



2025:DHC:1833-DB



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

Reserved on: 23.12.2024
Pronounced on: 21.03.2025

+ **W.P.(C) 15849/2022**

DEVENDER KUMAR

.....Petitioner

Through: Mr. Apurab Lal, Mr. Daleep
Singh and Mr. S.N. Gautam,
Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sandeep tyagi, SPC with
Ms. Santosh Sharma and Ms.
Akshita Tyagi, Advs.

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 approached this Court under Article 226 of the Constitution of India, assailing the Order dated 03.08.2021 passed by the Disciplinary Authority, whereby a penalty of 'compulsory retirement from Service' was imposed on the petitioner, and the subsequent Orders dated 17.03.2022 and 14.10.2022 passed by the



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Appellate Authority and the Revisional Authority respectively, which upheld the penalty.

2. Briefly stated, the facts giving rise to the present petition are that the petitioner joined the Railway Protection Force (RPF) as a Constable on 10.05.1998 and was posted at Delhi. Thereafter, he was promoted to the post of Head Constable and was posted at Ambala Cantonment (Cantt.) Station, where he joined on 15.02.2019. On 23.03.2021, the petitioner was deployed in the shift beginning from 1600 hours to 2400 hours at the RPF Post, Ambala Cantt., however, he reported on duty at 1730 hours instead of 1600 hours and misbehaved with his senior officers and staff. Based on this incident, the petitioner was placed under suspension, *vide* the Order No. 03/DAR/RPF/UMB/2021 dated 25.03.2021, with immediate effect, recording that the disciplinary proceedings were contemplated under Rule 134(a & b) of the Railway Protection Force Rules, 1987 (RPF Rules). Subsequent thereto, on 24.04.2021, the Order of suspension was revoked without prejudice to further action.

3. On the basis of a preliminary inquiry report, a Chargesheet under Rule 153 of the RPF Rules, was issued to the petitioner *vide* the Memorandum No. DAR-08/153/RPF/UMB/2021 dated 24.04.2021, wherein 5 Charges were levelled against him. The petitioner was also advised to take assistance of any member of the Force, of or below the rank of Sub Inspector (SI) as a "Friend", in compliance with Rule



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153.8 of the RPF Rules. Sh. Shyam Sunder was nominated by the petitioner as his 'friend'. Sh. Rajesh Kumar, Inspector, PF Rajpura was nominated as the Inquiry Officer (IO), and the date of inquiry was fixed as 27.04.2021.

4. On an objection by the petitioner on the appointment of Sh. Rajesh Kumar, Inspector as the IO, he was replaced by Sh. Gulshan Satija, Inspector, RPF Post, Sirhind.

5. On conclusion of the case of the prosecution, the petitioner was asked to submit the defence statement and a list of defence witnesses within a period of 10 days. However, the petitioner was unable to submit his defence statement and list of witnesses within the stipulated time frame, and on his failure to do so, the inquiry report was submitted by the IO on 11.07.2021 to the Disciplinary Authority, wherein the Charges 1, 3, 4 and 5 were held to be '*proved*' and the Charge No. 2 was held to be '*partially proved*'.

6. The Disciplinary Authority forwarded a copy of the inquiry report to the petitioner, *vide* the letter dated 12.07.2021, for filing a representation, if any, within a period of 15 days from the receipt of the copy of the said report.

7. In response, the petitioner, on 23.07.2021 filed his representation, claiming that the observations made by the IO in the inquiry report were without any cogent reasons.



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8. The Disciplinary Authority *vide* the Order dated 03.08.2021 imposed the penalty of 'compulsory retirement from the Service' on the petitioner.

9. Being aggrieved of the abovesaid punishment, the petitioner filed a Statutory Appeal dated 31.08.2021 before the Appellate Authority, which was rejected. A Revision Petition, subsequently filed by the petitioner on 10.05.2022, was also dismissed, reinforcing the penalty order.

10. Dissatisfied with the above three Impugned Orders, the petitioner has filed the present petition invoking the writ jurisdiction of this Court.

SUBMISSIONS ON BEHALF OF THE PETITIONER

11. Mr. Apurab Lal, the learned counsel for the petitioner submitted that the inquiry report, as well as the Impugned Orders passed by the Disciplinary, Appellate, and the Revisional Authorities, are erroneous and liable to be quashed as due procedure was not followed and no sufficient reason was provided for the conclusion reached by the said Authorities. He submitted that the respondents did not adhere to the principles of natural justice, as the petitioner was deprived of an opportunity to submit his defence. The period of 10 days allowed to file his defence evidence was too short, leaving no spare time for the petitioner, given his hectic duty schedule, to prepare his defence.

12. He submitted that the respondents did not meticulously consider the evidence on record and the prosecution failed to prove the Charge



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regarding misbehaviour of the petitioner. In this regard, the learned counsel referred to the evidence of PW2 and PW3, and submitted that from the said depositions, it is clear that the petitioner was not under the influence of alcohol when he reported for the duty at 1730 hours. PW3 did not witness any misbehaviour and misconduct on the part of the petitioner.

13. He further submitted that the petitioner maintained a clean record for the 20 years of his Service. On 23.03.2021, he was deliberately targeted as he came late to the place of his posting. SI Pankaj failed to acknowledge that the petitioner was suffering from fever and he made a casteist remarks against the petitioner.

14. Lastly, the learned counsel submitted that in any case, the punishment of compulsory retirement is grossly disproportionate in the present case and, thus, cannot be sustained. He submits that in these circumstances, the writ petition be allowed.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

15. On the other hand, Mr. Sandeep Tyagi, the learned counsel for the respondents, supported the Impugned Orders and submitted that the RPF Rules as well as the principles of natural justice were duly followed over the course of the departmental proceedings, and therefore, the Impugned Orders do not warrant any interference.

16. He submitted that on 23.03.2021, the petitioner failed to report to the duty on time and did not provide any prior intimation to the duty



officer for being late. Eventually, he arrived at 1730 hours and that too in an inebriated condition. Upon his arrival, he misbehaved with the officers and the staff, which led to the initiation of the Departmental Inquiry against him.

17. The learned counsel contended that the petitioner failed to submit his representation pursuant to the inquiry report within a period of 15 days, which was submitted 11 days beyond the deadline, thereby undermining his own defence. He submitted that the Disciplinary Authority, upon comprehensive review of the inquiry report, imposed the penalty of compulsory retirement from service. The Appellate and Revisional Authorities, upon assessing the inquiry report, comments of the Disciplinary Authority, and the representation made by the petitioner, upheld the penalty of compulsory retirement.

18. Concluding his submissions, the learned counsel submitted that the entire proceedings were conducted in strict adherence to the RPF Rules and that the petitioner was afforded ample opportunities to defend himself at every stage of the proceedings, thus, there is no infirmity in the proceedings and the writ petition is liable to be dismissed.

ANALYSIS AND CONCLUSION

19. Having considered the submissions made on behalf of the parties and perusal of the record, on a prefatory note, we would begin by noting the scope of interference by this Court under Article 226 of the



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Constitution of India. Ordinarily, the Court should not interfere with the employer's decision unless it is illogical or suffers from procedural impropriety. The legal position is well settled that while exercising the power of the judicial review, it is impermissible to re-appreciate facts and evidence of the case. If the Disciplinary Authority has conducted the inquiry fairly and the findings are based on evidence, the question of adequacy and reliability of evidence will be no ground for interfering with the findings in Departmental Inquiry.

20. In ***Union of India vs. P. Gunasekaran***, (2015) 2 SCC 610, the Supreme Court recapitulated the scope of challenging the findings of a Disciplinary Inquiry, and held as under:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;



(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;



(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.”

21. In the light of the settled legal position, we may proceed to examine the submissions made on behalf of the parties.

22. On 15.05.2021, the Departmental Inquiry commenced, through the course of which the Memorandum of Charges was read over to the petitioner. The five Charges framed against the petitioner are as under:-

“Charges

1. On dated 23.03.2021 your duty was scheduled in the shift 16.00 to 24.00 hrs. at RPF Post Ambala Cantt., but you did neither presented for duty nor got recorded any notice of absence, which shows negligence towards duty and indiscipline. Charge - violation of RPF Rule-146.2 (iii).

2. On dated 23.03.2021 you were alerted to attend duty in the shift of 16.00 to 24.00 hrs. at RPF post Ambala Cantt. But you presented at about 17.30 hrs. in the intoxicated position. Charge - violation of RPF Rule-147. (ix).

3. On dated 23.03.2021 at RPF post Ambala Cantt. Your conduct with your seniors was abusive and very rudely. Charge - violation of RPF Rule-146.5(a) and 147. (xiii).



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4. You on dated 23.03.2021 used force against your colleague. Charge- violation of RPF Rule-146.5(b).

5. On dated 23.03.2021 your conduct with your senior officer was abusive and very rude and also by using force against your colleague you lowered the image of RPF. Charge- violation of RPF Rule-146.4.”

23. The petitioner pleaded ‘not guilty’ to all the Charges. At his request, Head Constable Shyam Sunder S/o Sh. Sukhbir Singh was appointed as his ‘Friend’.

24. During the Departmental Inquiry, the statement of eight PWs was recorded. Thereafter, *vide* the letter dated 21.06.2021 issued by the IO, the petitioner was granted 10 days’ time to furnish his defence statement and list of defence witnesses. However, the petitioner did not file either of those.

25. The Inquiry Officer, on 11.07.2021 furnished the inquiry report to the Disciplinary Authority, concluding that the petitioner was ‘guilty’ of Charges 1, 3, 4 and 5, and in absence of medical examination of petitioner on the day of incident, Charge No. 2 was stated to have been ‘partially proved’.

26. The petitioner submitted his defence representation against the findings of the IO to the Disciplinary Authority. After a combined consideration of the Chargesheet, the inquiry proceedings, its findings and the defence representation of the petitioner, the Disciplinary Authority, *vide* its order dated 03.08.2021, observed that reasonable



opportunity was given to the petitioner at every step of the inquiry and all norms prescribed in the RPF Rules were followed. The Disciplinary Authority, in detail discussed the defence representation and found the petitioner to be ‘guilty’ of Charges framed against him and awarded him the punishment of ‘compulsory retirement from Service’. In the said Order, the Disciplinary Authority observed as under:

“Such actions o the part of the P/c at a public clearly affect the reputation of the Force in the eyes of the public as well as officers and staff of other departments present there.

The P/C was to be deployed for duty during the shift 16.00 to 24.00 on 23.3.21 but failed to appear for his duty on time and his absence was marked in the Roznamcha at 16.42 hrs in the Diary Entry 39 by Duty officer LSI Nisha. The P/C then arrived at the post and misbehaved with LSI Nisha as well as SI Pankaj who was looking after the charge of the post at that time. The abusive language used by the party charged in particular is really disparaging and such type of insubordination is absolutely unacceptable in a uniformed service. The P/C has failed to give any justification or submit any evidence regarding the groupism or casteism that he has alleged in his representation.

The misconduct, sheer indiscipline and insubordination that the P/C has exhibited in this case is of incredibly serious nature and deserves exemplary punishment to show that such behaviour is not at all acceptable in this force.

In view of the above facts, I consider the P/C guilty of the charges framed against him and



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*find it appropriate to impose punishment of
"Compulsory Retirement from Service."*

27. The appeal preferred by the petitioner against the Order of the Disciplinary Authority was dismissed *vide* the Order dated 17.03.2022. The Appellate Authority has fore-grounded his rejection of the petitioner's defence statement by juxtaposing every aspect of his defence representation with evidence available on record.

28. The petitioner challenged the Order of the Appellate Authority, as also the Order of the Disciplinary Authority, before the Revisional Authority. *Vide* the Order dated 14.10.2022, the Revisional Authority observed that there was ample evidence to prove the Charges against the petitioner. The Revisional Authority further noted that from the examination and the cross examination of PWs, it was found that the petitioner, in the presence of witnesses, snatched the mobile phone of the HC Jagdev Singh and threw it towards the side of Platform No. 1, on railway lines. The Revisional Authority also found that the conduct of the petitioner and misbehaviour exhibited extreme indiscipline, which is not pardonable under any circumstances. Thus, it concurred with the Order passed by the Appellate Authority and rejected the Revision Petition, keeping the penalty awarded as intact.

29. We may also note that the petitioner has failed to show that there were any procedural irregularities or violation of principles of natural justice in the conduction of the inquiry. His application to initially change the appointed Inquiry Officer was duly considered and a new



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Inquiry Officer was appointed. His 'Friend' was appointed as per his choice. The petitioner was granted sufficient opportunities to cross examine the witnesses. Further, he was granted 10 days' time to file his defence statement as well as list of witnesses. The petitioner neither availed of the said opportunity within the stipulated time nor sought for an extension of time. Moreso, there is no allegation of mala fides against the Disciplinary Authority or lack of competence of the Disciplinary Authority in passing the order of the compulsory retirement.

30. We have perused the Original Record of the Disciplinary Enquiry produced by the respondents before us, from where it is discerned that the prosecution witnesses have consistently deposed that the petitioner had misbehaved with SI Pankaj (PW1) and HC Jagdev Singh (PW6). The said incident had occurred in presence of Kumari Nisha (PW2) and Naresh Kumar (PW5). The witnesses have deposed that the petitioner had threatened SI Pankaj by stating '*barrack jaate samay road pr chalne wala truck aapke uppar se bhi nikal sakta hain*' and '*aaoge to barrack me hee*'. The incident involving the snatching of the mobile phone from HC Jagdev while he was recording the video of the incident stands corroborated by the statement of ASI Santosh (PW4) and HC Jagdev Singh (PW6). On the other hand, the petitioner has not been able to demonstrate that SI Pankaj (PW1) misbehaved with him or used casteist remarks for him.



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31. That being said, we may now turn to the plea of the petitioner that the punishment of compulsory retirement awarded to him was disproportionate to the nature of the Charges levelled against him. Even though, the respondents have failed to put on record any previous misconduct of the petitioner, we do not find merit in the submission of the petitioner that the punishment awarded to him is disproportionate. Misbehaving and threatening his Senior Officer in presence of other Junior Officers and by using force against his colleague indeed is a serious offence. As a member of a disciplined Force, the petitioner was expected to carry out his duties with utmost responsibility and reverence. The act of threatening and misbehaving with a Senior Officer goes against the values of discipline that the Force upholds. Being a member of Railway Protection Force, petitioner is required to maintain a high standard of discipline in the discharge of his official functions. The petitioner did not report at his duty post on time, for which he did not send any message, which in fact is “neglect of duty”. Accordingly, he was marked absent by the concerned officer, to which he took an offence and misbehaved with his senior and another colleague. The petitioner failed to establish that he reported late at his duty post since he was suffering from high fever and was under medication. No medical document has been filed in support of the said submission. Though the medical test of the petitioner was not conducted, the witness stated that he appeared to be intoxicated when



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he reported for duty. This further shows that the petitioner was taking a false plea in defence and he failed to prove the same.

32. Having considered the above, this Court finds no reason to interfere with the Impugned Orders. The petition is accordingly dismissed. The original records of the inquiry proceedings are directed to be returned to the respondent/department by the Court Master.

SHALINDER KAUR, J.

NAVIN CHAWLA, J.

MARCH 21, 2025
SU/SK