Group Centre C.R.P.F. Bantalab Hospital for medical examination. The three accused Drivers kept on abusing/used bad languages towards the senior officers at the roll call and the Driver/Haveldar Kashmira Singh, who was to drive the vehicle in which the said employees were to be taken for the medical examination, they tried to prevent him to perform his duty.”

19 The findings recorded by the Enquiry Officer also need a reference. The same are extracted as under: -

“7. Thus, the Inquiry Officer after going through the statements of the prosecution side and defence side and without any

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malice/ill-will holds the findings of the Departmental inquiry as follows:-

1. That the charges against force no. 840530118 NK/Dvr. Inder Dev Yadav, Force no. 913268516 Sep/Dvr. Tarsem Singh and Force no. 923260123 Ram Pal Yadav are proved and are found guilty of going out of the Smailpur Camp without permission of the competent officer on 4.5.97 at 2130 hrs. drinking liquor after going out at of Comp. Coming back to the lines at 2230 hrs. same day and making noise, unnecessary beating up Sub. S.P. Sharma and BHM Virender Singh Yadav using abusive language towards the senior officer, disobeying of proper orders of the Senior officers and acting against the discipline of the force under section 11(1) of the CR.P.F. Act, 1949.

2. That the charges against Force no. 913263504 Sep/G.D. Mathapher are proved and is found guilty of going out of the Smailpur Camp without permission of competent officer at 2130 hrs. on 4.5.97, drinking liquor and absenting himself from patrolling duty without any permission from competent officer under section 11(1) of CR.P.F Act, 1949.”

20 It is hence well established that there was no charge of any specific nature against any individual and identical common allegations were levelled. Even the findings recorded by the Inquiry Officer do not differentiate any attribution or return any specific charge against any specific

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employee. Hence, when the appellate Authority distinguished the role of each individual for imposing different punishment, the finding was actually not borne out either from the memorandum of charge or from the Inquiry report. The conclusion/findings recorded by the appellate Authority are not based on documents available on record. The punishing authority has also failed to give any reasons for imposing different penalties. Hence, under the said circumstances, the ratio laid down by the Hon'ble Supreme Court in the matter of **Naresh Chandra Bhardwaj (supra)** would apply and a parity in punishment ought to have been maintained by the punishing as well as the appellate Authority.

21 While the proposition of law laid down by the Hon'ble Supreme Court in the matter of **Deputy General Manager and Radhakrishna Dash** (supra) are not denied or disputed, however, the said judgments do not apply to the facts of the present case. It was held by the Hon'ble Supreme Court in the above judgments that Constitutional Courts would not ordinarily interfere with the findings of fact arrived at in departmental enquiry proceedings. This Court, in no manner, is interfering with the findings of fact recorded by the authorities but only finds that the punishment imposed is not proportionate and parity has not been maintained even though the allegations and the charge are same.

22 Ordinarily, when an order of punishment is not legally valid, this Court would have remanded the case to the departmental authorities to pass a fresh order, however, considering that a period of 28 years has elapsed in

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the matter being decided, interest of justice may not be well served by remanding the case. Balancing the inordinate delay that has already happened, it would be in fitness of things that the order of removal from service is set aside and is modified to that of compulsory retirement from service.

23 The present petition is accordingly partly allowed. The order dated 03.12.1997 (Annexure P-3) passed by the Disciplinary Authority, removing the petitioner from the service of CRPF as well as the order dated 16.07.1998 (Annexure P-6) passed by the Appellate Authority confirming the same are hence set aside and the same are modified as “compulsory retirement from service.”

March 11, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*