

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13003 of 2013

Achhey Lal Paswan Constable Son Of Shri Parmeshwar Paswan Resident Of
Village- Gadia, Police Station- Choutham, District- Khagaria

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Ministry Of Home Affairs,
Government Of India, New Delhi
2. The Director General Of Police, Central Industrial Security Force Having
His Office At Lodi Road, Central Government Complex, New Delhi-3
3. The Inspector General Of Police, Central Industrial Security Force, Null
Eastern Zone, Headquarters, Pataliputra, Patna-13
4. The Deputy Inspector General Of Police, Central Industrial Security Force,
Eastern Zone, Headquarters, Pataliputra, Patna-13
5. The Group commander, Central Industrial Security Force, Eastern Zone,
Headquarters, Pataliputra, Patna-13
6. The Assttnt Group commander, Central Industrial Security Force Unit,
Kbunl, Kanti, Muzaffarpur-Cum-Disciplinary Authority, Central Industrial
Security Force, Unit, Ioc, Barauni
7. Shri R.K. Sahu, Company commander, Central Industrial Security Force
Unit, Kbunl, Kant, Muzafarpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
	:	Mr. Pankaj Kumar Jha, Advocate
For the UOI	:	Mr. Awadhesh Kumar Pandey, Sr. C.G.C.
	:	Mr. Ravinder Kumar Sharma, C.G.C.
	:	Mr. Lokesh, Advocate

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 11-05-2026

Heard the parties.

2. The present writ petition has been filed for the
following reliefs:-

- (i) *For issuance of writ/writs, order/orders,
direction/directions in the nature of certiorari for
quashing the impugned order dated 15.03.2013
(Annexure-8) passed by the Inspector General of*



Police, Central Industrial Security Force, Eastern Zone, Headquarters, Patna whereby and whereunder the Revision Petition dated 14.11.2012 has been rejected and affirming the order passed by the Disciplinary Authority i.e. Group commander, Central Industrial Security Force, Eastern Zone, Headquarters, Patliputra, Patna as awarded punishment of the removal from the service of the Petitioner vide final order No. V-15014/CISF/GHP/Adm.I/DISC/ALP/11-2357 dated 23-05-2012 and also affirming the order dated 03.10.2012 passed by Deputy Inspector General of Police, Central Industrial Security Force, Eastern Zone, Headquarters, Patna who rejected the Appellate Order no. V-11019/EZ/Ad.II/API-09/2012-9921 dated 3/4.10.2012.

- (ii) For further prayer of the petitioner to set aside the impugned order dated 15.03.2013(Annexure-8) passed by the Inspector General of Police, Central Industrial Security Force, Eastern Zone, Headquarters, Patna 13 as well as impugned orders dated 23.05.2012 (Annexure- 6) and 03/04.10.2012 (Annexure-7) by which the petitioner has been awarded punishment of removal from service.*
- (iii) For further prayer to direct the Respondents to immediately reinstate the petitioner on the post of Constable/GD No. 941270012.*

3. The brief facts giving rise to the present writ petition, which are essential for adjudication of the writ petition are that the petitioner was appointed on the post of Constable (General Duty)



on 19.07.1994, and immediately thereafter, he gave his joining on the said post and was discharging his duty. On 05.09.2011, at about 9:30 PM, the Company Commander, Central Industrial Security Force Unit, K.B.U.N.L., Kanti, Muzaffarpur, all of a sudden entered into the room of the petitioner and alleged that the petitioner had misbehaved with the Company Commander. It was alleged that the petitioner had assaulted the Company Commander with *lathi*, for which a complaint was filed by him, before the Assistant Group Commander, C.I.S.F. Unit, K.B.U.N.L., Kanti, Muzaffarpur. Based on the complaint filed by the Company commander, an enquiry was conducted by the Assistant Group commander and on the basis of the enquiry, the allegations against the petitioner were found to be true. A show cause notice was issued to the petitioner on 14.09.2011, however the petitioner denied the allegations leveled against him. The petitioner informed that on the date of occurrence i.e. 05.09.2011, he had gone to Hospital at about 9:30 PM for treatment and returned back at about 10:30 PM, therefore the allegation levelled is entirely false. Enquiry report was prepared by the Assistant Group commander-Cum-Disciplinary Authority, which as per the assertion of the petitioner was without serving any show cause notice to the petitioner. The Enquiry Officer submitted his report on



26.04.2012. Before submitting the enquiry report, the statement of 4 witnesses were recorded and on the basis of the said statement, the allegations were found to be true. As per the assertion of the petitioner, from perusal of the enquiry report dated 26.04.2012, it appears that the enquiry was made on 02.02.2012 without handing over show cause notice, as well as the charges regarding allegations of misconduct to the petitioner. The Enquiry Officer in his enquiry report stated that the petitioner was not present in the headquarter unit and also the petitioner was not found to be present at his home address. While the show cause notices were issued in the name of the petitioner, the petitioner did not receive any single show cause notice. The disciplinary enquiry commenced on 02.02.2012, wherein altogether 4 witnesses were examined. It is the case of the petitioner that all the 4 witnesses were examined on the same day i.e. on 02.02.2012, which according to the petitioner is on the date of submission of the enquiry report and without giving any opportunity to the petitioner, so that the petitioner could cross-examine the witnesses. The petitioner did not participate in the disciplinary enquiry.

4. It is further case of the petitioner that all the 4 prosecution witnesses were examined on the same day i.e. 02.02.2012, whereas as per the Evidence Act, there is specific



provision laid down that in presence of interested witnessess, the disciplinary act cannot be held. In spite of that, on the same day, all the witnesses were examined and they gave their statement in cyclostyle manner, which goes to prove that the disciplinary authority, did not conduct the enquiry with clean hand. The enquiry report does not even reflect about the allegations of misconduct of the petitioner and the petitioner was never given any opportunity to cross-examine the witnesses, which shows mala fide on the part of the disciplinary authority and the enquiry officer. The disciplinary proceeding was conducted ex-parte and on the basis of the allegations, which were found to be proved by the enquiry officer, the petitioner was removed from services. Even from the statement made by the witnesses, it would transpire that there is serious contradiction in the statement made by P.W.3 with the statement made by the P.W.1. It has been stated in the petition that as per the statement made by the P.W.1, the date of occurrence is at around 9:30 PM on 05.09.2011, while as per the statement made by P.W.3, the date of occurrence is 05.09.2011 at around 9:00 PM. Further, as per the statement made by the P.W.2, the date of occurrence is 05.09.2011 at around 9:15 PM. The allegation of misconduct against the petitioner have not been supported by the witnesses, who gave their statement before the



enquiry officer and further, major penalty has been awarded, without taking any lenient view in the matter. It is further case of the petitioner that he was put under suspension on 03.10.2011 and without any charge, the enquiry has been conducted against him. The same was conducted ex-parte, despite the fact that the petitioner's family, including the wife of the petitioner had already filed a petition before the higher authorities regarding illness of the petitioner and during course of the disciplinary enquiry, the petitioner was not mentally fit. On the date of occurrence, due to his mental disorder, the petitioner was referred to RINPAS, Ranchi. Subsequent thereto, the petitioner was examined by the Doctors at RINPAS, Ranchi and without considering the petition filed by the family members of the petitioner, including his wife, the enquiry was conducted against the petitioner and order of dismissal from service was passed, with mala fide intention. The disciplinary authority did not consider the petition filed by the petitioner's family member and vide final order dated 23.05.2012, the petitioner was terminated from the post of Constable (General Duty). Being aggrieved with the punishment order of removal from service. The petitioner preferred an appeal before the Deputy Inspector General of Police, C.I.S.F. Eastern Zone headquarter, Patna on 28.06.2012, however the same was also rejected vide



order dated 04.10.2012, without considering the grounds taken in the memo of appeal, by the petitioner and the serious contradictions in the statement of the witnesses. The petitioner being dissatisfied with the order passed by the appellate authority filed Revision Petition on 14.11.2012 before the Inspector General of Police, C.I.S.F., Eastern Zone Headquarter, Patna, but the same was also dismissed vide order dated 15.03.2013, without considering the defence taken by the petitioner. The authorities concerned did not take into account the grounds taken in the memo of appeal as well as the Revision Petition that the enquiry was conducted against the petitioner ex-parte, without giving any opportunity to the petitioner and without giving any copy of the charge memo, the punishment order was passed of removal from service, which is a major penalty.

5. A counter affidavit has been filed on behalf of the respondents, wherein it has been stated that on 05.09.2011 at about 21:30 hours, the petitioner entered into the room of the Company Commander and asked about his duty deployment on 06.09.2011. The Company Commander informed him about his duty in B Shift and as per the orders, the persons who are detailed for B Shift Duty, have to perform gate checking from 7:30 hours to 09:00 hours. Upon hearing the same, the petitioner assaulted the



Company Commander with lathi and on his halla P.W.2, P.W.3 and P.W.4 arrived at the spot and rescued him. He was taken to hospital for treatment. For his act of indiscipline, the petitioner was put under suspension from 06.09.2011 and was issued charge memo under Rule 36 of the C.I.S.F. Rule, 2001 on 03.10.2011 by the Group commander, C.I.S.F., Groud Headquarter, Patna. On 15.10.2011 at 11:00 hours, Constable Rahul Kumar went to hand over the charge memo to the petitioner at about 11:15 hours but, he refused to received the same. Again the S.I./Exe. D.P. Rai went to serve the memo of charge along with Head Constable (General Duty) K.P. Singh but, he again refused to received the charge memo and without informing his higher authorities, went away from his unit Headquarter. Subsequently, A.S.I. R.N. Yadav and Head Constable B.B Singh went to the place of the petitioner at village Gadia on 17.12.2011 to hand over the charge memo, but was informed by father of the petitioner about his non-availability at his native place. Again A.S.I. R.N. Yadav and Constable M.K. Pandey went to the native place of the petitioner on 09.01.2012, along with Chowkidar of Chaudhan Police Station. They met the Deputy Mukhiya, the Sarpanch and the Member of the Panchyat. All the persons went to the residence of the petitioner, along with A.S.I. R. N. Yadav and Constable M.K. Pandey, but nobody was



found in the house of the petitioner, however in presence of the above-mentioned persons and the chowkidar, the charge memo dated 03.10.2011 was pasted on the village home of the petitioner. The enquiry officer sent notice on the village home of the petitioner, however neither the registered post nor the AD was returned. Subsequently, again a notice was sent on 14.02.2012, however the same was returned unserved. Subsequently, a notice was again sent on 16.03.2012 through Special Messenger, but the same was also returned unserved. Left with no other option, the enquiry officer conducted the inquiry ex parte and submitted his report on 26.04.2012. Since the enquiry Officer had not signed on each and every page of the enquiry report, therefore the same was found to be defective and was returned for rectifying the mistake by the disciplinary authority. Finally, after rectification, the enquiry report was provided to the disciplinary authority on 07.05.2012. The enquiry report was sent to the petitioner at his native place through registered post and one copy of the same was also sent through Special Messenger on 11.05.2012. However, again in presence of the Deputy Mukhiya, Sarpanch and Ward Member, the enquiry report was pasted on the house of the petitioner and no reply was submitted by the petitioner till 23.05.2012. Left with no other option, the disciplinary authority



proceeded to pass order of dismissal/removal from service vide impugned order contained in memo no. 2357 dated 23.05.2012. After passing of the order dated 23.05.2012, the same was sent through Special Messenger to the native place of the petitioner. However, again he was not found and the same was pasted on the front door of his house on 01.06.2012. The petitioner submitted an appeal on 28.06.2012, however the same was rejected by the Appellate Authority on 3/4.10.12. The revision petition filed by the petitioner was also rejected on 15.03.2013. It further appears from the counter affidavit that one major and three minor punishments were awarded to the petitioner, prior to passing of the order of dismissal by the disciplinary authority.

6. A supplementary affidavit has been filed on behalf of the petitioner, wherein the Memo of Appeal and the Revision Petition were brought on record.

7. A supplementary counter affidavit has been filed on behalf of the respondent-Union of India, whereby it has been stated that a preliminary enquiry was conducted during which the statement of the petitioner was also recorded in his defence and based on the same, the preliminary enquiry report was submitted by the Officer, who conducted the preliminary enquiry as per Rule 36 of the C.I.S.F. Rules 2001. The petitioner was issued memo of



charge. It has further been submitted that the petitioner was given 10 days' time to submit his statement of defence against the charges framed against him under Rule 36 of the C.I.S.F. Rules, 2001. The Special Messenger was sent on three occasions to serve the memo of charge to the petitioner, however he refused to receive the same and absconded from C.I.S.F. Unit, K.B.U.N.L., Kanti. Subsequently, the same was sent to his native place through special messenger, but, he was not found there and a copy of the same was pasted on the door of the house.

8. The learned counsel for the petitioner submits that on 05.09.2011 i.e. the date of alleged occurrence, the petitioner was examined by the Doctor at Primary Health Center and a medical report was issued by the Government Doctor and Medical Certificate of mental disorder was also issued by the doctors of RINPAS, Kankey, however the grounds of mental disorder was not considered by the disciplinary authority, revisional authority as well as appellate authority, while issuing the punishment order, whereby the petitioner has been removed from services. He further submits that the petitioner was not supplied with the copies of the statement of witnesses, in violation of provisions contained in Rule 36 (21) (3) of the C.I.S.F. Rules, 2001. He further submits that the petitioner was working on the post of Constable (General Duty) in



the C.I.S.F. and has no criminal antecedent, having 17 years of service but, this fact was not considered by the disciplinary authority as well as the appellate authority.

9. The learned counsel for the petitioner further submits that admittedly the petitioner was under treatment at Kanke, Ranchi from 2002 and during course of entire departmental proceeding, he was under treatment at Ranchi for his mental disorder and was granted fitness by the treating Doctor on 26.06.2012, with a condition that he should not be allowed to handle arms for six months. This fact was not even considered by the Disciplinary Authority, the Appellate Authority and the Revisional Authority who have passed the order of proceeding. He submits that it is an admitted fact that while notices were being sent to the native place of the petitioner, he was not available and the notice was never received by him and no charge memo was ever received by him. Therefore, the entire departmental proceeding proceeded ex parte, without giving any opportunity to the petitioner and major penalty of dismissal from service has been passed against the petitioner.

10. The learned counsel for the petitioner further submits that since nobody was present in the house of the



petitioner, there is no question of any valid service of the charge memo or any other notice upon the petitioner.

11. The learned counsel for the petitioner refers to and relies upon a judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No. 11473-11474/2018 (Anirudh Kumar Pandey Versus Union of India & Ors.)***, wherein in paragraph nos. 39 and 40 it has been held as follows:-

'39. Having regard to the nature of the misconduct alleged against the appellant we are of the view that the ends of justice would be met if we set aside the order of discharge and treat the appellant herein to have been in service till the time, he could be said to have completed the qualifying service for grant of pension. We are inclined to pass such an order with a view to do substantial justice as there is nothing on record to indicate that the nature of the misconduct leading to the award of four Red Ink entries was so unacceptable that the competent authority had no option but to direct his discharge to prevent indiscipline in the force.

40. The order of discharge passed against the appellant herein is hereby set aside. The appellant shall be treated to have been in service till the time he would have completed the qualifying service for grant of pension. We are informed that only six months were left for the qualifying service to be completed before the appellant came to be discharged. No back wages shall, however, be admissible. The benefit of continuity of service for



all other purpose shall be granted to the appellant including pension. The monetary benefits payable to the appellant shall be released expeditiously but not later than four months from the date of this order.'

12. Per contra, the learned counsel appearing on behalf of the Union of India submits that the departmental proceeding was conducted after giving due opportunity to the petitioner to participate in the same. However, the petitioner deliberately and intentionally did not receive the charge memo. This fact has been certified by the persons, who were deputed to give the charge memo to the petitioner. Further, the charge memo was again sent to the native place of the petitioner by the enquiry officer thrice, however the petitioner was not found available in his native village. It has been recorded by the person, who was deputed to hand over the charge memo to the petitioner, that his father was found at his native place, but he also refused to accept the notices/charge memo and the same was ultimately pasted at the doors of the petitioner by the Special Messenger, in presence of Deputy Mukhiya, Sarpanch and other witnesses, who have recorded their statement on the notice itself. He further submits that the petitioner was a habitual offender and in his entire tenure of 17 years, he was inflicted with one major punishment and three minor punishments for his alleged misconduct during his service



period. He submits that while passing the impugned order of punishment, the disciplinary authority took into account the statement of all the witnesses, who were examined by the enquiry officer and even considered the documents available on record i.e. the preliminary enquiry report. He further submits that even the appellate authority and the revisional authority, after considering the order passed by the disciplinary authority and the evidences on record, has proceeded to reject the claim preferred by the petitioner.

13. Having heard the learned counsel for the parties and after going through the records, it appears that vide order dated 06.04.2026 passed in this case, the entire record relating to the departmental proceeding, conducted against the petitioner was directed to be produced before this Court. In compliance thereof, the record was produced on 28.04.2026, however on the request made by the learned counsel for the petitioner, the matter was adjourned to 05.05.2026. On 05.05.2026, the matter was again adjourned for 11.05.2026, enabling the learned counsel appearing on behalf of the petitioner, to go through the records and the records were directed to be kept along with the present writ petition. From perusal of the records, it appears that the memo of charge contained in Memo No. 5164 dated 03.10.2011 was tried to



be served upon the petitioner on 15.10.2011 by A.S.I. D.P. Rai, Constable Rahul Kumar and Constable R.K. Dwivedi, but the petitioner refused to accept the Memo of Charge and absconded from the workplace. It further appears from the record that the notices were sent to the native place of the petitioner through Registered Post No. 441 dated 02.02.2012 and Registered Post No. 584 dated 14.02.2012 with AD, however, the notices sent through Registered Post No. 584 dated 14.02.2012 was returned unserved with a noting that the receiver does not reside at the address. The notices sent through registered post with AD No. 441 dated 02.02.2012 was neither returned unserved nor the AD was returned, which suggest that the notices were duly served upon the petitioner. Subsequently, again a notice was sent through registered post no. 922 dated 16.03.2012, however the same was also returned unserved. From perusal of the record, it also appears that the notices were pasted at the door of the petitioner, in presence of the Ward Member and Panch Member of Ward No. 6, as well as the Chowkidar of the local police station. It further appears from the record that the father of the petitioner refused to accept the notice stating therein that his son has gone for treatment at mental asylum at Kankey, Ranchi, therefore, he will not receive notice on his behalf. Even, the local Deputy Mukhiya, the Sarpanch and the



panchayat member have given their statement in writing that in presence of them, the notices have been pasted at the house of the petitioner. Left with no other option, the entire departmental proceeding was conducted, wherein four witnesses were examined and they gave their statement. From the same it is proved that the petitioner, on the date of occurrence, assaulted the Company Commander. Further, from the medical report annexed by the petitioner vide Annexure 5 of the writ petition, it would transpire that the petitioner was under treatment at mental asylum from 06.12.2001. On 28.10.2010 he again went there however, on examination, he was found fit for his duties. Apart from the said certificate only the prescription related to the purchase of medicines are on record. Further, a certificate issued by the Medical Superintendent RINPAS, Kankey, Ranchi contained in letter no. 389 dated 26.06.2012 is annexed with the writ petition and from perusal thereof, it would transpire that the petitioner was undergoing treatment in the Out Patient Department since 18.10.2011 and he came on 26.06.2012 with his medical certificate. On examination, he was found fit for the duty, however, it was mentioned that he should not be allowed/to handle arms for the next six months. Even from perusal of the memo of appeal annexed with the writ petition filed by the petitioner, which has



been brought on record by way of Annexure-2 to the supplementary affidavit dated 01.02.2023, it would transpire that the petitioner went for his treatment at RINPAS, Kankey, Ranchi on 18.10.2011, 18.11.2011, 20.12.2011, 20.01.2012, 21.02.2012, 20.03.2012, 24.05.2012 and 26.06.2012, which suggests that the petitioner was not admitted there at RINPAS, Kankey, Ranchi, rather he was being treated at Out Patient Department on the dates, he visited the department for his treatment. Therefore, the contention of the petitioner that he was not available at his house from date of occurrence till grant of fitness certificate i.e. 26.06.2012 is falsified. The petitioner deliberately did not receive the memo of charge on 15.10.2011 and avoided the service of memo of charge at his village home. Immediately, after passing of the impugned order of punishment on 01.06.2012, the petitioner filed the memo of appeal before the D.I.G. on 28.06.2012, which also suggests that he was deliberately avoiding to receive the notices for appearance in the departmental proceeding. Further, since the petitioner is a member of the force and indiscipline cannot be tolerated in a disciplined force, this court does not find any merit in this writ petition and accordingly, the same is dismissed.



14. Pending application, if any, shall also stands disposed of.

15. The original records which, were produced in terms of order dated 06.04.2024 are returned to the learned counsel appearing on behalf of the Union of India.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	18.05.2026
Transmission Date	NA

