



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

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CWP-16289-1999 (O&M)

Date of decision: 15.01.2025

PURAN SINGH

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

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

Present: - Mr. G.S. Bajwa, Advocate with
Mr. D.S. Sarkaria, Advocate
for the petitioner.

Mr. Prajwal Chauhan, Central Govt. Counsel
for the respondents.

VINOD S. BHARDWAJ, J. (Oral)

Challenging the order dated 05.10.1999 passed by the Appellate Authority dismissing the appeal preferred by the petitioner alongwith the order dated 03.06.1999 whereby the penalty of removal from service had been awarded to the petitioner, the present writ petition has been filed.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was recruited as a Constable in the force in the general recruitment held at Jalandhar w.e.f. 18.10.1982, in the Central Industrial Security Force, where he initially joined as a Constable with R.T.C. Deoli, Rajasthan. He later sent for training at CISF Training Centre, 1st Reserve



Battalion Deoli, Rajasthan and has allotted CISF No. 8213231 vide letter dated 31.12.1982. There was no complaint with respect to the working of the petitioner and he performed his duties to the satisfaction of his superiors. The petitioner was later promoted as Lance Naik vide office order dated 31.05.1995 and was also sent for Cadre Training Course being eligible for the next promotional post of Havaldar. He was deputed for this course vide letter dated 01.10.1997. The above said 70 days course was also successfully completed by the petitioner and he was amongst the 150 persons who were declared pass out of the 240 persons in the result of the training declared in the month of February, 1998. Thereafter the Departmental Promotion Committee was convened to consider the cases of all eligible persons including the petitioner and his name was also cleared for promotion in the month of March, 1998, however he could not be promoted for want of vacancy.

3. Learned Counsel contends that the trouble for the petitioner started after involvement of the petitioner in a departmental proceeding by respondent No.5 on the ground that the petitioner had indulged in an unnecessary argument with him i.e. the Assistant Commandant of the Unit. He was served with a charge sheet on 20.02.1998, to which a reply was filed on 04.03.1998 denying the allegations. It is alleged that notwithstanding the specific stand of the petitioner denying the charges, a punishment of stoppage of one increment was passed by the Assistant Commandant vide order dated 07.03.1998. Aggrieved thereof, the petitioner preferred an appeal before the Appellate Authority i.e. the Commandant CISF, Bokaro Steel

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Plant raising a ground that the respondent No.5 became a judge of his own cause and as such, the order of punishment is liable to be set aside.

4. The Appellate Authority accepted the argument advanced by the petitioner and set aside the order dated 07.03.1998 passed by the respondent No.5, vide its order dated 06.06.1998. He contends that on account of the setting aside of the order imposing penalty of stoppage of one increment, respondent No.5-Assistant Commandant became inimical towards the petitioner and started looking out for ways to incarcerate him and eventually succeeded in involving the petitioner in an incident alleging the petitioner for not wearing the cotton trousers when he visited respondent No.5. He contends that the petitioner, who belongs to an agricultural family background from Punjab, was informed by his family members in the month of October, 1998 a partition of the ancestral property was to be held in November, 1998. A request was thus made by him to the respondent No.5 for sanctioning leave from 16.11.1998 so that he could proceed for family settlement and resolve his domestic issues. The petitioner was informed that his leave is not being sanctioned w.e.f. 16.11.1998 but from 21.12.1998. Since no useful purpose could be served by going for leave from 21.12.1998, as partition of the family land would have taken place by then, the petitioner sought for an appointment and meeting with respondent No. 5 for pre-poning the sanction of leave w.e.f. 16.11.1998 instead of 21.12.1998. A request in this regard was sent by him on 16.11.1998. On the next day i.e. 17.11.1998, the petitioner was not feeling well, hence, he got himself medically examined. The doctor recommended sick leave to the petitioner initially for a period of two days and then extended it another two days i.e.

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upto 20.11.1998. It was specifically recorded that the petitioner was suffering from hypertension.

5. It is submitted that even though the petitioner had applied for a meeting with respondent No.5 on 16.11.1998, however, no time was being given and he was advised to come on 20.11.1998. The petitioner was called for the meeting on 20.11.1998 and to report at 11:00 A.M. The petitioner got dressed up in the Unit for going to the request room for redressal of his grievance for sanction of his leave in November itself instead of December, 1998. He contends that the petitioner could have even gone to the office in civil dress instead of the uniform for making such a request, however, he wore the terricot trousers since the cotton trousers had not been issued to him despite being due since August, 1998. The respondent No.5 however refused to listen to the grievance of the petitioner on 20.11.1998 on the ground of the petitioner not wearing the cotton trouser. Being under hypertension, the petitioner insisted for consideration of his request, given the urgency. Irritated by such insistence, respondent No.5 passed an order of suspension with immediate effect on 20.11.1998 itself. Instead of sanctioning of the leave, the petitioner was asked to remain at the Head Office. He contends that respondents No.5 thereafter leveled allegations that the petitioner misbehaved with him and a charge sheet levelling frivolous allegations was served upon the petitioner on 12.01.1999. Reply to the said charge sheet was filed by the petitioner denying the allegations and submitting that there was no misbehaviour on the part of the petitioner and that he maintained complete decorum. An explanation with respect to the reasons for appearing in terricot uniform was also given. Notwithstanding



the reply furnished by the petitioner, an Inquiry Officer was appointed who concluded the enquiry within two days in an undue haste and without affording due and proper hearing and submitted his report.

6. The petitioner was thereafter served with the Enquiry Report as also the note of the punishment authority calling upon the petitioner to make a representation against the reasoning alongwith the disagreement note. Since of the three charges leveled against the petitioner; Charge No.1 pertaining to indiscipline and dereliction of duty or about the uniform being torn or shabby was returned as not proved. The second charge pertaining to the petitioner misbehaving with the officer and removing his belt was not proved about the misbehavior and was only partly proved to the extent of petitioner having taken off his belt and keep it on the table on the ground that such emotional and sentimental feeling is unacceptable as a part of disciplined force. The third charge was returned as proved which was about being a habitual offender and having been punished thrice.

7. The petitioner furnished his reply/representation against the said report as also the note of disagreement.

8. On 22.05.1999, however, without taking into consideration the defence of the petitioner and without looking into the facts and circumstances of the case, the order dated 03.06.1999, imposing the extreme penalty of removal from service was imposed upon the petitioner. A statutory appeal was preferred by the petitioner to the Company Commander. The said appeal was, however, not decided for a period of more than 03 months whereupon the petitioner filed civil writ petition No.



13155 of 1999 before this Court. The writ petition was, however, dismissed as withdrawn before the Division Bench of this Court on 16.09.1999 since no cause of action had accrued in favour of the petitioner. The respondent was thereafter conveyed with the order passed by the Appellate Authority dismissing the appeal vide order dated 05.10.1999 against which the instant writ petition has been filed.

9. Learned Counsel for the petitioner has vehemently argued that the order passed by the Appellate Authority on 05.10.1999 was liable to be quashed as the same was passed without complying with principles of natural justice and that no opportunity of hearing was extended to him. It is further argued that the proceedings had been initiated by the disciplinary authority on account of a pre-meditated mind and bias that they held against him. Being a colourable exercise of power, which was perpetuated by a grievance of the earlier order of punishment having been set aside, they initiated the disciplinary proceedings for trivial issues such as wearing of a cotton uniform instead of the terricot uniform notwithstanding that the cotton uniform had not been issued to the petitioner and notwithstanding that, the petitioner having prescription of medical leave, there was no such mandate to appear in the cotton uniform. Learned Counsel has further argued that although the Inquiry Officer had held that charge No.1 was not proved against the petitioner while charge No.2 was partly proved, yet, no adequate opportunity was granted to the petitioner while recording a note. No opportunity was granted by the Inquiry Officer to the petitioner to defend himself during the course of the enquiry by taking assistance of an employee and the documents relied upon were also not supplied to him. The enquiry



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proceedings were thus conducted in a hasty manner and solely with a motive to incarcerate the petitioner. He further contends that the order of dismissal from service is harsh and is disproportionate to the charge leveled against him. It is thus prayed that the writ petition be allowed and the enquiry report, the punishment order passed by the disciplinary authority as well as the order passed by the Appellate Authority be set aside.

10. Reliance is also placed by him on the judgment of “***M.S. Bajwa Officer versus Punjab National Bank and others***” passed in ***CWP-4689 of 1989*** decided on 19.05.1993 to contend that an Appellate Authority must hear or delinquent before deciding the appeal and a reasoned order is required to be passed. The relevant extract thereof is extracted as under:-

*15. This matter has been considered by the apex court in **Ram Chander v. Union of India, 1986(2) SLR 608: AIR 1986 1173 (SC)** and it was observed as under :-*

*"It is not necessary for our purposes to go into the vexed question whether a post- decisional hearing is a substitute of the denial of a right of hearing at the initial stage or the observance of the rules of natural justice since the majority in **Tulsiram Patel's case (AIR 1985 Supreme Court 1416)** unequivocally lays down that the only stage at which a Government servant gets a reasonable opportunity of showing cause against the action proposed to be taken in regard to him' i.e. an opportunity to exonerate himself from the charge by showing that the evidence adduced at the inquiry is not worthy of credence of consideration*



or that the charges proved against him are not of such a character as to merit the extreme penalty of dismissal or removal or reduction in rank and that any of the lesser punishments ought to have been sufficient in his case, is at the stage of hearing of a departmental appeal. Such being the legal position, it is of utmost importance after the forty-second Amendment as interpreted by the majority in Tulsiram Patel's case that the Appellate Authority must not only give a hearing to the Government servant concerned but also pass a reasoned order dealing with the contentions raised by him in the appeal. We wish to emphasise that reasoned decision by tribunals, such as the Railway Board in the present case, will promote public confidence in the administrative process. An objective consideration is possible if the delinquent servant is heard and given a chance to satisfy the Authority regarding the final orders that may be passed on his appeal. Considerations of fair-play and justice also require that such a personal hearing should be given."

16. *In view of the above observations, a Division Bench of this court in **S.L. Loona v. The Punjab National Bank, 1992(1) SLR 250: 1992(1) SCT 604 (P&H) (DB)** has upheld a similar contention raised on behalf of the petitioner in that case. In view of the above enunciation of the legal position, the order passed by the Appellate Authority also cannot be sustained.*

11. No other argument has been advanced by the Counsel for the petitioner nor any other judgment cited.



12. Counsel for the respondent, on the other hand, has vehemently argued that the petitioner is habitual of misconduct and indiscipline apart from dereliction of duty due to which inquiry against the petitioner was held. He contends that even prior to the passing of the order of removal on 03.06.1999, the petitioner had been charged on three different occasions and penalties have been imposed. Such continued misconduct was an element of charge leveled against the petitioner which is also established by the Inquiry Officer in the proceedings that were initiated. He contends that the petitioner has not impugned the enquiry report in the instant writ petition and has only challenged the order imposing the penalty and as such, it cannot be held that the enquiry was not conducted in a fair manner or no proper opportunity of defending the charge had been extended to the petitioner. The argument of denial of an opportunity during the enquiry proceedings is thus an afterthought and cannot be taken into consideration. He submits that there were a total of three different charges that were leveled against the petitioner in the said charge sheet and that charge No. 3 about the petitioner being a habitual offender as also charge No.2 were partly proved while charge No.1 was reported to be not proved. A copy of the enquiry report was also furnished to him. The details of the prior misconduct and punishment awarded for different charges is tabulated as under:-

Sr. No.	Charge in Brief	Punishment Awarded
1)	Found in shabby uniform in commandant's parade on 19.07.91 and disobeyed the lawful orders.	Two days pay fine vide order dated 02.09.91.
2)	He used unparliamentary ward to his Coy Commander on 02.08.95.	Seven days pay fine vide order dated 28.08.95.



3)	During PT he used unparliamentary ward to Insp/Exe A K Patra on 27.08.96	Withholding of one increment for one year without cumulative effect vide order dated 04.11.96
4)	Misbehaved with Asstt. Commandant during Roll Call on 17.02.98.	Withholding of one increment for one year without cumulative effect vide order dated 7.3.98, but on appeal, punishment order was set aside due to procedural defects.

13. It is argued by the Counsel for the respondent that the petitioner, in a bid to scandalize the ordinary disciplinary proceedings, has leveled false allegations on the conduct and working of the Company Commanders. It is contended that all the aforesaid punishments were imposed upon the petitioner on different occasions and when he was serving under different Company Commanders. It thus cannot be said that there was any element of bias or pre-meditation by respondents No.4 and 5. Considering the punishments already served upon the petitioner, it cannot be said that the work and conduct of the petitioner was unblemished or that he was diligent and hard working. His promotion to the post of ‘Lance Naik’ was based on seniority and that merely for having been sent for the Cadre Training Course, it is not a reflection on the part of the petitioner being an outstanding person eligible for next promotion. The same is a condition pre-requisite for falling within the zone of consideration for the next higher post. He further contends that even though the petitioner had applied for grant of leave w.e.f. 16.11.1998, however, claiming leave is not a matter of right and that the petitioner could proceed only after the same had been sanctioned. At

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the relevant time, the Unit was having a shortage of 53 personnel out of a sanctioned strength of 273 due to assembly elections in 1998 in Rajasthan and there was deficiency of manpower. Further, annual inspection of DIG, BSL, Bokaro was also due during the second week of December, 1998. Hence, all personnel of the unit were performing duty in addition to other regimental duties. Thus, the application of the petitioner for grant of leave w.e.f. 16.11.1998 could not be considered in the interest of Unit/Department. The petitioner chose to flout the orders and the discipline of the unit and forcibly entered into the chamber of senior officers in improper uniform. The act of the petitioner in forcibly making an entry into the chambers of the Controlling Authority was uncalled for and when the Deputy Commandant directed the petitioner to come in a proper uniform, he retaliated in an undisciplined manner and removed his web belt and kept the same on the table of respondent No.4 and came out of the Chamber without showing respect to the chair. He was thus placed under suspension w.e.f. 20.11.1998 for the above act of gross indiscipline. A different story with a separate version was later put up on by the petitioner to level frivolous allegations against the Commandant Officer to save his own skin and in the said process, he has damaged the hierarchy of command in the Unit.

14. It is also argued that a charge sheet was served upon the petitioner alongwith all the requisite relied documents. An Inquiry Officer was appointed on 05.02.1999 who conducted the enquiry on 22.02.1999 and fixed the next date of hearing on 15.03.1999. However, inquiry could not be conducted on the said date as the petitioner reported himself sick. Thereafter, the hearings were held from 12.04.1999 to 14.04.1999 after the petitioner



reported himself to be fit for deposition and appearance in the enquiry proceedings. The charges were carefully examined alongwith the version as given by the petitioner and a report was submitted after granting a fair opportunity to the petitioner at each and every stage. The copy of the enquiry report alongwith the written disagreement note was also furnished to him and he was afforded opportunity to respond to the same. The reply of the petitioner was taken into consideration. Hence principles of natural justice were followed. Grant of an actual physical hearing is not the only means of ensuring compliance of principles of natural justice. Once the procedure as contemplated under the Rules had been duly followed and adequate opportunity had been extended to the petitioner to respond to the allegations alongwith the disagreement note and the copy of the inquiry report, there is total compliance of the principles of natural justice. He contends that during the course of departmental enquiry, the departmental witnesses supported and corroborated the official version and that in reply, the stance of the petitioner was that he has committed no murder in not reporting to his superiors in a cotton dress; itself tantamounts to an act of gross misconduct, indiscipline and insubordination. He contends that the appeal preferred by the petitioner was dismissed giving detailed reasons rejecting the grounds taken by him. It is thus contended that the procedure as contemplated in the Service Rules had been followed and that a misconduct on the part of the petitioner cannot be condoned. The total service record of the petitioner was examined, it stands established that the petitioner was a habitual offender and various punishments had earlier been



imposed upon him as well but he showed no traces of improvement. Thus, the punishment of dismissal from service was rightly imposed.

15. Neither any other argument has been raised nor any judgment cited by the Counsel for the respondent.

16. I have heard the learned Counsel appearing on behalf of the respective parties and have gone through the documents available on record and have gone through the articles of charge, the same are extracted as under:-

ARTICLE OF CHARGE-1

Gross misconduct, Indiscipline and dereliction of duty in that No.824070117 Const. Puran Singh (U/S) of CISF Unit MBR-KBR Meghahatuburu came in the request room of DC MER-KER(M) in shabby uniform which were not cleaned and pressed properly at about 1145 hours on 20.11.98.

ARTICLE OF CHARGE-11

Gross misconduct, indiscipline and disobedience of lawful orders in that No. 824070117 Const. Puran Singh (US/) of CISF Unit MBR-KBR Meghahatuburu was asked by HC/GD U.N.Nayak CHM to come in proper uniform for request room of DC MBR-KBR(M) AT ABOUT 1145 HOURS ON 20.11.98. But he did not obey the orders of his seniors and forcible entered into the chamber of DC. He was also advised by DC to come in proper uniform, but instead of doing so, he talked in an indisciplined manner saying that "APP JO MERJI SAJA DEJIA" and



kept his belt on the table of DC MBR-KBR and went out without showing any respect to the chair.

ARTICLE OF CHARGE-111

No. 824070117 Const. Puran Singh (U/S) of CISF Unit MBR-KBR Meghahatuburu is a habitual offender in that he has repeatedly indulged in misbehaviour with his senior officers and he failed to improve his conduct inspite of three punishments awarded to him in the past.

17. It is evident from perusal of the above that so far as the applicability of charge pertaining to the petitioner not being in proper uniform is concerned, the said article of charge is returned as not proved. The second charge was in relation to the alleged misconduct and indiscipline on the part of the petitioner in entering into the room of the Deputy Commandant in an improper uniform and responding by saying “Aap Jo Marji Saza Diyiye” and kept his belt on the table of the Deputy Commandant and left the room without showing any respect to the chair. The charge in relation to any misconduct or misbehavior on the part of the petitioner was not proved but it was proved that the petitioner did take off his belt and left it on the table of the Commandant. The third charge was a charge relating to being a habitual offender, which cannot be said to be any independent charge of any misconduct. The third charge was with respect to the earlier instances of his conduct.

18. I find that article of charge-1 and Article of charge-II are inter-related and can be clubbed together. Undisputedly, the petitioner had applied for grant of leave which was sanctioned w.e.f. 21.12.1998 even though the



petitioner intend to proceed on leave w.e.f. 16.11.1998. It is also not in dispute that the petitioner had submitted an application for meeting to seek pre-ponement of his grant of leave from the Deputy Commandant. It is the charge returned by the Inquiry Officer that the petitioner entered into the room of the Deputy Commandant, in a terricot uniform, even though he was required to appear in a cotton uniform, and that when the Deputy Commandant refused to hear him on his request for not being in a proper uniform, he took off his belt and left the same at the table of the Commanding Officer and responded "*Aap Jo Marji Saza Dijye*". Viewed as a standalone event, the same may be construed as an act where a person has shown disrespect to the superior, however, the entire chain of events has to be examined before the set of circumstances can be re-appreciated. It is a case where an employee has cited certain personal circumstances for availing a leave and has attempted to make a request to the superior authority for considering the circumstances and the exigencies for which the leave has been sought for. Even if it was not desirable, however, yet, any such response, where a subordinate took off his belt and left it on the table of Deputy Commandant, is more of an act of frustration. The same is a reflection of the mindset of the employee himself and may not actually be intended as an act of a deliberate insubordination. A perusal of the table of earlier punishments shows that they are all minor penalties that were imposed upon the petitioner and that the only charge which is proved partly is of the petitioner taking of his belt and stating that 'It is your wish, you may give any punishment'.



19. Further, it is also undisputed that the petitioner had joined services with the respondents in the year 1982 and that the disciplinary proceedings pertain to the year 1998 resulting in removal from the services vide order dated 03.06.1999. Hence, there was nearly more than 17 years of services rendered by the petitioner. Even though there are certain instances of imposition of minor penalties on the petitioner at three different times (the fourth having been set aside), however, I am of the opinion that notwithstanding the same, the punishment of removal from service is highly disproportionate to the charge that has been leveled. It is an excessively harsh punishment for the charge that had been leveled against the petitioner.

20. Further, it is not in dispute that under the general principles of administrative law and principles of natural justice, in the event any major penalty is to be imposed, an employee is to be ordinarily granted an opportunity of hearing so as to put-forth his case and plead his defence.

21. Ordinarily, Writ Court would selectively venture into disciplinary matters, however, when there is a procedural impropriety, illegality, arbitrariness or non-adherence to the cardinal principles of justice in matter of inquiry or the order and where punishment afflicted does not appeal to ordinary prudence reflecting it to be disproportionate, a constitutional Court may step in to restore justice.

22. The extreme punishment of dismissal from service is required to be imposed under circumstances which manifest that any lesser punishment would not be justified under the given circumstances. I find that such compelling circumstances do not exist in the facts of the present case.



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Consequently, the order dated 05.10.1999 passed by the Appellate Authority is set aside. The matter is remanded to the Appellate Authority to pass a fresh order on merits of the case after taking into consideration the principles of proportionality of punishment. The Appellate Authority shall thereafter take a decision afresh on the pending appeal in accordance with law within a period of two months of the receipt of certified copy of this order.

23. The present petition is **partly allowed**.
24. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 15, 2025
Vishal Sharma

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No