GAHC010170192024

2026:GAU-AS:16116

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4302/2024

PINTU KUMAR YADAV
S/O- AKHILESH YADAV,
R/O- VILLAGE AND POST OFFICE- TULSIPUR,
POLICE STATION- KHARIK,
DISTRICT- BHAGALPUR,
BIHAR, PIN- 853202.

VERSUS

THE UNION OF INDIA AND 9 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF RAILWAYS, RAIL BHAVAN,
RAISINA ROAD, NEW DELHI, PIN- 110001.

2:THE RAILWAY BOARD
TO BE REPRESENTED BY ITS CHAIRMAN CUM CEO

MINISTRY OF RAILWAYS
UNION OF INDIA

RAIL BHAVAN
RAISINA ROAD

NEW DELHI- 110001.

3:THE DIRECTOR GENERAL
RAILWAY PROTECTION FORCE
RAIL BHAVAN
RAISINA ROAD
NEW DELHI
PIN- 110001.

4:THE DIRECTOR/ RPF

RAILWAY BOARD
RAIL BHAVAN
RAISINA ROAD
NEW DELHI
PIN- 110001.

5:PRINCIPAL CHIEF SECURITY COMMISSIONER
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI- 781011
ASSAM.

6:THE DEPUTY INSPECTOR GENERAL CUM CHIEF SECURITY COMMISSIONER
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI- 781011
ASSAM.

7:THE DEPUTY CHIEF SECURITY COMMISSIONER
RPF
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI- 781011
ASSAM.

8:THE DIVISIONAL SECURITY COMMISSIONER
RPF
NORTHEAST FRONTIER RAILWAY
CUM DISCIPLINARY AUTHORITY
KATIHAR DIVISION
BIHAR.

9:THE ASSISTANT SECURITY COMMISSIONER
RPF
NF RAILWAY NJP CUM DISCIPLINARY AUTHORITY
NEW JALPAIGURI
WEST BENGAL.

10:THE INSPECTOR OF PROTECTION FORCE
RPF NORTHEAST FRONTIER RAILWAY/ NJP CUM ENQUIRY OFFICER

NEW JALPAIGURI
WEST BENGAL

Linked Case : WP(C)/4291/2024

PRAVEEN KUMAR @ PARVIN KUMAR
S/O PREM CHANDRA SINGH
RESIDENT OF VILLAGE KHARIA
PS BARIYAPUR
PO KHARIA
DIST MUNGER
BIHAR
811211

VERSUS

THE UNION OF INDIA AND 9 ORS
TO BE REP BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF RAILWAYS
RAIL BHAWAN
RAISINA ROAD. NEW DELHI 110001

2:THE RAILWAY BOARD
TO BE REP. BY ITS CHAIRMAN CUM CEO
MINISTRY OF RAILWAYS
UNION OF INDIA
RAIL BHAWAN
RAISINA ROAD. NEW DELHI 110001

3:THE DIRECTOR GENERAL
RAILWAY PROTECTION FORCE
RAIL BHAWAN
RAISINA ROAD
NEW DELHI 110001

4:THE DIRECTOR/RPF
RAILWAY BOARD
RAIL BHAWAN
RAISINI ROAD
NEW DELHI 110001

5:PRINCIPAL CHIEF SECURITY COMISSIONER
NORTHEAST FRONTIER RAILWAY MALIGAON GUWAHATI 781011 ASSAM

6:THE DEPUTY INSPECTOR CUM CHIEF SECURITY COMMISSIONER

NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI 781011 ASSAM

7:THE DEPUTY CHIEF SECURITY COMMISSIONER

RPF NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI 781011
ASSAM

8:THE DIVISIONAL SECURITY COMMISSIONER
RPF

NORTHEAST FRONTIER RAILWAY CUM DISCIPLINARY AUTHORITY
KATIHAR
DIVISION
BIAR

9:THE ASSISTANT SECURITY COMMISSIONER
RPF
NORTHEAST FRONTIER RAILWAY
NJP
CUM DISCIPLINARY AUTHORITY
NEW JALPAIGURI
WEST BENGAL

10:THE INSPECTOR OF PROTECTION FORCE
RPF
NORTHEAST FRONTIER RAILWAY
NJP
CUM ENQUIRY OFFICER
NEW JALPAIGURI
WEST BENGAL

Linked Case : WP(C)/4288/2024

SANJAY KUMAR
S/O RAJENDRA PRASAD
RESIDENT OF VILLAGE MAHKAR
PO SIUR
PS ROH
DIST NAWADA
BIHAR
DIST NAWADA
BIHAR
805107

VERSUS

THE UNION OF INDIA AND 10 ORS
TO BE REP BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF RAILWAYS
RAIL BHAWAN
RAISINA ROAD. NEW DELHI 110001

2:THE RAILWAY BOARD
TO BE REP. BY ITS CHAIRMAN CUM CEO
MINISTRY OF RAILWAYS
UNION OF INDIA
RAIL BHAWAN
RAISINA ROAD. NEW DELHI 110001

3:THE DIRECTOR GENERAL
RAILWAY PROTECTION FORCE
RAIL BHAWAN
RAISINA ROAD
NEW DELHI 110001

4:THE DIRECTOR/RPF
RAILWAY BOARD
RAIL BHAWAN
RAISINI ROAD
NEW DELHI 110001

5:PRINCIPAL CHIEF SECURITY COMISSIONER
NORTHEAST FRONTIER RAILWAY MALIGAON GUWAHATI 781011 ASSAM

6:THE DEPUTY INSPECTOR CUM CHIEF SECURITY COMMISSIONER

NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI 781011 ASSAM

7:THE DEPUTY CHIEF SECURITY COMMISSIONER

RPF NORTHEAST FRONTIER RAILWAY
MALIGAON
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ASSAM

8:THE DIVISIONAL SECURITY COMMISSIONER
RPF

NORTHEAST FRONTIER RAILWAY CUM DISCIPLINARY AUTHORITY
KATIHAR
DIVISION

BIAR

9:THE ASSISTANT SECURITY COMMISSIONER
RPF
NORTHEAST FRONTIER RAILWAY
NJP
CUM DISCIPLINARY AUTHORITY
NEW JALPAIGURI
WEST BENGAL

10:THE INSPECTOR OF PROTECTION FORCE
RPF
NORTHEAST FRONTIER RAILWAY
NJP
CUM ENQUIRY OFFICER
NEW JALPAIGURI
WEST BENGAL

11:THE DEPUTY INSPECTOR GENERAL (R AND TS)
RAIL BHAWAN
RAISINA ROAD
NEW DELHI 110001

Linked Case : WP(C)/4292/2024

RAKESH KUMAR SINGH
S/O BAICHAN SINGH

RESIDENT OF EMERGENCY COLONY KATIHAR
DIST
PO AND PS KATIHAR
BIHAR 854105

VERSUS

THE UNION OF INDIA AND 9 ORS
TO BE REP BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF RAILWAYS
RAIL BHAWAN
RAISINA ROAD. NEW DELHI 110001

2:THE RAILWAY BOARD
TO BE REP. BY ITS CHAIRMAN CUM CEO
MINISTRY OF RAILWAYS
UNION OF INDIA

RAIL BHAWAN
RAISINA ROAD. NEW DELHI 110001

3:THE DIRECTOR GENERAL
RAILWAY PROTECTION FORCE
RAIL BHAWAN
RAISINA ROAD
NEW DELHI 110001

4:THE DIRECTOR/RPF
RAILWAY BOARD
RAIL BHAWAN
RAISINI ROAD
NEW DELHI 110001

5:PRINCIPAL CHIEF SECURITY COMISSIONER
NORTHEAST FRONTIER RAILWAY MALIGAON GUWAHATI 781011 ASSAM

6:THE DEPUTY INSPECTOR CUM CHIEF SECURITY COMMISSIONER

NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI 781011 ASSAM

7:THE DEPUTY CHIEF SECURITY COMMISSIONER

RPF NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI 781011
ASSAM

8:THE DIVISIONAL SECURITY COMMISSIONER
RPF

NORTHEAST FRONTIER RAILWAY CUM DISCIPLINARY AUTHORITY
KATIHAR
DIVISION
BIAR

9:THE ASSISTANT SECURITY COMMISSIONER
RPF
NORTHEAST FRONTIER RAILWAY
NJP
CUM DISCIPLINARY AUTHORITY
NEW JALPAIGURI
WEST BENGAL

10:THE INSPECTOR OF PROTECTION FORCE
RPF
NORTHEAST FRONTIER RAILWAY
NJP
CUM ENQUIRY OFFICER
NEW JALPAIGURI
WEST BENGAL

BEFORE
HON'BLE MRS. JUSTICE SHAMIMA JAHAN

Advocate for the petitioner(s) : Mr. I. Rafique

Advocate for the respondent(s): Ms. B. Sarma, CGC

Date on which judgment was reserved :**NA**

Date of pronouncement of judgment :**03.11.2026**

Whether the pronouncement is of the operative part of the judgment? :**NA**

Whether the full judgment has been pronounced? :**Yes**

JUDGMENT AND ORDER (ORAL)

Heard Mr. I Rafique, learned counsel for the petitioners and Ms. B Sarma, learned CGC, appearing for the respondents.

2. Since four numbers of writ petitions, as mentioned above, were filed on the same cause of action, by different writ petitioners, the said writ petitions are

disposed by this common Judgment and Order.

3. By these applications filed under Article 226 of the Constitution of India, the petitioners have prayed for quashing of the order dated 27.02.2022, passed by the Assistant Security Commissioner, RPF, by which the petitioners were inflicted with the punishment of **stoppage of his next Annual Increment for a period of 6 months with NCE** as well as the **enhancement** order dated 29.06.2022 and 10.05.2022 in respect of petitioner, namely, Praveen Kumar @ Parvin Kumar, in WP(C) No. 4291/2024, passed by the Disciplinary Authority, i.e., the Divisional Security Commissioner. The petitioners have also prayed for quashing of the order dated 24th of August, 2022 and 25th of July, 2022 in respect of petitioner, namely, Praveen Kumar @ Parvin Kumar, in WP(C) No. 4291/2024 passed by the Appellate Authority by which the Order of the Disciplinary authority was upheld as well as the order dated 21st of November, 2022 and 30th of September, 2022 in respect of petitioner, namely, Praveen Kumar @ Parvin Kumar,in WP(C) No. 4291/2024 passed by the Revisionary Authority, by which the order of the Appellate Authority was not reviewed and the application filed by the petitioners were rejected.

4. The case of the petitioners is that they were serving as Constables under the North East Frontier Railway (shortly, referred to as 'NF Rly') at New Jalpaiguri (NJP) and during their service tenure, a show cause notice was issued to them on 23.12.2021, by the Assistant Security Commissioner, Railway Protection Force, NF Rly, NJP, directing the petitioners to appear before the Inspector of Railway Protection Force, NF Rly, NJP who was appointed as the Enquiry Officer. In the said memorandum of charge dated 03.01.2022, issued under Section 9 (i) of Railway Protection Force Act, 1957 (shortly, hereinafter,

referred to as 'RPF Act) read with Rule 153 of Railway Protection Force Rules, 1987 (shortly hereinafter, referred to as 'RPF Rules'), which contained articles of charge, statement of imputation along with the list of documents and witnesses, it was stated in the articles of charge, that on 17.12.2021, at about 03:00 pm, while another Constable namely, Shri Pankaj Mallick was taking rest on his bed at the RPF barrack, the petitioners who were taking food and alcohol inside the barrack created nuisance by loudly talking to each other. It is further stated that said Pankaj Mallick requested them not to shout, but the petitioners did not stop the nuisance activities and at that juncture, Pankaj Mallick recorded a video of the incident and seeing him recording the video, the petitioners abused, scuffled and physically assaulted him, as a result of which, Shri Pankaj Mallick sustained injury and was admitted in the hospital. It is further stated therein that Pankaj Mallick lodged a written complaint before the Inspector of Protection Force, NJP.

Further, in the statement of imputation appended to the memorandum, it was stated that a preliminary enquiry was conducted into the aforesaid allegations and a report was submitted on 20.12.2021. In the said preliminary enquiry report, it was stated that Shri Pankaj Mallick woke up after hearing noise created by the petitioners, who were having food and alcohol inside the barrack and when the complainant, i.e., Shri Pankaj Mallick requested them to stop the noise been made, the petitioners abused him with slang language and physically assaulted him.

5. The petitioners were further informed that the enquiry was fixed on 05.01.2022 and 06.01.2022, at 10.00 hours at NJP (TE-Coy Office) near the Railway Hospital and thereafter, on the direction of the Assistant Security Commissioner, RPF, the petitioners appeared before the Enquiry Officer and their statements were recorded. Thereafter, the petitioners were directed to file their

objection and as such, the petitioners submitted their written statement on 09.02.2022.

6. In the said defence statement, the petitioners *inter alia,* submitted that on the day of the incident, they were having food after duty hours in the barrack itself, as the dining hall was without any proper furniture, as the furniture were taken to Dudhiya Firing Range. They further stated that due to the presence of a number of staff members, there was some noise while talking to each other in the barrack. They also stated that when they saw the complainant recording the scene, they objected and the complainant got furious and threatened them that he would get them removed from their services and that it resulted in a quarrel. The petitioners further stated that there was no scuffling or assault being committed upon the complainant. It was also stated that the complainant had withdrawn his first complaint and later on, again submitted a complaint against them.

7. The Enquiry Officer conducted the enquiry and submitted its report on 10.02.2022. It was stated by the Enquiry Officer in the said report that on 03.01.2022, the first sitting of the enquiry was fixed on which date, the memorandum was prepared and served as stated above, and that on 05.01.2022, 06.01.2022, 09.01.2022, 12.01.2022, 13.01.2022, as well as on 31.01.2022, the witnesses were examined and cross-examined by the petitioners and on the basis of the said examination, and upon other circumstantial evidences, the Enquiry Officer recorded the finding that hot altercation and noise amongst the staff took place at the barrack during lunch, which was seen in the videos and accordingly, the petitioners were found liable for indiscipline act and accordingly, the petitioners were found guilty for violating Rules 146.4 and 146.5 of the RPF Rules.

8. Thereafter, the petitioners, on 22.02.2022, had submitted a representation before the Assistant Security Commissioner, RPF, stating *inter alia* that on the alleged date of incident, there was no scuffling or assault on the complainant by the petitioners and that no injury report of the complainant was ever produced and that the allegation of misconduct on the part of the petitioners is incorrect as there was no recording in the station diaries at the post or any available documents in that regard. It was also stated that there was no noise or hot altercation between the petitioners and the complainant, as the same could not be seen in the video of the complainant itself.

9. Subsequently, on 27.02.2022, the Assistant Security Commissioner, RPF, on consideration of the case files as well as the statements of the witnesses, along with the report of the Enquiry Officer, concluded that charges against the petitioners of gross indiscipline act and commission of an act unbecoming of a Government servant, is established. The learned authority, by taking into account the gravity of charges and by taking a lenient view, awarded the punishment of **stoppage of their next annual increment for a period of 6 months with Non-Cumulative Effect** and further the suspension period was directed to be treated as suspension.

10. Being aggrieved with the said punishment imposed upon the petitioners, the petitioners filed review applications before the Competent Authority and during the proceeding, the petitioners filed representations and the disciplinary authority by order(s) dated 29.06.2022 and 10.05.2022 in respect of petitioner, namely, Praveen Kumar @ Parvin Kumar, in WP(C) No. 4291/2024,had enhanced the punishment and fresh punishment was awarded, which according to the disciplinary authority would commensurate with the gravity of the charge. As such, the said authority awarded the petitioners, the punishment for reduction

of the Pay for initial stage, i.e., Rs. 21,700/- in Level-3 for two years with CE with immediate effect, and that during the reversion period, the petitioners to be paid from Rs. 29,300/- in Level – 3 to Rs. 21,700/- in Level -3. It was further directed that the petitioners would regain the Pay of Rs. 29,300/-, after completion of the punishment.

11. Aggrieved by the said order, by which the punishment was enhanced, the petitioners filed an appeal before the Appellate Authority and the Appellate Authority, i.e., Chief Security Commissioner, RPF, NF Rly Maligaon, vide order dated 24th of August, 2022, held that based on the evidence on record, the penalty imposed upon the petitioners, has commensurated with the gravity of the charge and upon finding no merit in the appeal, the said authority rejected the same and in case of petitioner namely, Praveen Kumar @ Parvin Kumarin WP(C) No. 4291/2024, the order was passed on 25th of July, 2022 by the appellate authority.

12. Further, aggrieved by the said order, the petitioners had filed a revision application before the Principal Chief Security Commissioner, RPF, Maligaon, and the said revisionary authority, vide order dated 21st of November, 2022and 30th of September, 2022 in case of petitioner namely, Praveen Kumar @ Parvin Kumar, in WP(C) No. 4291/2024, had agreed with the conclusions drawn by the disciplinary authority and the appellate authority and held the petitioners, guilty of the charge levelled against them. It was further observed in the said order that during the proceeding against the petitioners, Rules have been followed and based on the evidence on record, the findings were warranted and the punishment imposed upon the petitioners were found to be correct.

13. The learned counsel for the petitioners, Mr. I. Rafique, stated that the

statements of the witnesses did not support the case of the complainant. He referred to the statements made by the prosecution witnesses, who were eight in numbers and that they did not say that a hot altercation and noise had taken place during the incident. He placed the statement of various witnesses as follows:

i) PW-1, Shri Prashant Kumar, who was working as Sub-Inspector of Protection Force, stated that, on 17.12.2021, he heard that some staff of his Coy, scuffled with each other, and as per instructions, he went to the hospital and he found the complainant there, and that other Police Personnel present there, explained him about the incident. He also stated that the complainant had withdrawn the complaint without any pressure at the hospital. This witness again stated that on 18.12.2021, he was informed that complainant had lodged a complaint by WhatsApp, and he was endorsed for a preliminary Enquiry. He again stated that on 19.12.2021, he visited the complainant in the hospital and that the medical staff told him that there was no injury on the patient.

ii) Sri Sanjib Saha, PW-2, who was working as Inspector of Protection Force, stated that complainant went before him and submitted a complaint regarding manhandling, scuffling and speaking loudly, by other staff, resulting in his waking up and that he was assaulted by using abusive language. This witness, as such, accepted the complaint and later on, visited the complainant in the hospital and he further stated that complainant submitted a written apology and withdrew his complaint, and that he further came to know that the complainant had again lodged another complaint.

iii) Shri Shravan Kumar working as Constable, RPF, examined as PW -3, stated that on the date of occurrence, i.e., on 17.12.2021, while he was sleeping after taking lunch at the barrack, he heard the sound of petitioner, namely, Rakesh Kumar Singh, who was saying for deleting a video and that after that he did not hear anything and he slept again.

iv) Sri Hitlar, another Constable, RPF, examined as PW-4, stated that on the day of occurrence, while he was studying at the barrack, he found 7 staff members taking lunch in the barrack and he suddenly heard the sound of the petitioner, namely, Pintu Kumar Yadav, saying that a video is being recorded. He, thereafter stated that he saw the said Constable going near the complainant and asking him, as to why he was making the video, to which, the complainant denied the recording and he neither deleted the video. This witness, thereafter, stated that the complainant went outside the barrack by murmuring something.

v) Sri Barun Kumar, who was also working as Constable, RPF, examined as PW-5 stated that on the date of occurrence, while he and the petitioners were taking lunch together in the barrack, he noticed complainant recording a video on his mobile from his bed and on seeing the same, this witness along with the petitioners and others, went near the complainant and asked as to why he was recording the video, to which, the complainant hid his mobile and that, thereafter, the complainant left, by giving a threatening that he will get the petitioners sacked from their job.

vi) Sri Bhabani Paul, who was also working as the Constable, RPF,

examined as PW-6, stated that on the date of occurrence, while he was sleeping after having lunch, he heard a sound and saw that some staff members were standing in front of the complainant and telling him to delete a video and that after some time, the said complainant left the barrack by telling something.

vii) Sri Amit, working as a Constable under the RPF, examined as PW-7, stated that he went and met the complainant in the hospital, spoke to him and left.

viii) Sri Manoj Kumar, who was working as the constable under the RPF, examined as PW-8, stated that he was the mess commander of the barrack and that he was going to the mess, to eat his tiffin, and while he was eating, he saw that one of the staff members, i.e., the complainant was making a video from his bed and that seeing the same, all the staff members, confronted him and told him to delete the video, but the complainant went out of the barrack and this witness also went out for washing the utensils.

These are the witnesses who were examined in the enquiry proceeding and the learned counsel submitted that none of them had stated that the petitioners had abused the complainant or physically assaulted him or even to the extent, that they created nuisance. As such, he submits that the conclusion of the Enquiry Officer that petitioners are guilty and the conclusion of the Disciplinary Authority in imposing punishment upon the petitioners, are not tenable. The learned counsel has also submitted that the complainant was not examined as a witness and had he been examined as a witness, the petitioner would have cross-

examined him and brought out the real facts. He further submitted that the complainant had withdrawn his first complaint after tendering an apology which was stated by the Inspector of Protection Force, examined as PW-2.

14. Per contra, Ms.Bijita Sarma, learned CGC, submitted that admittedly, on the day of occurrence, there was a quarrel between the petitioners and the complainant over recording of a video by the complainant inside the barrack. She also submits that it is established that the petitioners instead of having lunch in the dining room, had their food inside the barrack, disturbing others, and the noise that they created had led to the break of sleep of other staff members. She, therefore, states that under Rule 146.5 of the RPF Rules, it is provided that no member of the Force, shall treat another member of the same Force, in oppressive or abusive manner and that no one should assault or misbehave with other member. She, therefore, stated that since the petitioners have treated the other staff member by misbehaving, the same would amount to misconduct and the petitioners are liable for punishment and that they are rightly being inflicted with the minor punishment under the Rules. With regard to the non-examination of the complainant, she submits on perusal of the records, that the complainant was, in fact, examined during the enquiry proceeding and he was also cross-examined by the petitioners.

15. I have heard the learned counsels and have carefully gone through the records of the cases.

16. It is noticed in the Articles of Charge that the petitioners were charged with taking food and alcohol in the barrack and creating nuisance by loudly talking to each other. The petitioners were also charged with the offence that when the complainant was recording the video, the petitioners used abusive languages and scuffled and physically assaulted the complainant, for which, the

complainant was taken to the hospital. In the Statement of Imputation, it was averred that charges were found to have been established during the preliminary enquiry done by the Inspector of Protection Force, NJP. However, during the enquiry conducted by the enquiry officer, the witnesses did not state about creating nuisance in the barrack by the petitioners. The statements of the witnesses were already mentioned above and by further examining the same, it is noticed as follows: -

i) The Sub-Inspector of Protection Force examined as PW-1, stated that the complainant withdrew the first complaint in the hospital itself and when he was endorsed with the preliminary enquiry, he went and met the complainant in the hospital and there he was apprised by the medical staff that there was no injury on the complainant.

ii) The Inspector of Protection Force, examined as PW-2, stated that he accepted the first complaint lodged by the complainant and that when he went to see the complainant in the hospital on the same day, i.e., on 17.12.2021, the complainant submitted a written apology and withdrew his complaint.

These two witnesses are the Senior Officers to the complainant as well as the petitioners, who had conducted the preliminary enquiry and who accepted the first complaint.

The following witnesses were present at the place of occurrence and their statements in brief are as follows: -

iii) A colleague of the petitioners was examined as PW-3 and he stated that while he was sleeping, he heard a sound of the petitioner, namely, Rakesh Kumar Singh, saying that video should be deleted and that after

sometime, everything was okay and he slept again.

This witness did not state that a nuisance was created and that there was a hot altercation.

iv) Another colleague of the petitioners examined as PW-4, stated that while he was busy studying, he heard a sound of the petitioner, namely, Pintu Kumar Yadav, saying video is being recorded and he saw the said petitioner going near the complainant and asking him as to why he was recording the video and that the complainant after denying, left the barrack by murmuring something.

This witness also did not speak of any hot altercation between the petitioners and the complainant or any huge noise being created.

v) Yet another colleague of the petitioners examined as PW-5, stated that he along with the petitioners, was taking lunch in the barrack and saw complainant recording the video and on being confronted by all, the complainant hid his mobile and went out of the barrack by threatening others.

This witness too, had not stated about any nuisance being created, rather he stated that complainant had threatened to the extent that he will get the petitioners removed from their service.

vi) Another colleague of the petitioners, examined as PW-6, stated that while he was sleeping, he heard a sound and on waking up, he found some staff standing near the complainant and telling him to delete the video and that after some time, the complainant left the barrack by murmuring something.

This witness too, although he woke up due to the sound made, but it

seems that he was on the same room/barrack very adjacentto the place of occurrence, and the sound woke him up, but he did not state that nuisance is created. He rather stated that on an earlier occasion, the complainant had assaulted him.

vii) Another colleague examined as PW-7, did not say anything relevant to the instant case.

viii) The last witness being a colleague of the petitioners, examined as PW-8 stated that he too was having his food in the barrack with the petitioners and saw complainant making a video and when the complainant was confronted, the complainant went out of the barrack.

This witness also did not state about alleged hot altercation between the parties.

17. The evidence of PW-3 to PW-6 and PW-8 are relevant for the present case with regard to the charge, and it is seen that they have not stated about any oppression or treating complainant, in an abusive manner or misbehaving with him or assaulting him by the petitioners. The relevant provision under the RPF Rules, is Rule 146.5 and it is quoted here-in-below:-

"***146.5 . - Misconduct towards a member of the Force:***

No member of the Force shall-

(a) conduct himself towards another member of the Force in oppressive or abusive manner; or

(b) assault or misbehave with such member."

18. A simple reading of the aforesaid provision makes it abundantly clear that the conduct of the member of the Force would be construed as misconduct only

when the said member treats the other member in an oppressive or abusive manner. From the evidence on record, more specifically, the statement of the witnesses, it is seen that the petitioners had confronted the complainant only with the statement as to why he had recorded the video and told him to delete the video. There are no statements by the witnesses stating that petitioners have used slang language and had forced him to do certain act. In fact, it is in the evidence of the witnesses, as stated above that complainant had neither deleted the video nor he had admitted that he had recorded the same. It is also in the evidence that the complainant left the barrack by threatening the other staff members including the petitioners. It is also not there in the evidence that the petitioners had assaulted or misbehaved with the complainant.

19. The charge as stated in the Articles of Charge,alleged that petitioners had taken food and alcohol in the barrack and created nuisance by loudly talking to each other and that they abused the complainant with filthy languages and that they had physically assaulted him, but during the enquiry, it was found that the petitioners did not take alcohol neither they manhandled the complainant, on the date of incident. The said finding is recorded by the Assistant Security Commissioner, RPF, in its order dated 27.02.2022. It is further stipulated in the said order that evidence shows that the petitioners were taking lunch and had simply asked the complainant not to record the video. However, the disciplinary authority had returned the finding that since the Enquiry Officer had found the petitioners guilty of hot altercation and noise inside the barrack, which according to the disciplinary authority should be avoided being member of the disciplinary force, the disciplinary authority had accepted the report of the Enquiry Officer. The disciplinary authority had further held that the petitioners during their defence, could not establish that they have not created nuisance in

the barrack and as such, the petitioners were held responsible for gross indiscipline and commission of an act unbecoming of a Government Servant.

20. It is provided under Rule 146.1 of the RPF Rules, that all members of the Force, shall maintain an attitude of complete discipline and obedience and any breach in the same, will constitute misconduct and will make the member liable for punishment. It is also provided under Rule 146.4 of the RPF Rules, that no member of the Force shall act in any manner, prejudicial to discipline or conduct himself in such a manner which will bring discredit to the reputation of the Force. In the facts of the present case, it is stated by the petitioners in their defence that although they should take their lunch in the dining room, but since the furniture in the said dining room were taken to the Dudhiya Firing Range and the said dining room being also dirty, which is not rebutted in the present case, they could not have the lunch there. It is also the case that it is not only the petitioners but all other staff members including some of the prosecution witnesses, who took lunch in the barrack itself and when all the staff members speak, there will be some sound or noise, which can, by no stretch of reasoning, be said to be unusual and at best, the conduct of the petitioners can be termed as petty breaches of discipline.

21. Further, it is provided under Rule 160.1 of the RPF Rules, that in petty cases of misconduct by the enrolled members of the Force, the same be enquired into and disposed of in orderly room by an Officer, authorized to award petty punishment. In the present case too, the petitioners could have been inflicted with petty punishment as provided under Rule 148.4 of the RPF Rules, which provides as under:-

148.4 - Petty punishment :

(a) Fine to any amount not exceeding seven days' pay.

(b) Confinement to quarter-guard for a period not exceeding fourteen days with or without punishment drill, extra guard duty, fatigue duty or any other punitive duty.

c) Reprimand.

22. Further, although the learned CGC stated that the complainant was examined and cross-examined by the petitioners, the same cannot be considered in the present case, since the said testimony did not find place in the enquiry report, except for a bald statement that complainant was examined on 06.01.2022, but his statement was not considered by the Enquiry Officer.

23. In ***Mithilesh Singh vs. Union of India***;reported in**(2003) 3 SCC 309**, the Hon'ble Apex Court had held by taking into account a series of cases, judgments of which were delivered by the Supreme Court, that when the punishment appears to be disproportionate to the conduct, the punishment imposed by the disciplinary authority can be interfered with. In the present case, it is seen that it was the complainant who had threatened the petitioners and other staff members while going out of the barrack after the incident, as was stated by the prosecution witnesses. It is also seen that while withdrawing the first complaint, the complainant had tendered an apology as stated by the Inspector of Protection Force, examined as PW No. 2, but it is not known as to why the complainant had tendered the said apology and the details of such apology, is also not known, and the said complaint was withdrawn on the very day of the incident. As such, it is in the considered opinion of the Court that the punishment inflicted as well as the enhancement of the same, upon the petitioner is not proportionate to the alleged conduct.

24. Accordingly, the order dated 27.02.2022, passed by the Assistant Security Commissioner, RPF, is set aside and quashed. Further, the enhancement order dated 29.06.2022 and 10.05.2022, the later being in respect of petitioner, namely, Praveen Kumar @ Parvin Kumar, in WP(C) No. 4291/2024, passed by the Disciplinary Authority, i.e., the Divisional Security Commissioner, is also set aside. Further, the appellate order as well as the revisional order dated 24th of August, 2022 and 25th of July, 2022, the later being in respect of petitioner, namely, Praveen Kumar @ Parvin Kumar,in WP(C) No. 4291/2024 as well as 21st of November, 2022 and 30th of September, 2022, the later being in respect of petitioner, namely, Praveen Kumar @ Parvin Kumar,in WP(C) No. 4291/2024, are also set aside. Further, the Competent Authority is given the liberty, if required, to impose any petty punishment as prescribed under Rule 148.4 of the RPF Rules after the required exercise under the Rules.

25. With the above observations and directions, the above writ petitions are partly allowed and disposed of.

JUDGE

Comparing Assistant