



2025:DHC:2263-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 14.01.2025
Pronounced on: 03.04.2025

+ **W.P.(C) 7342/2021**

S.SUNIL KUMAR

.....Petitioner

Through: **Mr. Ankur Chibber, Mr.
Anshuman Mehrotra and Mr.
Nikunj Arora, Advs.**

versus

UNION OF INDIA AND ORS

.....Respondents

Through: **Mr. Jaswinder Singh, Adv. with
Mr. Ajay Pal, Law Officer and
Mr. Shiv Kumar Singh, S.I.
CRPF.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J

1. The petitioner has preferred the present petition under Article 226 of the Constitution of India, praying for the following relief:

“(i) Issue a Writ of Certiorari for quashing the order dated 10.02.2021 whereby the Respondents have imposed a penalty on the Petitioner of reduction to a lower stage in the time scale of pay by one stage for a period of one year, with further direction that there shall be no increments of pay during the period of said reduction, and on expiry of the said period, the reduction will not have the effect of postponing the future increments of pay,



pursuant to an illegal, perverse and wholly arbitrary disciplinary proceeding and of the disagreement note dated 12.03.2019 as well as the UPSC advice dated 30.06.2020 whereby the findings deduced by the Inquiry Officer in his Inquiry report dated 11.06.2018 were overturned in respect of Article II of the charge memorandum; and

(ii) Issue a Writ of Mandamus directing the Respondents to refix the pay of the Petitioner to such level which he was drawing before the imposition of penalty with time-based increment as due to the Petitioner, along with all consequential benefits and to promote the Petitioner to the next rank of Deputy Commandant w.e.f. the date his batchmates have been promoted, if any, with all consequential benefits.”

2. The chronology of events leading to the filing of the present petition is that the petitioner applied for the post of Sub-Inspector in the CRPF, and on being eligible, he was appointed to the said post on 27.02.1993. During the course of his career, the petitioner gained promotions to the rank of Inspector and Assistant Commandant, on 20.04.2003 and 10.08.2007, respectively.

3. In the year 2010, whilst being posted at Group Center (GC) Pallipuram, the petitioner was handed over charge of the OC Administration Headquarters, where he served till the year 2014. Thereafter he was posted to the 143rd Bt. at Lamphelat, Imphal, Manipur. During his posting at Manipur, the petitioner was promoted to the rank of Deputy Commandant *vide* the Order dated 22.12.2015.

4. On 14.01.2016, the petitioner was served with the Memorandum of Charges dated 17.12.2015, under Rule 14 of the



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Central Civil Services (Classification, Control & Appeal) Rules, 1965, wherein four charges were levelled against the petitioner.

5. On being served with the Memorandum of Charges, the petitioner submitted his statement of defence on 12.04.2016, wherein he denied all the charges framed against him. The respondents appointed Shri M. Dhinkar, Commandant, as the Inquiry Officer, and Shri Sanjeev T.M, Deputy Commandant, as the Presenting Officer, *vide* the Order dated 27.05.2016, in order to conduct the Departmental Inquiry against the petitioner on the levelled charges.

6. The preliminary hearing was conducted on 23.07.2016, wherein the Presenting Officer presented the case of the prosecution, along with the details of the prosecution witnesses and documents.

7. The Inquiry was held on 23.01.2017, wherein the charges were read over to the petitioner, to which the petitioner pleaded 'Not Guilty'. In pursuance thereto, the petitioner was directed to nominate a Defence Assistant and he submitted the name of Shri Ashish Kumar Raut, Second-in-Command (2IC) for the same.

8. Thereafter, the Inquiry commenced, and in the period from 16.05.2017 to 19.05.2017, four prosecution witnesses out of the total eighteen were examined and cross examined. In the period from 31.07.2017 to 04.08.2017, eight more witnesses were examined and cross-examined.

9. In the period from 11.09.2017 to 15.09.2017, further two prosecution witnesses were examined and cross-examined and during the same period, it was brought to the notice of the Inquiry Officer



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that one prosecution witness had passed away and three prosecution witnesses were untraceable. The petitioner, however, did not chose to call upon any witnesses in defence.

10. The Presenting Officer, on conclusion of recording of the witness statements, filed a written brief, wherein he submitted that the Charges under Articles I to III stood proved, however, the Charge under Article IV could not be proved due to insufficient evidence.

11. The petitioner, in reply to the same, refuted the stand of the Presenting Officer and stated that he was merely an implementing authority and, therefore, could not be held guilty for the Charges framed against him. Thereafter, the Inquiry Officer closed the inquiry for evaluation of evidence.

12. The Inquiry Officer submitted his report dated 11.06.2018 to the respondents, wherein he held the petitioner 'Not Guilty' of any of the Articles of Charge framed against him.

13. Upon examination of the Inquiry Report, the Disciplinary Authority, in disagreement with the Inquiry Officer, opined that the Article of Charge-I was 'partially proved', while the Article of Charge-II was 'proved' against the petitioner. A notice of disagreement was communicated to the petitioner *vide* Letter dated 20.03.2019, directing him to submit a representation within 15 days of receipt of this decision.

14. In response, the petitioner, *vide* his representation dated 10.06.2019, denied all the Charges framed against him.

15. However finding no force in them, the respondents, thereafter,



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consulted the Union Public Service Commission ('UPSC') and sought their advice as to what quantum of punishment is to be imposed on the petitioner.

16. The UPSC, *vide* their letter dated 30.06.2020, came to the conclusion that the Articles of Charge I, III and IV were not substantiated against the petitioner, however, the Article of Charge II stood proved against the petitioner, and in this regard, the respondents were advised to impose on the petitioner a penalty of reduction to a lower stage in the time scale of pay by one stage for a period of one year, and that there shall be no increments of pay during the period of said reduction, and on expiry of the said period, the reduction will not have the effect of postponing the future increments of his pay.

17. The petitioner was given an opportunity to submit a representation against the same, and *vide* his representation dated 18.11.2020, he reiterated his stance of innocence.

18. This representation of the petitioner was rejected *vide* the Impugned Order dated 10.02.2021, and the punishment as recommended by the UPSC, was awarded to the petitioner.

19. Being aggrieved thereof, the petitioner has invoked the writ jurisdiction of this Court, impugning the said order.

SUBMISSIONS ON BEHALF OF THE PETITIONER

20. Mr. Ankur Chhibber, the learned counsel for the petitioner, seeking quashing of the disagreement note dated 12.03.2019 and the UPSC advice dated 30.06.2020 and the consequential penalty order dated 10.02.2022, submitted that the respondents have failed to



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appreciate that the Charge Memorandum dated 17.12.2015 had been issued with a huge delay, as it pertains to the actions of the petitioner from the year 2011-2012.

21. He submitted that even if the case of the prosecution, although disputed, is taken to be true, the prosecution witnesses through their statements and cross-examinations have failed to prove the Article of Charge-II levelled against the petitioner. He submitted that the petitioner has no power to issue a completion certificate, passing of the bill, or release of the payment to the contractors, and hence, he could not be held guilty of the said Charge. He contended that a long chain is followed before the payment is released and not a single link in that channel objected to the fact that during the processing of the bill, completion certificate was not attached with the bill. Further, the petitioner and PW-1 were directed to urgently clear the bill of M/s Haute Cream Trading Company, without waiting for the completion certificate in order to avoid lapse of funds already allotted, before the end of the financial year and hence, the decision was never in the hands of the petitioner.

22. Placing reliance on the decision of the Supreme Court in *Allahabad Bank v. Krishna Narayan Tewari*, (2017) 2 SCC 308, the learned counsel submitted that where the findings of the Disciplinary Authority are unsupported by evidence or are such that no reasonable person would arrive at such a conclusion, then the writ court would be justified, if not duty bound, to re-examine the matter.

23. Further, drawing support from the decision of the Supreme



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Court in *Union of India & Anr. v. B.C. Chaturvedi*, (1995) 6 SCC 749, he submitted that a Court may interfere when proceedings against a delinquent officer are held in a manner that is inconsistent with the rules of natural justice or in violation of the statutory Rules, or when the finding made by the Disciplinary Authority is based on no evidence. He submits that in the present case, there exists no evidence against the petitioner to substantiate the Article of Charge-II against him.

24. The learned counsel submitted that the disagreement note as well as the UPSC advice reveal a discord amongst the two. The Inquiry Officer has, based on the statements of witnesses and evidence produced before him, exonerated the petitioner. The Disciplinary Authority, *vide* their disagreement note, overturned the decision by stating that Article of Charge-I was partially proved and that Article of Charge-II stood “proved”. The UPSC did not agree with the decision of the Disciplinary Authority with respect to Article of Charge I, stating that the same is not made out, and upheld the decision with regard to Article of Charge II alone. He submitted that the Disciplinary Authority as well as the UPSC have acted on a mere assumption, which is contrary to the settled law as per the decision of the Supreme Court in *S.R.Tewari v. Union of India & Anr.* (2013) 6 SCC 602 and *Bank of India & Anr. v. Degala Suryanarayana* (1999) 5 SCC 762.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

25. *Per contra*, the learned counsel for the respondents submitted



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that based on a number of complaints against officials, alleging corruption in GC Pallipuram, a special audit of records was conducted in June, 2012, as per which, various irregularities were found. Consequently, a Board of Officers was appointed to enquire into the circumstances under which these irregularities were committed and to pin-point responsibility. In this regard, a Departmental Inquiry was initiated against the petitioner. After the case was examined in detail, major penalty proceedings under Rule 14 of the CCS (CCA) Rules, 1965 were initiated against the petitioner on the Articles of Charges framed against him.

26. The learned counsel submitted that the UPSC was consulted for their advice to decide the quantum of the penalty to be imposed on the petitioner. The UPSC, after taking into account all the relevant facts of the case, concluded that the 3 out of the 4 Charges levelled against the petitioner are not substantiated against him and that the Article of Charge-II stands “proved”. The UPSC recommended the said penalty and thus, the penalty imposed on the petitioner was after following the due procedure. Hence, the contention of the petitioner, that the penalty imposed on him is illegal, is baseless.

ANALYSIS AND CONCLUSION

27. We have carefully considered the submissions addressed on behalf of the parties and perused the record.

28. Before proceeding with the merits of the case, it is important to take note of the limited scope for interference by High Court, while exercising the extraordinary powers under Article 226 of the



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Constitution of India, in dealing with proceedings, findings and punishment awarded by a disciplinary authority. Such powers can be exercised only in cases involving a jurisdictional error, violation of principles of natural justice, or an error of law apparent on the face of the record. Additionally, these powers can be invoked where an element of bias is present in the Impugned Order. In this regard, we make reference to the decisions of the Supreme Court in the cases of **Krishna Narayan Tewari** (Supra) and **B.C. Chaturvedi** (Supra).

29. Viewed thus, the main issue that we are required to adjudicate is whether the petitioner had misconducted himself by processing the bill for payment to M/s Haute Cream Trading Company without a completion certificate being attached with the bill and the work not having been completed.

30. Before us, the learned counsel for the petitioner has strenuously urged that before the final payment is released, the bill file is processed through various authorities and, as is apparent from the record, no one in that chain had objected to the processing of the bill without the completion certificate being attached to it and to the release of the payment, therefore, the petitioner, who was under the command of his superior officers, cannot be faulted alone in this regard. Also, the petitioner being a subordinate officer, was under an obligation to obey all orders, verbal or written, of his superior officers. He had followed the directions given to him by the authorities, who have the power to get the bill drawn and cleared.

31. Refuting the claim of the petitioner, it was submitted on behalf



of the respondents that the bill was processed by the Building Branch of GC, CRPF, Pallipuram, and the petitioner was in-charge of the Building Branch. He had processed the bill and handed it over to the Pay Section. Thus, it was the prime responsibility of the petitioner to obtain the 'Work Completion Certificate' from the concerned authority before processing the bill for final payment. It was submitted that it may have been possible that the IG had issued directions to the GC for utilisation of the allotted budget as it was the end of the financial year, however, it was the responsibility of the petitioner to make efforts for completion of the work.

32. To appreciate the pleas of the parties, we may first reproduce the Charges that were levelled against the petitioner, as under:

"ARTICLE-I

That Shri S. Sunil Kumar, Asstt. Commandant (IRLA 7388) while posted and functioning as Asstt. Commandant (Genl) & (Building) in Group Centre, CRPF Pallipuram from 11/08/2007 to 13/02/2014 committed a serious act of misconduct, in that, he failed to collect the electricity charges of two rooms (size 23' x 10 1/2') of Group Centre, CRPF, Pallipuram provided to Contractor for selling of vegetables from Ex Ct/GD T. George (contractor for running of vegetable shop inside the GC, CRPF, Pallipuram campus) as per the agreement dated 31/5/2011 signed between the contractor and DIG, GC, CRPF, Pallipuram. Further, he also failed to make mention for realizing room rent from the above said contractor. Thus the said officer failed to maintain devotion to duty and acted in a manner unbecoming of a Govt. servant, thereby violating the provisions contained Rule 3(1) (ii) & (iii) of CCS (Conduct) Rules 1964.



ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid capacity, the said Shri S. Sunil Kumar, Asstt Commandant committed a serious act of misconduct, in that, he despite knowing the fact that out of three civil works awarded to MIS Haute Cream Trading Company, Pallipuram under ARMO the hospital work has not been completed by the aforesaid firm during the month of March' 2012, the said officer intentionally processed the FVC Bills amounting to Rs. 9,85,536/- of said civil work to RPAO. The FVC Bill No. 2831/11-12 dated 20/3/2012 for Rs. 9,85,536/- passed by RPAO resulted in release of payment to said firm 0'1 19/4/2012 thereby causing wrongful gain to said contractor. Thus the said officer failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt Servant, thereby violating the provisions contained in Rule 3 (1) (i) (ii) & (iii) of CCS (Conduct) Rules 1964.

ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid capacity, the said Shri S. Sunil Kumar, Asstt Commandant committed an act of misconduct, in that, in violation to the provision of instructions as contained in Rule 137 (i) of GFR-2005 the said officer failed to ensure installation of all 75 numbers of Exhaust Fans purchased on 9/1/2012 from M/S Haute Cream Trading Company, Pallipuram for toilets/bathrooms of barracks, offices and messes in time which led to overstocking of 44 Nos of Exhaust Fans in the store. Thus the said officer failed to maintain devotion to duty and acted in manner unbecoming of a Govt Servant, thereby violating the provisions contained in Rule 3(1) (ii) & (iii) of CCS (Conduct) Rules 1964.

ARTICLE-IV

That during the aforesaid period and while functioning in the aforesaid capacity, the said



Shri S. Sunil Kumar, Asstt Commandant while holding charge of Dy Commandant (Store) of GC, CRPF, Pallipuram from 30/10/2010 to 04/8/2011 committed a act of serious misconduct in that in violation of the provision as contained in Rule 146 of GFR- 2005, on 21 (twenty one) occasions from 30/10/2010 to 04/8/2011 said officer without making any sincere efforts to purchase the items from local market through local purchase committee he proposed for purchase of various stores from outstation firms. Thus the said officer failed to maintain absolute integrity, devotion to duty and acted in manner unbecoming of a Govt Servant, thereby violating the provisions contained in Rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rules 1964.”

33. The Record indicates that the Special Auditing Report had pointed out certain irregularities/discrepancies in the records of the GC, Pallipuram, and in view thereof, a Court of Inquiry was ordered, *vide* the Order dated 13.07.2012, to inquire into such irregularities and to fix the responsibility of the erring official/officials. Thereafter, with the approval of the Central Vigilance Commission (CVC) and the Disciplinary Authority, a chargesheet was issued to the petitioner, following which, as per Rule 14 of the CCS(CCA) Rules, 1965, a disciplinary inquiry was ordered to be held *vide* the Presidential Order dated 27.05.2016. The prosecution examined 14 witnesses and the Defence Assistant of the petitioner cross-examined the said witnesses. Even though an opportunity was afforded, the petitioner did not call upon any witnesses in his defence.

34. In a nutshell, the matter was inquired into and after completing all the due formalities, the Inquiry Officer in his report held that the



Charges were ‘not proved’. The said report did not find favour with the Disciplinary Authority, who disagreed with the findings therein and held Article of Charge-I as “partially proved” and Article of Charge-II as “proved”. However, the UPSC, after going through all the records of the Departmental Enquiry proceedings and also the reply submitted by the petitioner against the disagreement note of the Disciplinary Authority on the findings of the Inquiry Officer, observed that Article II of the Charge is “proved” against the petitioner and Articles I, III and IV of the Charge are “not proved”.

35. It is to be noted that the petitioner did not point out any infirmity or illegality in the inquiry proceedings, but is aggrieved of the Disagreement Note of the Disciplinary Authority and affirmation thereof, as far as Charge II is concerned, by the UPSC. However, the petitioner has failed to assign any cogent irregularity in exercise of their powers by the Disciplinary Authority or the UPSC. The authorities have considered the material produced before them, and held the petitioner guilty of Charge II and imposed the impugned penalty on him.

36. It is not disputed that the petitioner had processed a bill of Rs. 9,85,536/- without completion of the hospital work, thereby resulting in release of the payment to M/s Haute Cream Trading Company. We do not find any merit in the submission of the petitioner that the said bill was vetted by various personnel, therefore, the petitioner cannot be alone saddled with the responsibility of getting the bill cleared. Even though, from the perusal of the deposition of the PW-1, it



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emerges that the bill was prepared by the PW-1 as per the orders of the Commandant, the petitioner should still have ensured that the Rules and Regulations were duly complied with and should not have further processed the said bill without the 'Work Completion Certificate'. He ought to have brought the Rule position/requirement to the notice of his superiors before processing the bill. The petitioner, being the authority to process the bill, could not have done so without the 'Work Completion Certificate'. The Records do not reveal that any sanction from the Competent Authority had been obtained for release of advance payment.

37. In our view, this is a gross misuse of power, which resulted in misconduct. It violates the principle of accountability and leads to financial irregularity. It is also not the case of the petitioner that he had made any stipulated condition/safeguard to ensure that the work is completed to the required standard, even if it is assumed that there was a situation justifying emergent processing of the bill. Such an action in itself disregards the warnings about incomplete or substandard work while releasing payments. Thus, the petitioner, being fully aware that the assigned work was not completed, it was his responsibility to obtain the 'Work Completion Certificate' as per Rule 132 of the General Finance Rules, 2005 from the concerned firm before processing the bill in question.

38. As far as the plea of the petitioner that there was a delay in the initiation of the Disciplinary Proceedings, we again do not find any merit. The petitioner has not been able to show any prejudice caused



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to the inquiry or his defence due to this perceived delay. In any case, taking account of the fact that the inquiry was initiated on receipt of complaints and on a special audit being carried out, we are of the opinion, that the delay, if any, in the initiation of the inquiry has been adequately explained by the respondents.

39. In view of the aforesaid, we have no hesitation in holding that the petitioner has failed to show any relevant reasons to set aside the Impugned Order and to interfere with the penalty imposed by the Disciplinary Authority on the advice of the UPSC.

40. The petition is, accordingly, dismissed.

SHALINDER KAUR, J

NAVIN CHAWLA, J

APRIL 03, 2025/FRK