

2025:PHHC:037023



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

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**CWP-21039-2011 (O&M)
Date of Decision: 17.03.2025**

SATPAL SINGH

... Petitioner

VERSUS

UNION OF INDIA AND OTHERS

... Respondents

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

Present: Mr. Rajeev Anand and Mr. Ujwal Anand,
Advocates for the petitioner.

Ms. Anita Balyan, Sr. Panel Counsel
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

CM-5402-CWP-2018 & CM-10271-CWP-2019

Both applications are allowed as prayed for.

The amended writ petition alongwith Annexures P-1 to P-7; and the written statement alongwith Annexures R-1 to R-9 are ordered to be taken on record subject to all just exceptions. Registry is directed to tag the same at appropriate place of the paper book.

MAIN CASE

Challenge in the present petition is to the Departmental Enquiry Report dated 30.09.2010, the consequential order dated 27.10.2010 regarding

dismissal from service as well as to the order dated 31.01.2011 passed by the Appellate Authority dismissing the appeal filed by the petitioner.

Learned counsel for the petitioner contends that the petitioner was enlisted with the respondents as Constable/General Duty on 28.11.2004 and after completion of the initial training at Gwalior, he was posted to 137 Battalion CRPF, where he remained posted till 2009. He contends that the petitioner had an unblemished record with no adverse entry in his service book. The petitioner thereafter was posted under 'D' Company of 98 Battalion and was sent to Srinagar (J&K). On account of accident of his father, the petitioner was sanctioned one month's earned leave from 23.02.2010 to 25.03.2010 and he had to report back on duty on 25.03.2010 itself. But before the petitioner could report back, he himself got unwell on account of severe jaundice and related complications, hence, he could not report back on duty on the stipulated date. He informed the Company Havildar Major on telephone about his overstay due to his severe sickness and he claims to have informed the Authorities that he might report after he got well. The petitioner eventually reported on duty on 22.11.2010 at Jammu. He then came to know that Departmental Inquiry had already been conducted against him, in which the charges against him pertaining to misconduct under Section 11(1) of the CRPF Act, 1949 already stood established.

Learned arguing counsel for the petitioner further contends that the order of dismissal of the petitioner from service is based upon the Departmental Inquiry, which itself is vitiated. He contends that as per the undisputed facts, the petitioner was served with a communication dated 04.09.2010 (Annexure R-6) (appended by the respondents alongwith their reply) as per which the

petitioner was informed by the Inquiry Officer to be present before him on or by 30.09.2010, failing which *ex parte* Departmental Proceedings would be initiated against him. The relevant extract of the same reads thus:

“No. P.VIII-1/10-A.K.

Dated, 04 September 2010

Subject :- REGARDING DEPARTMENTAL ENQUIRY

You are informed that you had been sanctioned 30 days Earned Leave w. e. f. 24/2/10 to 25/3/10 and you remained absent from 26/3/2010 (AN) without permission of Competent Authority. An order for conducting Departmental Enquiry received from Commandant 98 Bn vide office order No. P.VIII-3/2010-EC-II dated 16/8/2010 and for its completion 1, Ashok Kumar, Asstt. Commandant of 98 Bn has been detailed as Enquiry Officer. Hence being an Enquiry Officer, I informed you to present within the period of 15 days i.e. 30 September 2010 on receipt of this letter to lodge your initial statement and to make representation if any. In case if you failed to present within prescribed time limit, an Ex-Parte Departmental Enquiry will be started against you.

*Sd/-
(Ashok Kumar)
Assistant Commandant
98 Bn, CRPF”*

Counsel further submits that notwithstanding the said communication, which required the petitioner to appear before the Inquiry Officer by 30.09.2010, the Inquiry Report shows that the alleged Departmental Proceedings had already been initiated against the petitioner much prior to 30.09.2010. Learned counsel contends that the Inquiry Officer recorded the statements of six witnesses on 25.09.2010 and 26.09.2010 in a one-sided Departmental Inquiry. The operative part of the Inquiry Report submitted by the Inquiry Officer reads thus: -

“4. Enquiry Officer recorded that statements of the prosecution side witness No. 1,2,3,4,5 & 6 from 25/9/10 to 26/9/10 and during the one sided Departmental Enquiry proceedings reached to the conclusion based on the statement of witness of prosecution side and documents produced by them that Charge No.1 against accused Force No.045163111 CT/GD Satpal Singh that he had been sanctioned 30 days Earned Leave w.e.f. 24/2/10 to 25/3/10 and was to report back on duty on 25/3/2010 (AN) to evening roll call but accused Force No. 045163111 CT/GD Satpal Singh is intentionally absent from duty since 26/3/2010 (AN) without the permission of any competent authority is fully proved.

XXX XXX XXX”

He contends that the Inquiry Officer proceeded with an *ex-parte* Departmental Inquiry and submitted his report on 30.09.2010 itself notwithstanding that the same was the date on which the petitioner was required to appear before the Inquiry Officer. He thus submits that conducting an *ex parte* Departmental Inquiry in this manner vitiates the final outcome as well as the final order of dismissal of petitioner from service.

Learned counsel for the respondents does not dispute the dates as mentioned in the Inquiry Report as also the correspondence recorded by them, however, she submits that numerous correspondences were sent to the petitioner calling upon him to appear before the Inquiry Officer so that the proceedings could be initiated, however, he did not appear and as such, no benefit can be given to him.

I have heard the learned counsel for the respective parties and have gone through the documents and other material available on record with their able assistance.

It remains undisputed that communication dated 04.09.2010 was sent to the petitioner to appear before the Inquiry Officer to defend himself in the Departmental Proceedings. It also remains uncontroverted that the Inquiry Officer recorded the *ex-parte* evidence of prosecution witnesses on 25.09.2010 and 26.09.2010 and submitted his report on 30.09.2010, whereas the said date was communicated to the petitioner to appear before the Inquiry Officer. It thus remains uncontroverted that the Departmental Proceedings were carried out *ex-parte* by adopting the procedure which cannot be said to have a legal sanctity. The subsequent communications sent on 09.10.2010 and 18.11.2010 thus become insignificant since no fair opportunity was afforded to the petitioner to defend himself in the Departmental Proceedings and/or to cross-examine the witnesses. Once the founding document i.e. the Inquiry Report is itself found to be in violation of the established procedure and non-compliant of principles of natural justice, the consequential order that stands thereupon cannot withstand judicial scrutiny. Consequently, the present writ petition is allowed and the impugned Departmental Inquiry Report dated 30.09.2010, the consequential order dated 27.10.2010 regarding dismissal of petitioner from service as well as the order dated 31.01.2011 passed by the Appellate Authority dismissing the appeal filed by the petitioner are accordingly set aside. The matter is remanded to the respondent-Authorities to take the decision afresh in accordance with law after allowing the petitioner to participate in the Departmental Proceedings and put his defence. The petitioner is directed to appear before the Director General, CRPF, through Inspector General of Police CRPF, North West Sector, CRPF, Hallomajra Chandigarh on 30.04.2025, so that the Departmental Proceedings

may be initiated in accordance with law from the stage of serving of charge sheet upon the petitioner.

Petition stands allowed in above terms.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

MARCH 17, 2025.
Rajender

(VINOD S. BHARDWAJ)
JUDGE

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