

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 25799 of 2007

**Mani Kant Singh
-Vs-
Union of India & Ors.**

For the Petitioner : Mr. K.B. S. Mahapatra
Mr. Aditya Shit

For the Respondents/CISF : Mr. Uttam Basak

Judgment on : 22.05.2026

Ananya Bandyopadhyay, J.:-

1. The writ petitioner introduced himself as a member of the Central Industrial Security Force presently attached to the Netaji Subhash Chandra Bose International Airport, Kolkata, though at the material point of time he had been serving at Bagdogra Airport in the district of Darjeeling. According to the petitioner, the Unit at Bagdogra Airport functioned under the supervision of Shri Rohitashwa Kumar, Deputy Commandant, whose disposition towards the petitioner, as alleged, was marked by personal hostility and a sustained endeavour to implicate him on grounds wholly unconnected with the faithful discharge of official duty. The petitioner asserted that notwithstanding his diligence, discipline and unwavering devotion to service, the Deputy Commandant remained dissatisfied and persistently searched for occasions

to bring the petitioner within the fold of disciplinary action by resorting to contrived “dummy checks”.

2. The narrative of the petitioner proceeds to disclose that a memorandum dated 31st October 2005 was issued under Rule 37 of the CISF Rules, 2001 alleging that the petitioner had failed to frisk a Sub-Officer of CISF posted at Airport Headquarters, Kolkata, and that such omission constituted gross negligence, carelessness and dereliction of duty. The petitioner maintained that immediately upon receipt of the memorandum he sought supply of the relevant documents by an application dated 2nd November 2005, yet the authorities failed to furnish the same. By a further representation dated 20th November 2005, he reiterated his grievance regarding non-supply of records and questioned the propriety of proceeding under Rule 37 in a matter involving disputed questions of fact. The petitioner requested that a regular charge-sheet under Rule 36 be issued so that a proper enquiry could be conducted upon disclosure of the relevant materials.
3. The petitioner further recounted that notwithstanding such request, the disciplinary authority by a final order dated 12th December 2005 imposed the penalty of censure. Being dissatisfied with the said order, the petitioner preferred an appeal on 11th January 2006 before the Appellate Authority. The appeal, however, came to be rejected by order dated 27th September 2006, whereupon the petitioner invoked the revisional jurisdiction by filing a revision petition dated 8th November 2006. The Revisional Authority, by order dated 10th July 2007, declined interference and affirmed the penalty.

4. The petitioner thereafter elaborated the factual foundation underlying his allegation of mala fides. He contended that the Deputy Commandant had orchestrated several dummy checks with the object of falsely implicating him. In one such exercise, a Head Constable, namely HC/GD A.K. Chhetry, allegedly permitted a decoy to pass after examining certain proof of identity. According to the petitioner, the said Head Constable admitted his lapse before the Deputy Commandant, yet, at the latter's insistence, a General Diary entry was made attributing responsibility to the petitioner. Apprehending adverse action on the basis of the said GD entry, the petitioner submitted an application dated 9th November 2005 requesting preservation of the CCTV footage of 6th November 2005 so that the recording might be used as exculpatory evidence.
5. The petitioner asserted that despite the admitted involvement of the said Head Constable, an explanation was called for from the petitioner alone upon the allegation that he too had checked the decoy. By his reply dated 28th November 2005, the petitioner specifically denied the accusation and maintained that neither had HC/GD A.K. Chhetry informed him regarding the decoy nor had he personally checked the individual concerned.
6. According to the petitioner, the hostility of the Deputy Commandant thereafter deepened into a further disciplinary proceeding. A second memorandum of charges dated 5th December 2005 was issued under Rule 35 of the CISF Rules, 2001. Once again the petitioner sought supply of relevant documents by an application dated 11th December 2005. The response dated 12th December 2005 informed him that official documents

could not be furnished and directed him merely to submit his reply to the charge-sheet. The petitioner, by a detailed representation dated 24th December 2005, denied all allegations and asserted that the proceeding had been initiated under the influence of personal bias and predetermined hostility.

7. The petitioner stated that notwithstanding such defence, the disciplinary authority by final order dated 30th December 2005 imposed upon him the penalty of withholding of one increment for a period of one year. An appeal dated 28th January 2006 was preferred against the said punishment, yet the Appellate Authority rejected the same by order dated 28th September 2006. A revision petition dated 14th November 2006 also met with identical fate when the Revisional Authority by order dated 19th July 2007 affirmed the punishment.
8. The petitioner consistently maintained that the appellate and revisional authorities failed to appreciate that the entire disciplinary exercise had been vitiated by personal prejudice harboured by the disciplinary authority. It was specifically urged that although the proceedings had purportedly been initiated under Rule 37 of the CISF Rules, 2001, once the delinquent employee had demanded a formal enquiry in view of disputed factual allegations, elementary fairness required that no punishment be inflicted without conducting such enquiry. The petitioner lastly contended that when another Head Constable had already admitted that he had checked the alleged decoy, the continuance of disciplinary liability against the petitioner

stood bereft of any rational foundation and the impugned penalties were therefore liable to be quashed.

9. The learned Advocate appearing on behalf of the petitioner assailed the disciplinary proceedings as a manifestation of personal animosity rather than a bona fide exercise of statutory authority. It was urged that the Deputy Commandant, who functioned as the disciplinary authority, harboured a deeply entrenched prejudice against the petitioner and, under the cloak of administrative discipline, initiated proceedings actuated not by institutional necessity but by individual hostility. According to the submissions advanced, the penalties ultimately imposed upon the petitioner were the consequence of an arbitrary and excessive exercise of authority, wholly divorced from fairness, objectivity and reasoned adjudication.
10. The petitioner's learned Advocate contended that the initiation of the proceedings themselves lacked any lawful or substantial foundation. The allegations contained in the memoranda of charges, it was argued, were unsupported by any reliable material capable of sustaining disciplinary culpability. The disciplinary authority, notwithstanding the absence of substantive evidence, proceeded to inflict punishments upon conjectural assumptions and speculative inferences. Such findings, according to the petitioner, were not merely erroneous but perverse, inasmuch as they rested upon no legally acceptable evidentiary basis.
11. A substantial limb of the petitioner's challenge centred around the denial of access to the relevant documents. Learned counsel submitted that repeated prayers were made seeking supply of official records and materials connected

with the allegations, yet the authorities withheld the same without justification. Such refusal, it was argued, struck at the very root of natural justice, for a delinquent employee deprived of the foundational documents of the proceeding is effectively denied a meaningful opportunity of defence. The petitioner asserted that the disciplinary exercise thus became procedurally infirm from its inception.

12. Particular emphasis was laid upon the nature of the proceedings initiated under the CISF Rules, 2001. Learned counsel submitted that even in matters concerning minor penalties, once the delinquent employee disputes the allegations and specifically seeks a regular departmental enquiry, elementary fairness obliges the disciplinary authority to hold such enquiry before arriving at adverse findings. In the present matter, despite the petitioner's unequivocal demand for a formal enquiry, no such process was undertaken. According to the petitioner, the omission was deliberate, for the disciplinary authority was fully conscious that no dependable evidence existed to substantiate the accusations contained in the charge-sheets.
13. The Learned Advocate further argued that the allegations themselves were inherently fragile. The gravamen of the accusation related to failure to detect a "dummy check" or decoy. It was contended that inability to detect a simulated decoy, unlike failure in relation to an actual security threat, could not automatically or mechanically amount to negligence or dereliction of duty. The petitioner maintained that the authorities impermissibly elevated a controlled internal exercise into a finding of misconduct without demonstrating any real lapse compromising airport security. Such

reasoning, according to the petitioner, revealed a predetermined effort to fasten blame upon him irrespective of the factual realities.

14. The petitioner also questioned the integrity of the appellate and revisional processes. Learned counsel submitted that within the departmental mechanism, whenever an appeal or revision petition is preferred, paragraph-wise comments are sought from the disciplinary authority whose decision is under challenge. In the present case, such comments were allegedly prepared behind the back of the petitioner and thereafter formed the basis upon which the Appellate Authority and Revisional Authority affirmed the punishments. The petitioner asserted that the continuation of the same prejudicial influence throughout the appellate hierarchy deprived the subsequent proceedings of impartiality and rendered the affirming orders equally tainted.
15. It was further contended that the penalties inflicted upon the petitioner constituted a gross misuse of the disciplinary powers vested in the authority concerned. The petitioner maintained that the entire process bore the unmistakable imprint of personal vendetta rather than institutional discipline. The impugned orders, according to the submissions advanced, exposed the petitioner to serious civil consequences, professional humiliation and irreparable prejudice affecting his service career and reputation.
16. The learned Advocate finally submitted that no efficacious or alternative remedy survived in the facts of the present case and that unless the impugned orders of punishment, together with the appellate and revisional affirmations, were set aside by judicial intervention, the petitioner would

continue to suffer grave and irreversible injury. The writ petition was therefore presented as the only effective constitutional recourse available for restoration of fairness, procedural propriety and protection against arbitrary exercise of disciplinary power.

17. The Learned counsel appearing on behalf of the respondents resisted the writ petition by presenting the disciplinary action as a measured and lawful response to a grave security lapse occurring within the sensitive precincts of an airport installation guarded by the Central Industrial Security Force. The respondents contended that the petitioner, while posted at CISF Bagdogra Airport, was proceeded against strictly in accordance with the provisions of the CISF Rules, 2001 and that no element of arbitrariness, prejudice or procedural impropriety could be attributed to the authorities concerned.
18. The respondents narrated that on 24th September 2005 the petitioner had been deployed at the main entry gate on the landside of Bagdogra Airport from 9:00 A.M. until 8:00 P.M. During the course of a routine dummy security exercise, a decoy officer carrying a fabricated personal identity card approached the gate seeking access to the airport premises. According to the respondents, the petitioner failed to examine the false identity card and permitted the decoy to enter the airport building without proper scrutiny. Such conduct, it was urged, amounted to a serious dereliction of duty in an area where vigilance and verification constituted the primary obligations of the deployed security personnel. On the basis of the said lapse, the disciplinary authority, namely the Deputy Commandant Shri Rohitaswa

Kumar, initiated proceedings under Rule 37 of the CISF Rules, 2001 by issuing Charge Memorandum No. 369 dated 31st October 2005.

19. The respondents further submitted that instead of furnishing a substantive reply to the charge memorandum, the petitioner initially sought certain documents by an application dated 2nd November 2005. The authorities, however, by communication dated 10th November 2005, declined to furnish the same upon the ground that the documents sought bore no nexus with the allegations contained in the charge memorandum. It was contended that the petitioner thereafter, by a further application dated 20th November 2005, characterised the departmental explanation as inadequate and sought an enquiry under Rule 36 of the CISF Rules, 2001.
20. According to the respondents, the disciplinary authority carefully examined the petitioner's explanation and found the same unsatisfactory. The authorities maintained that the petitioner had failed in the discharge of his elementary duty of checking entry credentials and preventing unauthorised ingress into the airport premises. In view of such lapse, the disciplinary authority imposed the penalty of "censure". The respondents emphasised that the petitioner's function at the gate was neither ceremonial nor passive; rather, he had been specifically entrusted with the responsibility of verifying passes, tickets and identity credentials before permitting entry to any individual within the airport complex.
21. The respondents further disclosed that the petitioner carried the matter in appeal, yet the Appellate Authority by order dated 27th September 2006 affirmed the punishment. The appellate authority observed that the

petitioner's contention that he had no instruction to verify entry passes was wholly untenable, for the very object of deploying security personnel at an entry gate is to ensure that only authorised persons are permitted access upon due verification of identity documents and passes. The appellate authority thus found no infirmity in the conclusion arrived at by the disciplinary authority.

22. The respondents thereafter referred to the revision petition dated 8th November 2006 preferred by the petitioner. The Revisional Authority, upon consideration of the materials on record, rejected the revision petition by order dated 10th July 2007 holding the same devoid of merit. The revisional authority observed that the petitioner had not been posted at the gate merely as a silent observer but as a trained security personnel entrusted with the solemn responsibility of preventing unauthorised access to a highly sensitive establishment.

23. It was additionally submitted that by order dated 31st December 2005 the petitioner had also been visited with the punishment of withholding of one increment for a period of one year. The respondents maintained that the disciplinary action was entirely consistent with the framework of the CISF Rules, 2001 and arose out of the petitioner's proven negligence in relation to security duties. The respondents clarified that proceedings were initially commenced under Rule 37 and thereafter the disciplinary process continued in accordance with the applicable provisions governing departmental action.

24. The Learned Advocate for the respondents laid particular stress upon the nature of the petitioner's duties as a member of a uniformed force entrusted

with aviation security. It was urged that the petitioner, having undergone specialised Aviation Security training and being attached to an armed security establishment, was fully conscious of the grave consequences that even a seemingly minor lapse could produce within an airport environment. In institutions connected with civil aviation, negligence in verification procedures cannot be trivialised, for a single act of inattention possesses the potential to expose the airport and its passengers to serious hazards.

25. The respondents further narrated that on 24th September 2005, prior to the arrival of the Chief Minister of the State, a routine dummy check had been conducted at Bagdogra Airport by a Sub-Officer of the airport authorities. During the exercise, the decoy officer pretending to be an airport official was allegedly permitted entry without proper verification of the visual particulars appearing upon the fabricated identity card and without formal frisking by the petitioner. The respondents therefore asserted that the petitioner's negligence stood clearly established from the contemporaneous circumstances and justified the disciplinary measures imposed upon him.
26. The respondents ultimately maintained that the punishment of censure did not warrant judicial interference. It was submitted that the penalty had been imposed after due consideration of the petitioner's explanation and did not carry any enduring adverse consequence affecting his future promotional prospects or financial entitlements beyond the immediate disciplinary context. According to the respondents, the writ petition thus disclosed no ground warranting exercise of the extraordinary jurisdiction of the Court.

27. The gravamen of the allegations levelled against the petitioner pertains to his failure, while discharging duties at the entry gate of Bagdogra Airport, to subject a decoy officer carrying a fabricated identity card to the degree of scrutiny expected from a trained member of the Central Industrial Security Force entrusted with aviation security. The petitioner has endeavoured to portray the disciplinary action as an outcome of personal hostility entertained by the Deputy Commandant and has further contended that the proceedings stood vitiated by denial of documents, absence of a regular enquiry and lack of evidence. The respondents, on the other hand, have consistently maintained that the petitioner was deployed at a highly sensitive point of access within the airport premises and that the disciplinary action arose from a demonstrable lapse in the discharge of official duty.
28. It is undeniable that members of the CISF entrusted with airport security perform functions carrying profound implications for public safety and institutional security. Verification of entry passes, identity credentials and authorisation documents cannot be reduced to a routine mechanical exercise, for the efficacy of airport security architecture rests substantially upon vigilance at points of ingress. Even a seemingly minor omission possesses the potential to compromise the sanctity of a protected establishment. The materials placed before this Court reveal that during a routine dummy check conducted prior to the arrival of the Hon'ble Chief Minister of the State, the decoy officer succeeded in entering the airport premises without effective verification of the identity credentials presented

before the petitioner. The disciplinary authority, therefore, cannot be said to have acted upon a wholly imaginary or non-existent factual foundation.

29. The petitioner has repeatedly emphasised that another security personnel had admitted his own lapse and that the proceedings were animated by personal prejudice. Yet, allegations of mala fides demand a degree of precision and substantiation far greater than mere suspicion or dissatisfaction with administrative action. Except for broad assertions imputing hostility to the disciplinary authority, no cogent material has been placed before this Court from which institutional bias or deliberate victimisation may be conclusively inferred. The record rather discloses that the petitioner was afforded opportunity to submit explanations, pursue appellate remedies and invoke revisional jurisdiction.

30. Equally unpersuasive is the contention that the absence of a full-fledged departmental enquiry by itself vitiates the proceedings. The punishment initially imposed was one of censure, falling within the category of minor penalties contemplated under the CISF Rules, 2001. Though fairness remains the governing principle even in proceedings concerning minor penalties, the extent and formality of enquiry necessarily varies according to the nature of punishment proposed and the surrounding circumstances. The materials on record demonstrate that the petitioner was informed of the allegations, permitted to furnish his explanation and heard at successive departmental stages. The Court cannot lose sight of the distinction between a disciplinary irregularity causing substantial prejudice and a mere procedural dissatisfaction incapable of invalidating the ultimate decision.

31. The Hon'ble Supreme Court, in the case of **STATE OF M.P. AND ANR. V. I.A.**

QURESHI¹, has held the following:

"8. We are unable to accept the said contention of Shri Khanduja. 'Censure' cannot be equated with a warning since under Rule 10 of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966, 'censure' is one of the minor penalties that can be imposed on a government servant. It cannot, therefore, be said that the penalty of censure which was imposed on the respondent in the departmental proceedings was not a penalty as contemplated in the circular dated 2-5-1990. Once it is held that a minor penalty has been imposed on the respondent in the departmental proceedings, the direction given in the said circular would be applicable and the sealed cover containing recommendations of the DPC could not be opened and the recommendations of the DPC could not be given effect because the respondent has not been fully exonerated and a minor penalty has been imposed. The respondent can only be considered for promotion on prospective basis from a date after the conclusion of the departmental proceedings."

32. The Hon'ble Supreme Court, in the case of **UNION OF INDIA & ORS. V. LT.**

COL. KULDEEP YADAV², has held the following:

"38. The Policy of awarding of censure provides that the censure, which can be 'Severe Displeasure (Recordable)', 'Severe Displeasure (Non-Recordable)' and 'Displeasure', is awarded for an act, conduct, omission or offences of minor nature and not in case involving moral turpitude, fraud, theft, dishonesty and misappropriation. The respondent authority having issued the show cause notice asking the applicant to

¹AIRONLINE 1996 SC 904

²AIRONLINE 2019 SC 1140

show cause as to why he should not be censured, has accepted the fact that the applicant's act or conduct is not serious, but of minor nature and not an act involving moral turpitude, fraud, theft, dishonesty or misappropriation, for which one has to be tried either by Court Martial or by prosecution in a Civil Court.

39. The applicant, however, undoubtedly has to be punished for his lapses, which he has admitted. Hence though we are of the considered opinion that while the action of the respondents in awarding censure cannot be faulted, punishment of 'Severe Displeasure (Recordable)' does not commensurate with the act and conduct of the applicant having regard to the facts and circumstances involved as it leads to denial of promotion to otherwise a bright officer.

26. The Tribunal also erroneously assumed that the competent authority opted to resort to administrative action by awarding censure instead of Court Martial, because it had condoned the misconduct of respondent being of a minor nature and not being a case involving moral turpitude, fraud, theft, dishonesty and misappropriation. This basis is plainly misdirected and not in conformity with the applicable policy regarding award of censure to Officers and JCO's circulated vide communication dated 23rd April, 2007. In fact, the Tribunal has extracted the relevant portion of the said policy, which clearly predicates that in cases, which are not of a minor nature and not an act involving moral turpitude, fraud, theft, dishonesty, financial irregularities or misappropriation where trial by a Court Martial is not practicable or is inexpedient due to other reasons, may if found appropriate, be forwarded to Integrated HQ of MoD (Army) (DV Dte) at the discretion of the GOCinC for consideration of the award of censure by the COAS/Government. The case of the respondent would certainly fall within the purview of the said clause. Indubitably, just because the competent authority chose to dispense with the disciplinary action of Court Martial qua the respondent, does not make

the misconduct and misdemeanour of the respondent any less serious much less to be of a minor nature as assumed by the Tribunal. Notably, the Tribunal has taken such erroneous approach despite having noticed that the respondent had admitted all the allegations made against him in the show cause notice.”

33. The Hon’ble Supreme Court, in the case of **STATE OF U.P VS VIJAY KUMAR TRIPATHI & ANR**³, has held the following:

“7. Rule 55-B (a) of the U.P.C.C.A. Rules, it is obvious does not exclude or prohibit the observance of the principles of natural justice. It only says, it is not obligatory to either frame-formal charges or to call for the explanation of the concerned employee before imposing the penalty of censure. The normal rule enunciated by this Court is that wherever it is necessary too ensure against the failure of justice, principles of natural justice must be read into a provisions. Such a course, of course, is not permissible where the rule excludes, either expressly or by necessary intendment, the application of the principles of natural justice but in that event validity of Rule may fail for consideration. Consistent with the above rule, we must hold that, ordinarily speaking, an opportunity to show cause against the proposed imposition of penalty of censure should be given to the concerned employee before its imposition. Censure is a penalty. It cannot also be said that it has no adverse consequences; it has. Hence, the necessity to read the said principles. It would certainly be open to the competent authority in a given case to provide a post-decisional opportunity instead of pre-decisional hearing. (There may indeed be exceptional situations where the principles of natural Justice may have to be dispensed with, but they are an exception.) It is upto the competent authority to decide whether in the given circumstances the

³ AIR 1995 SUPREME COURT 1130

opportunity to be provided should be a prior one or a post- decisional opportunity. Normal rule, of course, is prior opportunity.”

34. The Hon’ble Supreme Court, in the case of **RANI LAXMIBAI KSHETRIYA GRAMIN BANK& ... VS MANOJ KUMAR CHAK ETC⁴:**

“40. There is another very good reason for not accepting the submissions made by Mr. Dhruv Mehta. Different rules/regulations of the banks provide specific punishments such as “withholding of promotion, reduction in rank, lowering in ranks/pay scales”. However, there is another range of penalty such as censure, reprimand, withholding of increments etc. which are also prescribed under various staff regulations. To debar such an employee from being considered for promotion would tantamount to also inflicting on such employee, the punishment of withholding of promotion. In such circumstances, a punishment of censure/ reprimand would, in fact, read as censure/reprimand + 5 years debarment from promotion. Thus the circulars issued by the bank debarring such employees from being considered would be clearly contrary to the statutory rules. The circulars clearly do not fall within the ratio in Sant Ram’s case (supra).”

35. The Hon’ble Supreme Court has held the following in **STATE BANK OF INDIA VS. C.K. KARUNAKARAN** ⁵:

“In State of M.P. & Anr. Vs. I.A. Qureshi¹ it has been opined that once a minor penalty has been imposed on the employee in departmental proceedings, the directions given in respect of the relevant circular would be applicable and the sealed cover recommendation of DPC cannot be opened and the recommendation of the DPC cannot be given effect to because the employee has not been fully exonerated when a minor

⁴ AIR 2013 SUPREME COURT 2473

⁵ CIVIL APPEAL NO.6821/2009

penalty has been imposed. The employee can only be considered for promotion on prospective basis from the date after the conclusion of the departmental proceeding. Similarly, c2 it has been opined that awarding of censure is a blame worthy factor and where even such a penalty has been imposed the findings of the sealed cover are not to be acted upon and the case for promotion may be considered by the next DPC in the normal course."

36. The Hon'ble Supreme Court of India has held the following in **STATE OF RAJASTHAN & ORS VS SHANKAR LAL PARMAR**⁶:

"8. Another Department of the Appellant-State, Office of Director General of Police (Rajasthan) in its wisdom, deemed it fit to further clarify the position and issued another Circular dated 23.07.1992. The relevant portion of the said circular is reproduced hereinbelow:

"As far as there is question of censure, it shall be not taken into account as unsatisfactory service record for the purpose of grant of selection pay scale, and it shall not be obstructive in grant of selection pay-scale. The period of last seven years shall be counted from the year, for which he is to be given promotion."

10. However, during the interregnum period between 25.01.1992 to 24.07.1995, certain employees were granted the benefit of the Selection Grades, despite having earned censure. But after issuance of the subsequent Office Order/ letter dated 24.07.1995, Appellant-State started the recovery of the amounts from those employees who were granted Selection Grades even though they had earned censure. This led to filing of several Writ Petitions in the High Court, the 1st being Devi Singh's case (supra) referred hereinabove. All the subsequent line of cases followed the same process.

⁶AIR 2012 SUPREME COURT 1913

11. To further clarify the Circular dated 23.07.1992 issued by Director General of Police, Rajasthan, relevant portion, reproduced at Para 8 hereinabove, another clarificatory Circular dated 24.08.1995 was issued. Thus, vide this subsequent Circular, the last paragraph containing the following words "as far as there is question of punishment of censure, it shall not be considered in service record as unsatisfactory in grant of selection grade and shall not be impediment in grant of selection grade" mentioned in last paragraphs of Circular No. V. 15(10)P.Force/Const./90/3439"

37. The Hon'ble Supreme Court of India has held the following in **UNION OF INDIA & ORS VS A.N. MOHANAN**⁷:

"Though learned counsel for the respondent submitted that awarding of censure does not amount to awarding of penalty, the same is clearly untenable. In Union of India etc.etc. v. K.V. Jankiraman etc.etc. (AIR 1991 SC 2010) at page 2017 it was held as follows:

"We are, therefore, broadly in agreement with the finding of the Tribunal that when an employee is completely exonerated meaning thereby that he is not found blameworthy in the least 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 the other benefits from the date on which he would have normally been promoted but for the disciplinary/criminal proceedings. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example, delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. In such circumstances, the concerned authorities must be vested with the power to decide whether the employee at all deserves any salary for the intervening period and if he does, the extent to which he deserves it. Life

⁷2007 AIR SCW 2773

being complex, it is not possible to anticipate and enumerate exhaustively all the circumstances under which such consideration may become necessary. To ignore, however, such circumstances when they exist and lay down an inflexible rule that in every case when an employee is exonerated from disciplinary/ criminal proceedings he should be entitled to all salary for the intervening period is to undermine discipline in the, administration and jeopardise public interests. We are, therefore, unable to agree with the Tribunal that to deny the salary to an employee would in all circumstances be illegal. While, therefore, we do not approve of the said last sentence in the first sub-paragraph after clause (iii) of paragraph 3 of the said Memorandum, viz., "but no arrears of pay shall be payable to him for the period of notional promotion preceding the date of actual promotion", we direct that in place of the said sentence the following sentence be read in the Memorandum:

dated 23.07.1992 issued by this office, being contrary to Rules, was withdrawn with immediate effect. This Circular alongwith the office order/letter of Finance Department (Rules Division) dated 24.07.1995, clearly stipulates that for the purposes of grant of Selection Grade, in cases where an employee has earned a censure, the censure should not be treated either as an impediment or obstruction for consideration of his promotion but his case for such a grant would be deferred by one year."

38. At this juncture, it becomes necessary to remind oneself of the settled contours governing the jurisdiction of a writ court in disciplinary matters. Judicial review does not operate as an appellate reassessment of factual conclusions reached by departmental authorities. The High Court, while exercising powers under Article 226 of the Constitution, does not re-appreciate evidence as though sitting in appeal over disciplinary findings. Interference is ordinarily justified only where the proceedings are vitiated by

patent illegality, violation of natural justice, absence of jurisdiction, manifest perversity or punishment so outrageously disproportionate as to shock the conscience of the Court. So long as there exists some material upon which the disciplinary authority could reasonably arrive at its conclusion, the writ court refrains from supplanting its own opinion for that of the competent authority.

39. In the present case, this Court is unable to hold that the finding of negligence was founded upon no evidence whatsoever. The petitioner admittedly stood deployed at the entry gate of the airport and the allegation relates to failure in verifying the credentials of a decoy officer during a security exercise. Whether the lapse deserved a sterner or more lenient treatment lies primarily within the disciplinary domain of the employer and not within the discretionary substitutionary jurisdiction of this Court.
40. Simultaneously, this Court is conscious that the punishment imposed upon the petitioner is one of censure. A censure is not a mere warning administered in casual terms; it constitutes a recognised minor penalty within the disciplinary framework governing the service. Nevertheless, the proportionality of the punishment must also be appreciated in the context of the nature of the lapse alleged and the fact that the authorities themselves have not considered the misconduct grave enough to warrant removal, reduction in rank or any major civil consequence. The penalty imposed thus cannot be characterised as shockingly disproportionate requiring judicial interdiction.

41. However, having regard to the nature of the punishment and in order to ensure that the minor penalty does not assume consequences disproportionate to the misconduct alleged, this Court deems it appropriate to clarify that the punishment of censure imposed upon the petitioner shall not operate to his detriment in relation to future promotional avenues or financial benefits arising in the ordinary course of service with reference to the instant charge. The censure shall remain confined to the disciplinary record pertaining to the episode in question and shall not be construed in a manner causing enduring prejudice to the petitioner's service career beyond what is legitimately contemplated under the Rules.
42. In view of the above discussions, the instant writ petition being WPA 25799 of 2007 is disposed of.
43. There is no order as to costs.
44. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)