



2025:DHC:9443-DB



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: July 30, 2025

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Pronounced on: October 29, 2025

+ W.P.(C) 5823/2015 & CM APPL. 15549/2019, CM APPL. 41099/2019

PRABHAT SINGH CHARAK

.....Petitioner

Through: Mr. Anuj Aggarwal with Mr. Vikrant Chawla, Ms. Manika V. Aggarwal, Mr. Mayank Chauhan, Advocates

Versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Vinay Yadav, with Mr. Ansh Kalra, Ms. Kamna Behrani, Mr. Siddharth Gautam, Advocates with Insp Athurv CRPF, Mr Ramniwas Yadav, CRPF

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

SAURABH BANERJEE, J.

PREFACE:

1. The petitioner, *vide* the present writ petition under article 226 of Constitution of India, seeks issuance of a Writ of Certiorari for quashing the order dated 31.12.2013 passed by the respondents awarding penalty of withholding 30% monthly pension for a period of five years, quashing the Show Cause Notice dated 08.02.2014 and the order dated 24.12.2014



issued by the respondents, as also issuance of a Writ of Mandamus directing the respondents to treat the entire period of service of the petitioner from the date of initial compulsory retirement i.e. 28.02.1999 to the date of superannuation, i.e. 31.03.2013 as ‘period spent on duty’ for all purposes along with all consequential benefits as also for directing the respondents to fix the pay of the petitioner as per the prevalent rules and determine the post-retirement benefits including pension, GPF, leave encashment, etc. after taking into account the periods deemed to be spent on duty and after granting ACP/ MACP benefits.

BRIEF CONSPECTUS:

2. Since the present proceedings involve a chequered history, the conspectus, though titled brief, cannot be made such.
3. The petitioner got enrolled as a Sub-Inspector in the Central Reserve Police Force¹ in the year 1976 and subsequently first got promoted to the rank of Inspector (GD) during the year 1979-80 and then to the rank of Assistant Commandant in the year 1985 and thereafter, finally to the rank of Deputy Commandant in the year 1992.
4. While serving at the post of Deputy Commandant, the petitioner was issued a Chargesheet dated 26.07.1996, wherein three charges were levelled against him for his failure to comply with the lawful orders issued by the Officiating Commandant in March 1994. The said charges are reproduced herein as under:

“... ..

Article-I

*Shri P.S. Charak while posted and functioning as Dy.
Commandant in 68 Bn, CRPF at Jalandhar during March,*

¹ Hereinafter referred to as “CRPF”



1994 committed serious misconduct in that he failed to comply with the lawful orders issued by the Offg. Commandant 68 Bn CRPF on 7/3/1994 directing him to proceed on operational duty as Dett. Commander, Tinsukia (Assam) to take over charge from Shri Gurmit Singh, Dy. Commandant who was proceeding on superannuation w.e.f. 31/3/1994 and thereby tried to avoid operational duties in Assam. Thus, the said Sh. P.S. Charak failed to maintain absolute devotion to duty and acted in a manner unbecoming of a Govt. servant and thereby violated the provisions contained in Rule 3 (1) (ii) & (iii) of CCS (Conduct) Rules, 1964.

Article-II

That said Shri P.S. Charak while posted and functioning in the aforesaid Bn and in the aforesaid area during April, 94 committed serious misconduct in that he failed to comply in time the lawful orders issued by the Offg. Commandant 68 Bn CRPF on 13/4/1994 directing him to appear before the Chief Medical Officer, BH-I, CRPF, New Delhi for second medical opinion. Thus, the said Sh. P.S. Charak failed to maintain absolute devotion to duty and acted in a manner unbecoming of a Govt. servant and thereby violated the provisions contained in Rule 3(1) (ii) & (iii) of CCS (Conduct) Rules, 1964.

Article-III

That the said Sh. P.S. Charak while posted and functioning in the aforesaid Bn and during the aforesaid period committed a serious misconduct in that he having been detailed by his Offg. Commandant for operational duty, absented himself from duty w.e.f. 12/3/94 to 7/1/95 (302 days) without sanction of leave by the competent authority, to avoid proceeding to Tinsukia (Assam) for operational duties. Thus, the said Sh. P.S. Charak failed to maintain absolute devotion to duty and acted in a manner unbecoming of a Govt. servant and thereby violated the provisions contained in Rule 3(1) (ii) & (iii) of CCS (Conduct) Rules, 1964.... ..”



5. Pursuant thereto, the petitioner was subjected to departmental enquiry wherein the Inquiry Officer exonerated the petitioner *vide* its report dated 28.08.1997, thereby holding that since the petitioner was suffering from hypertension and bronchial asthma, he was not in a position to obey the orders of the Officiating Commandant and proceed to Dett, 68 Bn. Hence, it was held that the said act of the petitioner could not be taken as disobedience of lawful orders.

6. Thereafter, having disagreed with the findings of the Inquiry Officer, the Disciplinary Authority issued a Disagreement Note dated 01.12.1997² to the petitioner, thereby returning the positive findings of guilt against the petitioner, to which the petitioner filed his reply dated 29.01.1998. Pursuant thereto, the Disciplinary Authority passed an order dated 04.02.1999, whereby the petitioner was held guilty of the charges levelled against him and was subjected to the punishment of Compulsory Retirement from service w.e.f. 28.02.1999.

7. In a challenge thereto, the petitioner submitted a memorial to the President of India, which was disposed of by a non-speaking and unreasoned order dated 17.09.2003.

8. Aggrieved thereby, the petitioner filed a writ petition before this Court, being **W.P.(C) 5078/2004** entitled *Prabhat Singh Charak vs. UOI & Anr.*, against the respondents thereby, challenging the Disagreement Note dated 01.12.1997, the subsequent order of Compulsory Retirement dated 04.02.1999 and the order dated 17.09.2003 passed by the Hon'ble President of India.

² Hereinafter referred to as "*first Disagreement Note*"



9. This Court *vide* judgment dated 02.12.2009 allowed the writ petition and set aside the first Disagreement Note dated 01.12.1997, the subsequent order of Compulsory Retirement dated 04.02.1999 and the order dated 17.09.2003 holding the orders as unreasoned and non-speaking since the derailment took place at the stage of recording the Disagreement Note. This Court finding that the mind of the Disciplinary Authority was already closed, set the train back at the correct track i.e. directed the Disciplinary Authority to reconsider the report of the Inquiry Officer.

10. Thereafter, the non-implementation of the above judgment by the respondents resulted in the petitioner filing a contempt petition before this Court, being **Cont. Case (Civil) 179/2010** entitled *Prabhat Singh Charak Vs. G.K. Pallai & Ors.*, against the personnel of the respondents on 18.02.2010.

11. It was only during the pendency of the aforesaid contempt petition that the respondents *vide* order dated 24.04.2010, reinstated the petitioner back in service and placed him under deemed suspension w.e.f. 27.02.1999, in terms of *Rule 10(4)* of Central Civil Services (Classification, Control and Appeal) Rules, 1965³, as also directed him to report to HQ, Group Centre, Bantalab, Jammu.

12. Thereafter, the aforesaid contempt petition was disposed of by this Court *vide* a detailed order dated 16.08.2010, wherein it was observed that *Rule 10(4)* of the CCS Rules was not applicable to the case of the petitioner as no fresh enquiry was ordered against him as also he had never been put under suspension at the time of framing of charges and/ or

³ Hereinafter referred to as “CCS Rules”



during the period of enquiry and/ or after the Disagreement Note dated 01.12.1997 was made to him in the first instance.

13. Subsequently, the respondents issued a fresh order dated 08.10.2010 to the petitioner withdrawing the earlier order dated 24.04.2010, which had placed the petitioner under deemed suspension.

14. Pursuant thereto, the petitioner was yet again served with a copy of the Inquiry Report along with a fresh Disagreement Note dated 21.05.2010⁴, to which the petitioner filed his reply dated 10.06.2010. Pursuant thereto, the Disciplinary Authority passed another order dated 20.05.2011, whereby the petitioner was once again subjected to the punishment of Compulsory Retirement from service.

15. As a follow up thereto, *vide* order dated 24.05.2011, the respondents decided the treatment of the intervening period of the petitioner in the following manner:-

- i. 50% of pay and allowances with effect from 28.02.1999 (date of compulsory retirement) to 17.05.2010 (date of rejoining duties).
- ii. 28.02.1999 (date of compulsory retirement) to 01.12.2009 (one day prior to judgment)-period not spent on duty.
- iii. 02.12.2009 (date of judgment) to 17.05.2010 (date of joining upon reinstatement).

16. Aggrieved thereby, the petitioner filed another writ petition, being **SWP No. 1268/2011** entitled *Prabhat Singh vs. Union of India & Ors.*, this time before the Hon'ble High Court of Jammu and Kashmir at Jammu against the very same respondents seeking setting aside of the second

⁴ Hereinafter referred to as "*second Disagreement Note*"



order of Compulsory Retirement dated 20.05.2011 and the follow up order dated 24.05.2011.

17. The Hon'ble High Court of Jammu and Kashmir at Jammu *vide* its judgment dated 10.05.2012 allowed the aforesaid writ petition thereby setting aside the order of Compulsory Retirement dated 20.05.2011 as also the order dated 24.05.2011 issued by the respondents, thereby holding that the Disciplinary Authority once again derailed itself at the stage of recording the second Disagreement Note as the mind of the Disciplinary Authority was already closed since the Disagreement Note was simply styled to cover the position under *Rule 15(1)* of the CCS Rules, leaving no occasion for the petitioner being the delinquent employee to be subject to a fair representation thereto.

18. As a result thereof, the respondents *vide* subsequent order dated 17.09.2012 reinstated the petitioner back in service, only to once again place him under deemed suspension w.e.f. 27.02.1999, once again, in terms of *Rule 10(4)* of CCS Rules and ordered him to be attached with Group Centre, CRPF, Schar.

19. Aggrieved by the passing of the said order dated 17.09.2012, the petitioner filed another writ petition being **SWP No. 2425/2012** entitled *Prabhat Singh vs. Union of India & Anr.* again before the Hon'ble High Court of Jammu and Kashmir at Jammu, wherein, while disposing of an application seeking interim relief, the Hon'ble High Court directed the respondents to allow the petitioner to report for duties at HQ, Group Centre, CRPF, Bantalab Jammu, till the pendency of the said writ petition. Subsequently, the petitioner was taken back on the strength of Group Centre, CRPF, Bantalab Jammu on 16.11.2012.



20. Faced with the judgment dated 10.05.2012, the respondents issued another Disagreement Note dated 19.11.2012⁵, to which the petitioner filed his reply dated 30.11.2012. Pursuant thereto, the respondents passed another order dated 11.12.2012, once again placing the petitioner under deemed suspension for a period of *106 days* w.e.f. 16.12.2012 to 31.03.2013 i.e. the date of superannuation or till the date of review of his case, whichever was earlier.

21. In the meanwhile, the petitioner on 02.01.2013, filed another writ petition being **SWP No. 15/2013** entitled *Prabhat Singh Charak Vs. Union of India & Anr.*, again before the Hon'ble High Court of Jammu and Kashmir at Jammu. Soon thereafter, the petitioner superannuated from service on 31.03.2013.

22. The Disciplinary Authority sought consultation from the Union Public Service Commission (UPSC) as to what penalty shall be imposed upon the petitioner. The UPSC, *vide* letter dated 12.09.2013 rendered its advice of imposing upon the petitioner, the penalty of '*withholding 30% of monthly pension for a period of five years*'.

23. Subsequently, after nine months of the petitioner superannuating from service, the respondents passed an order dated 31.12.2013, thereby awarding the penalty of '*withholding 30% of monthly pension for a period of five years*' and directed that it would regularize the intervening period w.e.f. 28.02.1999 to 31.03.2013 *vide* a separate order as per rules.

24. Considering that the petitioner reached the age of superannuation and since no issue(s) survived for consideration before it, the Hon'ble

⁵ Hereinafter referred to as "*third Disagreement Note*"



High Court of Jammu and Kashmir at Jammu *vide* order dated 03.02.2014, disposed of both the pending writ petitions being SWP No. 2425/2012 and SWP No. 15/2013 however, only after granting leave to the respondents to accord due consideration for release of post retiring benefits, including pension as per the applicable rules, as per below extract therefrom:-

“... ..Learned counsel for petitioner submits that two writ petitions bearing SWP No. 2425/2012 and SWP No. 15/2013 by afflux of time do not survive for any consideration because the petitioner on reaching superannuation has retired, therefore, respondents may be directed to accord consideration to release the retiral benefits and to settle the pension case of the petitioner. He also submits that both the petitions may be dismissed as not pressed.

Considered.

Submission made by the learned counsel for petitioner has substance, not opposed by the learned counsel for respondents. Both two petitions in view of the submission made are dismissed having become infructuous.

Liberty to the petitioner to re-agitate, subject to availability of fresh cause.

CMA No. 4235/2013

Appearance as above.

Respondents, in view of the retirement of the petitioner, to accord due consideration to the release of the post retiral benefits and also for settlement of pension case in accordance with applicable rules and regulations with promptitude.”

25. After stating in the order dated 31.12.2013 that it would regularize the intervening period w.e.f. 28.02.1999 to 31.03.2013 *vide* a separate order as per rules, the respondents issued as Show Cause Notice dated 08.02.2014 stating the manner of regularization of the intervening period



w.e.f. 28.02.1999 (date of compulsory retirement) to 31.03.2013 (date of superannuation) and sought a response from the petitioner against the proposed manner of regularization of the said period, to which the petitioner sent his representation on 07.04.2014.

26. Additionally, the petitioner on 07.04.2014 preferred an Appeal/Memorial before the President of India against the order dated 31.12.2013, thereby challenging the withholding of 30% of monthly pension for a period of five years as imposed by the Disciplinary Authority. However, the Directorate General, CRPF *vide* order dated 24.12.2014, rejected the aforesaid Appeal/ Memorial of the petitioner.

27. Thus, being aggrieved by the order dated 31.12.2013, Show Cause Notice dated 08.02.2014 and order dated 24.12.2014⁶ passed by the respondents, the petitioner has filed the instant petition against the respondents seeking appropriate reliefs as entailed hereinabove.

SUBMISSIONS OF THE PETITIONER:

28. Learned counsel for the petitioner at the outset submitted that as has been rightly and repeatedly held by Courts, the petitioner could not have been placed under deemed suspension as per *Rule 10(4)* of the CCS Rules since no fresh enquiry into the matter has been conducted by the respondents, rather the respondents have time and again revisited the initial enquiry and issued several Disagreement Notes, thereby rendering all orders as *void ab initio*. In view thereof, the respondents ought to treat the period of petitioner from 27.02.1999 (Compulsorily Retirement) to 31.03.2013 (Superannuation) as one '*spent on duty*'.

⁶ Hereinafter collectively referred to as "*impugned orders*"



29. The learned counsel then submitted that each time the petitioner has been served with a fresh Disagreement Note, the contents thereof have always been similarly worded. The same, according to him, suggests that the Disciplinary Authority had already made up its mind and already concluded upon the issue. Therefore, the impugned orders passed by the Disciplinary Authority are an outcome of a biased and vindictive attitude and a glaring example of exercise of powers with a *mala fide* intention of not allowing the petitioner to serve in the force despite repeated orders in his favour.

30. The learned counsel further submitted that the impugned order dated 24.12.2014 passed by the Disciplinary Authority is violative of fundamental, legal and statutory rights of the petitioner as the procedure adopted by the respondents to arrive at the conclusion of non-payment of the entire pay for the intervening period to the petitioner is not permissible in law. As such, the said impugned order dated 24.12.2014 is in gross violation of the principles of natural justice, particularly, his right to a fair hearing.

31. The learned counsel also submitted that despite having been observed by the Inquiry Officer that the petitioner was suffering from hypertension and asthma and was not in a position to obey the orders of the Commandant, 68 Bn., the Disciplinary Authority, following its earlier footprints of orders passed in the year(s) 1999 and 2011, dismissed the representation filed by the petitioner in complete ignorance of the detailed findings recorded by the said Inquiry Officer, the various orders passed by this Court as also the Hon'ble High Court of Jammu and Kashmir at Jammu.



32. The learned counsel then relying upon *Union of India vs. K.V. Jankiraman*⁷, wherein the Hon'ble Supreme Court observed that when an employee is completely exonerated, i.e. he is not found blameworthy in the *lis* and is not visited with the penalty, even of censure, he has to be given the benefit of the salary of the higher post along with other benefits from the date on which he would have normally been promoted, and cannot be denied on the principle of 'no work no pay', particularly where the employee is willing to work, but is kept away from work by the authorities for no fault of his. In view thereof, he submitted that the penalty of withholding 30% monthly pension for a period of five years *vide* the impugned order could not have been imposed upon the petitioner by the respondents.

33. The learned counsel then submitted that there existed no valid order holding the petitioner guilty of any charge and/ or compulsorily retiring him from service as on the date of his superannuation thus, bringing him well within the purview of *FR 54(2)* of the Fundamental Rules, 1922⁸. Also, there was no occasion for the competent authority to order reinstatement and to form an opinion that the petitioner was not exonerated, thus, barring him to take benefit under *FR 54(3)* of the FR Rules and all other consequential benefits.

34. The learned counsel further submitted that reliance upon *FR 54(4)* of the FR Rules by the respondents is only to deny benefits to the petitioner, despite the fact that the said Rule could not have been invoked

⁷ (1991) 4 SCC 109

⁸ Hereinafter called "*FR Rules*"



in the facts of the present case as the order of Compulsory Retirement could never be given effect till the date of superannuation of the petitioner. This is because it is not the case of the respondents that no further enquiry was proposed to be held. Rather, each time, the respondents tried to proceed with the enquiry, the same was set aside by the Courts and the enquiry process could not be concluded till the petitioner's superannuation.

35. The learned counsel further submitted that the petitioner has been subject to grave and severe prejudice, particularly, since the Officers junior to him are currently serving as Inspector General, and since the petitioner was made to superannuate at the age of 57 years, that too without entitling him with the entire salary and pensionary benefits for the intervening period for no fault of his.

36. Lastly, the learned counsel submitted that the respondents have not passed any orders for fixation of pay, ACP/ MACP benefits, GPF, leave encashment and benefits under the 6th Pay Commission till date, which has caused serious financial difficulty to the petitioner.

37. In view of the foregoing submissions, learned counsel for the petitioner seeks setting aside of the impugned orders.

SUBMISSIONS OF THE RESPONDENTS:

38. Learned counsel for the respondents submitted that though, the Inquiry Officer rendered findings exonerating the petitioner, however, the said findings were not accepted by the Disciplinary Authority, who, in exercise of its power under *Rule 15(2)* of the CCS Rules, issued a Disagreement Note, and after considering the petitioner's representation as



also obtaining the advice from the UPSC, imposed the penalty of Compulsory Retirement.

39. The learned counsel submitted that after the petitioner superannuated from service on 31.03.2013, the Disciplinary Authority, with the approval of Ministry of Home Affairs and after receiving fresh advice from the UPSC (rendered *vide* letter dated 12.09.2013), exercising its powers under *Rule 9* of the CCS (Pension) Rules, 1972⁹ which empowers the competent authority to impose such a penalty post-retirement where grave misconduct is established, has imposed the penalty of withholding 30% pension for five years upon the petitioner. Moreover, the aforesaid has been imposed after conclusion of the disciplinary proceedings.

40. The learned counsel further submitted that throughout the disciplinary proceedings in the years 1999, 2011 and 2013, the respondents have not acted purely on whims of the authority rather the action has been taken strictly in consonance with the binding and considered advice of the UPSC, as required under *Article 320* of the Constitution of India.

41. The learned counsel then submitted that the imposition of major penalties at each stage was proceeded by reference to the UPSC, who, after examining the merits and the materials on record, advised the penalties of Compulsory Retirement in the years 1999 and 2011 and later the penalty of withholding pension in the year 2013. Thus, the allegations

⁹ Hereinafter referred to as “*CCS Pension Rules*”



of colourable exercise of power or *mala fides* alleged against the respondents are not justified.

42. The learned counsel also submitted that the contentions of the petitioner that the entire intervening period must be treated as ‘spent on duty’ under *FR 54(2)* or *FR 54(3)* of the FR Rules is wholly misconceived as the said provisions apply only where an employee is fully exonerated or the suspension is held to be wholly unjustified, which clearly is not the case of the petitioner.

43. The learned counsel further submitted that at no point was the petitioner exonerated, in fact, he continued to face disciplinary proceedings until his superannuation. Therefore, the provisions contained under *FR 54(4)* of the FR Rules, which govern cases where an employee is reinstated but not exonerated, squarely apply to the petitioner. Thus, the respondents have rightly regularized the intervening period in terms of the provisions contained under the FR Rules and the directions of this Court.

44. The learned counsel also submitted that the order passed by this Court in ***Cont. Case (Civil) no. 179/2010*** was limited to the withdrawal of deemed suspension and did not in any way confer any directions to the respondents to treat the entire period as ‘*spent on duty*’.

45. The learned counsel then submitted that the respondents have strictly adhered to all procedural safeguards wherein Disagreement Notes were duly served, representations were invited and considered, and only after having taken advice from the UPSC, the penalty was imposed upon the petitioner.

46. The learned counsel further submitted that the petitioner demand to treat the entire period from 28.02.1999 to 31.03.2013, as ‘*spent on duty*’



for all purposes, and consequently seek full pay, promotion, and pensionary benefits, is not only contrary to the Rules, but also overlook the petitioner's own disciplinary record and multiple penalties imposed upon him after following due process of law.

47. The learned counsel lastly submitted that the period from 28.02.1999 to 31.03.2013 has already been regularized through a detailed and reasoned Presidential Order dated 24.12.2014. Thus, the present writ petition warrants no intervention by this Court.

48. In view of the foregoing submissions, the learned counsel for the respondents seeks the present petition being devoid of any merit is liable to be dismissed.

Analysis & Findings:

49. We have heard the learned counsel for the parties and also gone through the documents on record, along with the relevant judgments on the issues cited therewith.

50. We are conscious of the scope and ambit of exercise of judicial review by the High Courts under Article 226 of the Constitution of India while examining departmental enquiries and order of consequential penalty. The scope of judicial review has extensively been dealt with by the three-Judge Bench of the Hon'ble Supreme Court in ***B.C. Chaturvedi vs. Union of India and Others***¹⁰, which are reproduced hereinbelow:-

“... ...12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the

¹⁰ (1995) 6 SCC 749



conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. *The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court*



held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”

51. It is a settled position of law that in the eventuality that the High Court observes that the disciplinary proceedings suffer from manifest legal and technical infirmities, ordinarily, the matter must be remanded back to the Departmental Authority for course correction from the stage at which the said infirmity took place. However, in our view, the present matter is not one that falls under the said category, since the error noticed by us in the enquiry is a recurring one and goes to the root of the departmental enquiry. We say so, because the present writ petition is the fifth round of litigation initiated by the petitioner, each time against the orders of the Departmental Authority.

52. Considering the aforesaid, this Court deems it apposite to trace the path which led to filing of the instant petition. Although, the facts in the present case have been stated in brief hereinabove, however, in order to conclusively deal with the issue involved herein, the same need to be dilated.

53. The challenge to the first Disagreement Note by the petitioner in **W.P. (C) 5078/2004** was settled by this Court in his favour *vide* judgment dated 02.12.2009 whereby, the Note of Disagreement dated 01.12.1997, order of Compulsory Retirement dated 04.02.1999 as also the order dated 17.09.2003, were quashed for being unreasoned and non-speaking. The relevant extracts of the said judgment is reproduced herein as under:-



“11. In the decision reported as AIR 1999 SC 3734 Yoginath D. Baade vs. State of Maharashtra & Anr. Pertaining to a similarly worded note of disagreement by the disciplinary authority vis-a-vis the finding of the inquiry officer, the Supreme Court held that where would be the occasion for the delinquent employee to respond if the disciplinary authority has already made up its mind and concluded upon the issue. The Supreme Court frowned upon a note of disagreement which concluded the issue by recording positive findings against the delinquent employee.

12. The decision highlights the importance of recording prima facie and tentative findings if the disciplinary authority disagrees with the findings returned by the inquiry officer so that the mind of the disciplinary authority is open to consider the version given by the delinquent employee in response to the show-cause notice issued.

13. For the afore-noted reasons the show-cause notice containing the note of disagreement requires to be quashed.

14. Something more needs to be penned.

15. Responding to the show-cause notice containing the note of disagreement the petitioner submitted a response on 29.1.1998. The same was considered and rejected vide order dated 4.2.1999.

16. The order in question spanning 3V2 pages narrates the preamble facts pertaining to the initiation of the departmental inquiry and thereafter lists the 3 Articles of Charge in the first two pages thereof.

17. In the third page a mere narration is recorded that a full-fledged departmental inquiry was held and report of inquiry officer was received to which penning a note of disagreement on 1.12.1997 the delinquent employee was required to furnish a response and that a response has been received have been noted.

18. In para 5, the issue has been disposed of in the following words:-



"5. The President has considered the report of the Inquiry Officer, representation of the charged officer dated 29.1.98 and other relevant records of the case and also consulted the UPSC. After the said consideration the President has come to the conclusion that the articles of charge framed against Shri P.S.Charak, DC are proved and has accepted the advice of UPSC."

19. Suffice would it be to state that not a word has been spoken by the disciplinary authority with reference to the response of the petitioner to the note of disagreement furnished to him under the show-cause notice dated 1.12.1997.

20. In the decision reported as 2006 (4) SCALE Ranjit Sinah vs. UOI & Ors., the Supreme Court highlighted the importance of dealing with a response submitted by the charged officer to a show-cause notice post receipt of a report of inquiry.

21. In a nutshell, the decision brings out that to be called a speaking and a reasoned order, the same must show that the authority concerned has come to grips with the issues raised in the response by the charged officer and with reference to the evidence on record proceeds to consider the same and records an application of mind while reaching the conclusion.

22. This is our second reason for allowing the writ petition and quash the order dated 4.2.1999.

23. We note that the petitioner has submitted a memorial to the President of India which has likewise been disposed of by a non-speaking and unreasoned order dated 17.9.2003.

24. The said order is also quashed on account of being an unreasoned order.

25. In a nutshell, the note of disagreement and show cause dated 1.12.1997 and the orders dated 4.2.1999 and 17.9.2003 are quashed.



26. *Since derailment had taken place at the stage of recording of note of disagreement, we put back the train at the correct track at said place i.e. we permit the respondents to proceed ahead in accordance with law. Needless to state, this would mean that whosoever is the disciplinary authority as of today would proceed to reconsider the report of the inquiry and if the said officer agrees with the report that would be the end of the matter, failing which, if the officer opines not to agree with the report of the inquiry officer, would issue a fresh show-cause notice and while so doing would keep into account the present decision and the decision of the Supreme Court in Yoginath's case (supra). The response of the petitioner, in said eventuality, would be considered and fresh orders would be passed. We further direct the disciplinary authority of the petitioner to pass appropriate orders for the period reckoned with effect from the date penalty of dismissal from service was inflicted upon the petitioner till further orders are passed."*

54. As is evident from the aforesaid judgment, the Court while dealing with the matter therein, observed that the mind of the Disciplinary Authority was already closed while issuing the first Disagreement Note dated 01.12.1997 thus, since the derailed took place at the stage of recording the first Disagreement Note, the train was put back at the correct track i.e. to reconsider the report of the Inquiry Officer and hold a further enquiry in accordance with law.

55. Thus, we note that by virtue of the aforesaid orders being quashed by this Court, all proceedings apart from the report of the Inquiry Officer stood vitiated and had no force in law.

56. Subsequent thereto, *vide* order dated 24.04.2010, the petitioner was reinstated in service w.e.f. 27.02.1999 and placed under deemed suspension under *Rule 10(4)* of CCS Rules. However, being aggrieved by



the non-implementation of the judgment dated 02.12.2009, the petitioner herein moved this Court for initiating contempt proceedings in **Cont. Case (Civil) 179/2010** wherein, the challenge was to the limited extent of the petitioner being placed under deemed suspension. The Court observed that the petitioner could not have been placed under deemed suspension under *Rule 10(4)* of CCS Rules as the said rule was not applicable to the case of the petitioner as no fresh enquiry was ordered against him as also he had never been put under suspension at the time of framing of charges and/ or during the period of enquiry and/ or after the Disagreement Note was made to him in the first instance. The relevant extracts of the said order dated 16.08.2010 of this Court are as under:-

“4. Reply to this contempt petition has been filed wherein respondents has placed reliance on Rule 10 (4) of the CCS (CCA) Rules, which reads as under:

"10. Suspension

(1) to (3) xxxxxxxxxxxxxxxxx

(4). Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances of the case, decided to hold a further inquiry against him on the allegations on which, the penalty of dismissal, removal or compulsory retirement was originally imposed the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has



passed an order purely on technical, grounds without going into the merits of the case. "

5. *It is not disputed that petitioner was never, put under suspension after framing charge, or during the period' of enquiry or even, after the note of disagreement was made at the first instance. Reading of Rule 10 (4) of the CCA (CCA) Rules would show that a person can be put under suspension in case the order of compulsory retirement has been set aside by a decision of the Court and a fresh enquiry has been ordered against the person. In this case no fresh enquiry has been ordered. Prima facie, I am of the view that Rule 10(4) CCS(CCA) Rules would not be applicable.*

6. *At this stage, counsel for the respondent prays, for an adjournment to take instructions in the matter.*

7. *At request adjourned to 10.09.2010. DASTI to counsel for parties under the signatures of the Court Master.. "*

57. Admittedly, vide a fresh order dated 08.10.2010, the respondents withdrew the earlier order dated 24.04.2010, thereby leading to revocation of the order of deemed suspension operating against the petitioner. The relevant extracts of the said order dated 08.10.2010 issued by the respondents are as under:-

"5. AND, WHEREAS, in the light of above and having regard to all aspects of the case as well as in compliance to the court judgment dated 16/8/2010, the President is pleased to consider and withdraw the deemed suspension of Shri P.S. Charak, Dy. Commandant ordered vide Presidential order dated 24/4/2010."

58. Thus, we note that by virtue of the order passed by this Court in **Cont. Case (Civil) 179/2010**, any order placing the petitioner under deemed suspension had no force in law. More so, since the said order dated 16.08.2010 by virtue of not being challenged by the respondents, has attained finality.



59. Thence, the respondents re-considered the report of the Inquiry Officer and issued the second Disagreement Note dated 21.05.2010 as also passed a fresh order of Compulsory Retirement against the petitioner dated 20.05.2011. However, the passing of the said order culminated in filing of a writ petition being **SWP No. 1268/2011**, before the Hon'ble High Court of Jammu and Kashmir at Jammu wherein, *vide* judgment dated 10.05.2012, the petition came to be allowed resulting in setting aside of the second order of Compulsory Retirement dated 20.05.2011 and follow up Show Cause Notice dated 24.05.2011 issued by the respondents.

60. The Hon'ble High Court of Jammu and Kashmir at Jammu too opined that since the mind of the Disciplinary Authority was already closed while passing the said order thus, the Disciplinary Authority once again derailed itself at the stage of recording the Disagreement Note dated 21.05.2010. The relevant extracts of the said order are reproduced as under:-

“11. The Disciplinary Authority again after considering the report of the enquiry officer has disagreed with the report of the enquiry authority and has recorded the reasons for disagreement as reflected in the order dated 20th of May' 2011 and thereafter show-cause notice dated 24th of May' 2011 has been issued.

12. Now the question, which emerges for consideration is as to whether Disciplinary Authority has complied with the requirement of Rule 15 (2) of the CCA Rules, 1965 where under the Disciplinary Authority in case of disagreement is required to record its own tentative reasons for disagreement.

13. The reasons for disagreement have been recorded. Now the question is as to whether the reasons, so recorded, are tentative or final in its operation? In case it will appear



to be tentative, then the requirement of Rule is satisfied and same remains open for further consideration on the basis of the representation, as shall be filed by the petitioner in response thereto. In case the reasons recorded are not tentative, but final in its operation then, it can be termed again as derailment i.e., non-feasance. Paragraph 10 of the order dated 20th of May' 2011 provides the answer, which is quoted herein;-

'10. AND WHEREAS, in compliance to Hon'ble High Court of Delhi judgment dated 02/12/2009 in which department was permitted to proceed ahead with the disciplinary proceedings from the stage of reconsideration of inquiry report, the D.A re-examined the entire disciplinary proceedings and observed that the I.O has not analyzed prosecution witnesses/documents available on record properly. After thorough examination, the Disciplinary Authority held that articles of Charge I, II and III proved beyond doubt. Accordingly, fresh tentative disagreement note on IOs report served to the C.O through DIGP, GC, CRPF, Bantalab vide this Directorate letter dated 21/5/2010 with direction to submit his written reply within 15 days of receipt of the above communication. Meanwhile, said officer filed a Cont. case (c) No. 179/2010 against his suspension in Hon'ble High Court of Delhi and in compliance to High Court of Delhi judgment dated 16/8/2010 deemed suspension order of Shri P.S. Charak, Dy. Commandant was withdrawn vide Presidential order of even number dated 08/10/2010.'

[emphasis supplied]

14. Then in paragraph No. 11 of the said order, it is recorded that representation of the petitioner was considered and found unsatisfactory.

15. When the Disciplinary Authority, as referred above, has conclusively held that Charges (i), (ii) and (iii) are proved beyond doubt, then so called fresh tentative



disagreement note and I.Os report served upon petitioner pales into insignificance because mind is already closed. Styling the disagreement note as fresh tentative disagreement note is simply a design to cover the position of Sub-Rule (2) of Rule 15 of CCA Rules otherwise in effect Disciplinary Authority has closed the matter by holding that charges are proved beyond doubt. It appears that the respondents in any case had to pass the adverse orders against the petitioner. The Hon'ble High Court of Delhi while deciding the earlier Writ Petition has held that earlier disagreement note is not happily worded. Same is now repeated because it should not have been recorded that 'after thorough examination, the disciplinary authority held that articles of Charge (i), (ii) and (iii) are proved beyond doubt.' Instead it should have been suggestive of the fact that prima facie or tentatively the Disciplinary Authority is satisfied with the articles of Charge are proved.

16. When the law provides manner, mode and method, same has to be followed in its spirit. When Rule 15 (2) of CCA Rules, 1965 provides that the Disciplinary Authority has to provide copy of the report together with its own tentative reasons for disagreement, then same has to be done in the same manner, instead of recording tentative reasons, the Disciplinary Authority has conclusively held that articles of Charge (I), (II) and (III) are proved beyond doubt, then there remains no scope for according open consideration to the representation/ submission as shall be made in response to the show-cause notice by the Government employee.

17. While following the judgment rendered in Yogi Nath D. Bagde Vs. State of Maharashtra and another, reported in A.I.R 1999 SC 3734 as quoted by the Hon'ble High Court of Delhi in its judgment has held the same that when the Disciplinary Authority has made up its mind and concluded upon the issue and recorded positive findings against the delinquent employee, where remains the occasion for delinquent employee to respond.



18. While summing up, inescapable conclusion is that the Disciplinary Authority has again derailed at the stage of recording note of disagreement. Therefore, fate of this petition has to be the same as it was in the earlier round of litigation i.e., the position as has been noticed by the Hon'ble High Court of Delhi in paragraph 26 of the judgment rendered in petitioner's Writ Petition, as quoted above.

19. Viewed thus, the Writ Petition succeeds. The order dated 20th of May' 2011 and show-cause notice as followed dated 24th of May' 2011 are quashed, leaving it open for the respondents-authorities, if they so choose, to proceed afresh in the manner as was directed by High Court of Delhi i.e., as per paragraph 26 of the judgment, relevant portion of the said paragraph to be followed by the Disciplinary Authority reads as under:-

"26. Since derailment had taken place at the stage of recording note of disagreement, we put back the train at the correct tract at said place i.e., we permit the respondents to proceed ahead in accordance with law. Needless to state, this would mean that whosoever is the disciplinary authority as of today would proceed to reconsider the report of the inquiry and if the said officer agrees with the report that would be the end of the matter failing which, if the officer opines not to agree with the report of the inquiry officer, would issue a fresh show cause notice and while doing so would keep into account the present decision and the decision of the Supreme Court in Yoginath's case [supra]. The response of the petitioner in said eventuality would be considered and fresh orders would be passed""

61. It is borne out from the aforesaid order that the defendants though, carried out further disciplinary proceedings i.e. analysed the report of the Inquiry Officer, issued a fresh Disagreement Note, sought representation of the petitioner however, yet again, the respondents tread on the same



path and issued a similarly worded Disagreement Note, wherein it was once again observed by the respondents that the charges levelled against the petitioner stood proved. An order which should have been tentative was in fact held to be conclusive in nature, which clearly is impermissible as per the CCS Rules as also the settled position of law.

62. Thus, once again by virtue of the aforesaid orders being quashed by the Hon'ble High Court of Jammu and Kashmir at Jammu, all proceedings apart from the report of the Inquiry Officer stood vitiated and had no force in law.

63. The passing of the aforesaid order once again put the train at the correct track i.e. to reconsider the report of the Inquiry Officer and hold a further enquiry in accordance with law. Thus, we note that by virtue of the aforesaid orders being quashed by the Hon'ble High Court of Jammu and Kashmir at Jammu, once again, all proceedings apart from the report of the Inquiry Officer stood vitiated and had no force in law.

64. As a result, once again the Disciplinary Authority analysed the findings of the Inquiry Officer and disagreed with the findings contained therein and tendered a third Disagreement Note to the petitioner. Though, this time as well the petitioner was granted the opportunity of submitting his representation, which he did and after nine months of the petitioner superannuating from service, the Disciplinary Authority passed the impugned order dated 31.12.2013 which culminated into the present dispute.

65. A perusal of the order dated 31.12.2013 in the third round of departmental proceedings, as against the first and second order of Compulsory Retirement dated 17.09.2003 and 20.05.2011 respectively,



clearly reveals that the Disciplinary Authority has merely modified the phraseology by adding a little more detail/ explanation and worded its findings a little better to give it a slightly better colour and a feeling of newness. In fact, the respondents have tried to carve out a new path despite their path(s) having already been well demarcated by the Court(s) from time to time.

66. Interestingly, the reasoning rendered by the Disciplinary Authority seems more of a presentation of the facts in an explanatory manner with little to no findings as to why it disagrees with the findings recorded by the Inquiry Officer and why should the petitioner be subjected to the penalty imposed on him. Furthermore, simply stating that the Inquiry Officer has not analysed the prosecution witnesses/ documents and evidence properly does not give the Disciplinary Authority a basis for disagreeing with the findings of the Inquiry Officer.

67. More so, the Disciplinary Authority has at *paragraph 19* of the order dated 31.12.2013 observed that the petitioner has not put forth any new fact/ material evidence to refute charges levelled against him, which is shocking since the petitioner was not supposed to put forth any such new fact and/ or new material to refute the charges levelled against him. This observation clearly suggests the vindictive approach of the Disciplinary Authority, who, it seems had already made up its mind and just wanted to give a semblance of their adhering to the orders passed by High Courts by putting the cloak of a further enquiry. This is also because after there being two rounds of departmental proceedings before the Disciplinary Authority there could not have been any new evidence and/ or material that the petitioner suddenly remembered or produced.



68. Furthermore, bearing in mind that the Disciplinary Authority disagreed with the findings of exoneration recorded by the Inquiry Officer in favour of the petitioner thrice, it was imperative that the Disciplinary Authority should, rather ought to, have recorded detailed findings/ reasons as to why it was in complete disagreement with the findings of the Inquiry Officer, more so, when faced with findings of exoneration of all charges levelled against the petitioner.

69. The various pronouncements passed by the High Courts in previous litigations *inter se* the present petitioner and respondents from time to time reflects that all throughout the Courts wanted the respondents i.e. Disciplinary Authority to hold an unbiased enquiry without forming a preconceived opinion. However, the conduct of the Disciplinary Authority over the five previous rounds of litigation reflects that it always wanted to hold the petitioner guilty. What was holding them back were the three orders of the High Courts.

70. In any event, the most vital aspect which warrants interference by us under *Article 226* of the Constitution of India, is with regard to non-compliance of the provisions contained under *Rule 15* of the CCS Rules. In order to establish the aforesaid non-compliance, we believe that the relevant provisions thereof must be reproduced herein, which reads as under:-

“... ..**15. ACTION ON INQUIRY REPORT:**

(1) & (2) xxxxxxxxxxxx

[(3)(a) *In every case where it is necessary to consult the Commission, the Disciplinary Authority shall forward or cause to be forwarded to the Commission for its advice:*

(i) a copy of the report of the Inquiring Authority together with its own tentative reasons for



disagreement, if any, with the findings of Inquiring Authority on any article of charge; and

(ii) comments of Disciplinary Authority on the representation of the Government servant on the Inquiry report and disagreement note, if any and all the case records of the inquiry proceedings.

(b) The Disciplinary Authority shall forward or cause to be forwarded a copy of the advice of the Commission received under Clause (a) to the Government servant, who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days on the advice of the Commission.

(4) The Disciplinary Authority shall consider the representation under sub-rule (2) and/or Clause (b) of sub-rule (3), if any, submitted by the Government servant and record its findings before proceeding further in the matter as specified in sub-rules (5) and (6).”

71. The aforesaid cited provision deals with the action to be taken on the inquiry report. A bare reading of *Rule(s) 15(3)(b)* and (4) of the CCS Rules reflects that in the eventuality when the Disciplinary Authority deems it necessary to consult/ seek advice from the Union Public Service Commission (UPSC)¹¹, the Disciplinary Authority is mandatorily required to furnish the advice so tendered by the Commission to the delinquent officer, who shall, if so required, submit his written representation to the Disciplinary Authority.

72. Taking the aforesaid provisions into consideration and applying the same to the facts of the present case, it is borne out that before passing of the impugned order dated 31.12.2013, the Disciplinary Authority tentatively decided to impose the suitable penalty of cut in pension on the

¹¹ Hereinafter referred to as “*the Commission*”



petitioner, for which it consulted the Commission. The Commission after due examination of the matter at hand, *vide* letter being No.F.3/411/2012-SI dated 12.09.2013 observed that Article-I and Article-II stand proved against the petitioner and in order to meet the ends of justice, it advised imposition of penalty of ‘withholding 30% of monthly pension for a period of 05 years’. Thus, as a matter of rule, the Disciplinary Authority was mandatorily required to serve upon the petitioner, a copy of the advice so tendered by the Commission *vide* letter dated 12.09.2013 and grant him the opportunity to submit his written representation before proceedings to pass the impugned order dated 31.12.2013.

73. However, no such opportunity was accorded to the petitioner, which is a stark contravention of the right to *audi alterum partem* and a violation of the established *principles of natural justice*. Having said so, we have no hesitation in observing that the conduct of the respondents towards the petitioner has not only been biased, but also harsh as it clearly reflects a vindictive approach of the respondents towards him. The respondents have, since and from last more than 20 years, been trying their level best to toe their own line. More so, since, the very same respondents have time and again faced directions in the form of orders/ judgments by this Court as also by the Hon’ble High Court of Jammu and Kashmir at Jammu however, there has been no implementation by the respondents of any of the said orders/ judgments, either in letter or in spirit. We find it strange and baffling.

74. Resultantly, the order dated 31.12.2013 passed by the Disciplinary Authority is a nullity for having violated the petitioner’s right of fair hearing, *principles of natural justice* as also the rules governing the



departmental proceedings particularly *Rule(s) 15(3)(b)* and (4) of the CCS Rules. Thus, the impugned order dated 31.12.2013 passed by the respondents is set aside.

75. Having observed as aforesaid, we are of the considered view that since the subsequent orders dated 08.02.2014 and 24.12.2014 regularising the period from date of initial compulsory retirement to the date of superannuation from service are also flowing/ emanating from the earlier order dated 31.12.2013 which has been quashed hereinabove, it would be travesty of justice for this Court to render separate and/ or different findings *qua* the said subsequent orders dated 08.02.2014 and 24.12.2014. As such, in view of the aforesaid, both the orders dated 08.02.2014 and 24.12.2014 too deserve to be set aside.

76. Needless to mention, the aforesaid order dated 31.12.2013, the Show Cause Notice dated 08.02.2014 and the subsequent order dated 24.12.2014, being non-reasoned and unsubstantiated are baseless, and much like a toothless tiger.

77. A CRPF personnel like the petitioner, who was serving the nation deserved a better treatment. He, belonging to the CRPF ought to have been on the field for which he was recruited by the respondents rather than being involved in multiple rounds of litigation before different High Courts, and that too since the last more than 20 years. Also, for no fault of the petitioner, the extended litigation spanning over more than 20 years has caused substantial loss to the public exchequer. This should stop or else it may send wrong signals to the general members of the public, especially those interested in joining the CRPF.

78. Lastly, based on the aforesaid, particularly since the petitioner has



already superannuated from service long back on 31.03.2013, and considering the various orders of the High Courts, it would not be in the interest now to remand the matter back to the Disciplinary Authority.

CONCLUSION:

79. For the aforesaid reasons, the present writ petition is allowed and the impugned order dated 31.12.2013, the Show Cause Notice dated 08.02.2014 and the subsequent order dated 24.12.2014 are all set aside.

80. As such, in the interest of justice, equity and good conscience, the petitioner is entitled to receive all the consequential benefits of his service from the date of his compulsory retirement till superannuation including due adjustments as also all consequential retiral benefits including full pension after his superannuation.

81. Accordingly, the respondents are directed to clear/ pay all the aforesaid consequential benefits of the service of the petitioner from the date of his compulsory retirement till his superannuation after adjusting the already paid salary/arrears including pension/arrears of pension within a period of *three months* from today, failing which, the respondents will be liable to pay simple interest @ 6% per annum thereon.

82. In view of the aforesaid, the present writ petition alongwith pending application(s), if any, is disposed of.

SAURABH BANERJEE, J.

SUBRAMONIUM PRASAD, J.

OCTOBER 29, 2025/Ab/DA