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

Date of decision: 28th JULY, 2025

IN THE MATTER OF:

+ **W.P.(C) 12750/2019**

WAJID ALI

.....Petitioner

Through: Mr. Ankur Chhibber and Mr Arjun
Panwar, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Jitesh Vikram Srivastava, SPC
with Mr. Prajesh Vikram Srivastava,
Advocates.

Mr. Vinod Sawant, Law Officer
CRPF, Mr. Athurv Insp CRPF and
Mr. Ramniwas Yadav, CRPF.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT (ORAL)

SUBRAMONIUM PRASAD, J.

1. The present Petition under Article 226 of the Constitution of India has been filed by the Petitioner challenging the Order dated 23.08.2010, passed by the Office of the Commandant, 195 Battalion, Central Reserve Police Force (CRPF), Barsur, Dantewada, Chattisgarh, dismissing the Petitioner herein from service; Order dated 22.11.2010, passed by Office of the Deputy Inspector General of Police, CRPF, Range Kathgodam, Amritpur, Kathgodam, Nainital, Uttarakhand, rejecting the appeal filed by the Petitioner herein challenging his dismissal and the Order dated 21.03.2012, passed by the Office of the Inspector General of Police, Central Zone,



CRPF, TC-32, Vibhuti Khand, Gomtinagar, Lucknow, Uttar Pradesh, dismissing the revision Petition filed by the Petitioner herein.

2. The case set up by the Petitioner herein is that the Petitioner was appointed as a Constable (General Duty) in CRPF on 23.07.2004. It is stated that upon conclusion of training, the Petitioner was posted to 195 Battalion, Barsoor, Dantewada, Chattisgarh. It is stated that on 11.08.2009, while being posted at 195 BN, Barsoor, Dantewada, Chattisgarh, the Petitioner herein saw Cook Dharmendra Medha taking a bowl of ghee from the mess store room. It is stated that when the Petitioner herein confronted the said Cook, he told the Petitioner that he is taking the ghee to prepare food for the Company Commander and verbally abused the Petitioner. It is stated that when the Petitioner herein described the incident to the Company Commander, the Company Commander in turn threatened the Petitioner. It is stated that *vide* letter dated 12.08.2009, the Petitioner herein informed the Commandant about the misbehaviour of the Company Commander. It is stated that on the very same day, the Petitioner herein was called by the Company Commander in the orderly room. It is stated that when the Petitioner went to the orderly room, the conversation between the Petitioner herein and the Company Commander turned into a heated argument where the Company Commander threatened the Petitioner with dire consequences and also attacked the Petitioner herein, causing injury to his genitals and on left finger. It is stated that the Petitioner herein went by himself to the 195 BN Hospital to seek medical treatment, wherein it was revealed that the Petitioner has sustained some scratches on his chest and there was a slight swelling on the little finger of his right hand. It is stated that thereafter, the Petitioner was referred to Dantewada Hospital and then to Maharani Hospital for treatment. Consequently, the Petitioner was placed under



suspension on 12.08.2009.

3. *Per contra*, it is the case of the Respondents herein that on the evening of 11.08.2009, the Petitioner directed the Mess Cook i.e., No.075060612 CT (Dharmendra Medha) to serve meals to dining members. It is stated that the Mess Cook refused to obey the Petitioner's direction on the ground that it does not come within the scope of his duty. It is stated that the Petitioner abused the Mess Cook and brought him before the Company Commander – Mr. Adil Hussain, Assistant Commandant. It is stated that the Petitioner again abused the Mess Cook in front of the Company Commander and in a fit of anger, the Petitioner threw the register, which was held by him, outside the chamber. It is stated that by taking a lenient view and after hearing both the sides, the Company Commander held that it was indeed the duty of the Mess Cook to serve meals to the dining members. It is stated that during the night hours on that day, the Petitioner went near the bed of the said Mess Cook and threatened him with dire consequences. It is stated that the Mess Cook complained about this misbehaviour of the Petitioner to the Company Commander. The Company Commander, therefore, called the Petitioner in the orderly room. It is stated that in the orderly room, while the Company Commander was questioning the Petitioner about the incident, the Petitioner became violent and started misbehaving and abusing the Company Commander and even physically assaulted him. It is stated that on this serious misconduct of physically assaulting a Senior Officer, the Company Commander reported the matter to the Commandant 195 BN *vide* letter dated 12.08.2009. It is stated that the Petitioner was brought to the Battalion Headquarter, where the Commandant enquired about the entire incident and after verifying all the allegations, the Disciplinary Authority *vide* order dated 12.08.2009, placed the Petitioner under suspension and a



Preliminary Enquiry was also ordered against the Petitioner herein. *Vide* Charge Memorandum dated 05.09.2009, following charges were framed against the Petitioner:

“Item-I: While working in C/195, CRPF, Bhusaras, Dantewada, Force No.041728115 Ct./GD Wajid Ali, has done misconduct as a member of the force under Section 11 (1) of the CRPF Act 1949, wherein on the morning of 12.08.2009 at 0930hrs, when the Company Commander, Sh. Adil Hassan, Assistant Commandant pronounced imprisonment sentence against him, he abused and attacked the Company Commander and uprooted his shoulder flaps. In this way Force No.041728115 Ct./GD Wajid Ali made a serious indiscipline to attack his senior officer and has committed a serious/extremely heinous crime, which is against the good conduct and discipline of force..

Item-II: While working in C/195, CRPF, Bhusaras, Dantewada, Force No.041728115 Ct./GD Wajid Ali, has done misconduct as a member of the force under Section 11 (1) of the CRPF Act 1949, wherein on the morning of 12.08.2009 at 0930hrs, when the Company Commander, Sh. Adil Hassan, Assistant Commandant pronounced imprisonment sentence against him, he refused to accept the punishment of line imprisonment. In this way Force No.041728115 Ct./GD Wajid Ali disobeyed the orders of the senior officer thereby committing a serious indiscipline which is against the good conduct and discipline of force.

Item-III: While working in C/195 Battalion, Force No.041728115 Ct. /GD Wajid Ali, has done misconduct as a member of the force under Section 11 (1) of the CRPF Act 1949 by sending letters to the dignitaries and higher officials through his wife for the purpose of influencing and preventing the inquiry. Also, the personnel on 20.08.2007 and 23.08.2009 had published news in the newspaper without following the established procedure available in the department for



the purpose of influencing and avoiding the inquiry process. Therefore, while not following the established procedure available in the department, through malicious propaganda aimed at influencing and improving the inquiry under the thought-provoking policy, has done a scathing attempt to tarnish the image of disciplined force like CRPF, which is against the good conduct and discipline of force.”

4. A detailed reply to the Memorandum of Charges was given by the Petitioner. After conclusion of the Preliminary Enquiry, the Order dated 23.08.2010 was passed by the Office of the Commandant, 195 BN, CRPF, Barsur, Dantewada, Chattisgarh, dismissing the Petitioner herein from service. The said Order was challenged by the Petitioner herein by filing an appeal before the Appellate Authority and the Appellate Authority *vide* Order dated 22.11.2010, rejected the appeal filed by the Petitioner herein. The Petitioner herein then filed a Revision Petition and the same was also dismissed *vide* Order dated 21.03.2012.

5. It is these Orders which are under challenge in the present Writ Petition.

6. The short contention of the learned Counsel for the Petitioner is that the Company Commander - Mr. Adil Hussain, Assistant Commandant, was examined as PW-13, however, the Petitioner herein was not permitted to cross-examine him. He further submits that the Enquiry Officer himself starting putting questions to the Petitioner as the Presenting Officer. He states that the Petitioner specifically sought for cross-examination of Mr. Adil Hussain but the Petitioner was wrongfully denied the said opportunity. He, therefore, states that the enquiry has been done in complete violation of principles of natural justice.

7. Learned Counsel for the Respondent does not refute the submissions



made by the learned Counsel for the Petitioner.

8. Heard the learned Counsels for the parties and perused the material on record.

9. The grievances of the Petitioner in the present petition are that firstly, Mr. Adil Hussain, Assistant Commandant, was examined as PW-13 but when the Petitioner sought to cross-examine Mr. Adil Hussain, he was not permitted to do so.

10. Learned Counsel for the Petitioner thereafter has drawn the attention of this Court to the relevant portion of the proceedings wherein a specific request for cross-examining PW-13 has been disallowed. Learned Counsel for the Petitioner has drawn the attention of this Court to Rule 27(c)(2)(iii) of the Central Reserve Police Force Rules, 1955, which reads as under:-

“27. Procedure for the Award of Punishments.

xxx

(c) The procedure for conducting a departmental enquiry shall be as follows:—

xxx

(2) At the commencement of the enquiry the accused shall be asked to enter a plea of “Guilty” or “Not Guilty” after which evidence necessary to establish the charge shall be let in. The evidence shall be material to the charge and may either be oral or documentary; if oral;

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(iii) the accused shall be allowed to cross examine the witnesses.”

11. A perusal of Rule 27(c)(2)(iii) of the Central Reserve Police Force Rules, 1955, indicates that the charge-sheeted employee has a right to cross-examine the witnesses. The records reveal that the Petitioner did specifically request for examining PW-13 and this Court is of the opinion that no



substantial reason has been given for rejecting such request. In the opinion of this Court, the Petitioner ought to have been permitted to cross-examine PW-13, who was the person who alleged that the Petitioner assaulted him. Accepting the *ipse dixit* of the Company Commander/PW-13 and not permitting the Petitioner to cross-examine PW-13 is a serious lapse on the part of the Enquiry Officer. In view of the above, this Court is of the opinion that the principles of natural justice have not been followed.

12. Another grievance of the Petitioner is that the Inquiry Officer himself started acting as the Presenting Officer, which cannot be permitted. Learned Counsel for the Petitioner has drawn the attention of this Court to the proceedings wherein the Inquiry Officer has himself put several questions to the witnesses.

13. The Apex Court in Union of India v. Ram Lakhan Sharma, (2018) 7 SCC 670, has observed as under:

“36. Thus, the question as to whether the Enquiry Officer who is supposed to act independently in an inquiry has acted as prosecutor or not is a question of fact which has to be decided on the facts and proceedings of a particular case. In the present case we have noticed that the High Court had summoned the entire inquiry proceedings and after perusing the proceedings the High Court came to the conclusion that the Enquiry Officer himself led the examination-in-chief of the prosecution witness by putting questions. The High Court further held that the Enquiry Officer acted himself as prosecutor and Judge in the said disciplinary enquiry. The above conclusion of the High Court has already been noticed from paras 9 and 10 of the judgment of the High Court giving rise to Civil Appeal No. 2608 of 2012.

37. The High Court having come to the conclusion that the Enquiry Officer has acted as prosecutor also, the



capacity of independent adjudicator was lost while adversely affecting his independent role of adjudicator. In the circumstances, the principle of bias shall come into play and the High Court was right in setting aside the dismissal orders by giving liberty to the appellants to proceed with inquiry afresh. We make it clear that our observations as made above are in the facts of the present cases.”

14. A perusal of the abovementioned Judgment shows that the Enquiry Officer cannot act as a prosecutor and put questions to the parties. In the present case, since the Enquiry Officer has not permitted the Petitioner to cross-examine Mr. Adil Hussain/PW-13, there is an element of bias as well.

15. In view of the above, this Court is inclined to set aside the Order dated 23.08.2010 passed by the Office of the Commandant, 195 Battalion, Central Reserve Police Force (CRPF), Barsur, Dantewada, Chattisgarh, dismissing the Petitioner from the services, and direct that the Enquiry be conducted afresh by following the due procedure of law and giving the Petitioner an opportunity to cross-examine Mr. Adil Hussain/PW-13.

16. With these directions, the present Writ Petition is disposed of, along with the pending applications, if any.

17. It is made clear that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

JULY 28, 2025

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