CGHC010367932022 2026:CGHC:45683

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 8456 of 2022

Order Reserved on 18.08.2026

Order Passed on 29.10.2026

1 - Y.K. Soloman S/o Y.K. Sangma Aged About 44 Years R/o Ning Thaufam, District Senapati Manipur

... Petitioner

Versus

1 - Union of India Through of Home Affairs, Ndcc-Ii Building, Jaisingh Road, Near Jantar Mantar, New Delhi-110001

2 - State of Chhattisgarh Through The Secretary, Department Of Home Affairs, Mahanadi Bhawan, Mantralaya, Naya Raipur Atal Nagar, District Raipur Chhattisgarh.

RAVVA UTTEJ KUMAR RAJU Digitally signed by RAVVA UTTEJ KUMAR RAJU Date: 2026.10.29 19:19:27 +0530

3 - Deputy Inspector General Headquater, Chandigarh

4 - Office of Police General North Sector, Kendriya Railway Police Bal, Halomajra, Chandigarh.

... Respondents

(Cause title is downloaded from CIS Periphery.)

For Petitioner	:	Mr. Shakti Raj Sinha, Advocate.
For UOI	:	Mr. Abhishek Banjare, C.G.C.
For State	:	Mr. Anand Dadariya, Dy. A.G.

Hon'ble Mr. Justice Amitendra Kishore Prasad

C.A.V. Order

1. The petitioner has filed the present petition challenging the order of dismissal from service dated 03.09.2018 (Annexure P/2)

passed by respondent No. 3/Deputy Inspector General along with order dated 11.05.2022 (Annexure P/1) rejecting the application/appeal of the petitioner passed by respondent No. 4.

2. Brief facts of the case as projected by the petitioner is that the petitioner was posted as an Inspector in Kendriya GD, No. 047070074, and at the relevant time, he was undergoing training at ANTS Testing Institution, Chittoor, now Ambikapur, from 01.07.2015 to 29.08.2015 as part of the 13th Batch of P.I. Reserved Police Bal Battalion. During the said period, on 02.08.2015, the petitioner allegedly engaged in a physical altercation with one Sanjay Singh at Agrasen Chowk, Ambikapur, as a result of which Sanjay Singh sustained severe injuries and was admitted to the hospital for treatment. An FIR was thereafter lodged against the petitioner under Sections 294, 506, 323 and 302 of the IPC, giving rise to Crime No. 419/2015, and Sanjay Singh subsequently succumbed to his injuries during treatment on 11.10.2015. In connection with the aforesaid case, the petitioner was arrested on 08.10.2016, following which a departmental enquiry was initiated against him for alleged violation of the Conduct Rules and, upon its completion, respondent No. 3 imposed the major penalty of dismissal from service vide order dated 03.09.2018. Meanwhile, during the pendency of Criminal Case No. 108/2016, the petitioner was released on bail on 05.11.2018 and, upon conclusion of the trial, was acquitted by the learned 3rd Additional Sessions Judge, Ambikapur, District Surguja

(C.G.), vide judgment dated 01.11.2021. Thereafter, the petitioner preferred an appeal under Section 11(1) of the Central Reserve Police Force Act, 1949 read with Rule 27 of the Central Reserve Police Force Rules, 1955, seeking reinstatement on the ground of his acquittal. The said appeal was rejected by Respondent No. 4 vide order dated 11.05.2022. Aggrieved thereby, the petitioner has filed the present petition challenging the order of dismissal dated 03.09.2018 as well as the order dated 11.05.2022 rejecting his appeal and seeking reinstatement in service. The petitioner seeks following reliefs:-

> *"10.1 That, this Hon'ble Court may kindly be pleased to quash/set-aside the impugned order dated 11.05.2022 (Annexure P/1) passed by the Respondent No. 4 and order dated 03.09.2018 (Annexure P/2) passed by respondent No. 3;*
>
> *10.2 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to reinstate the Petitioner in service along with consequential benefits, in the facts and circumstances of the case;*
>
> *10.3 Any other relief/reliefs which may deem fit and proper in the facts and circumstances of the case, may also be allowed."*

3. Learned counsel for the petitioner submits that the petitioner has been acquitted in the criminal case arising out of the same incident which also formed the basis of the departmental enquiry. It is contended that, since the prosecution failed to establish the charges against the petitioner beyond reasonable doubt, his acquittal constituted a material change in circumstances which ought to have been duly considered by the respondent authorities while examining his claim for reinstatement. Despite the petitioner approaching respondent No. 4 by way of an application/appeal

seeking reinstatement and setting aside of the impugned order on the ground of his acquittal, the same was rejected on the ground that no new evidence had been produced. He next submits that such rejection is arbitrary and unreasonable, as the subsequent acquittal of the Petitioner was a relevant circumstance requiring consideration, particularly when the departmental proceedings were based on the very same allegations and incident. It is, therefore, submitted that the impugned orders are liable to be quashed and the petitioner is entitled to appropriate consequential relief. He further places reliance upon the judgment of the Hon'ble Supreme Court in ***State of West Bengal v. Sankar Ghosh*****,** reported in (**2014) 3 SCC 610**, relying upon ***Deputy Inspector General of Police v. S.*** **Samuthiram**, reported in **(2013) 1 SCC 598**, and submits that the question of reinstatement following acquittal has to be examined in the light of the applicable service rules and the facts and circumstances of each case. Reliance is also placed upon this Court's order dated 23.02.2015 in the matter of ***Sadanand Chaudhary v. State of C.G. & Ors.*** passed in **W.P. No. 1344/2003**, wherein similar circumstances were considered. On the strength of the aforesaid decisions and the subsequent acquittal of the petitioner, learned counsel for the petitioner also submits that the respondent authorities ought to have reconsidered his claim for reinstatement and that the impugned orders, being arbitrary and unjustified, deserve to be set aside.

4. Learned counsel for the Union of India submits that the petitioner was appointed in the CRPF on 15.10.2004 in the rank of SI/GD and, consequent upon his transfer from 43 Bn. CRPF, reported at 227 Bn. CRPF on 06.02.2015 (AN). Thereafter, he was deputed to the Anti-Naxal Training Centre, Ambikapur (C.G.), on 29.06.2015 for pre-induction training prior to his induction in LWE areas and, upon completion of the training, reported at the Headquarters of 227 Bn. CRPF on 24.08.2015. He next submits that the DIG/Principal, CIAT-III, CRPF, Chittor (then Ambikapur), vide letter No. P. VIII-I/2016-CIT-EC.II dated 10.05.2016, intimated the CRPF authorities regarding an incident in which a CRPF personnel having Nepali appearance/features had allegedly indulged in a fist fight with a civilian, namely, Sanjay Singh, aged 52 years, resident of Agrasen Ward, Ambikapur, District Surguja (C.G.). In this regard, ASI A.K. Das, Investigating Officer of the Chhattisgarh Police, visited the CRPF Camp, Ambikapur, and informed the authorities that on 02.08.2015, the petitioner, Y.K. Soloman, had allegedly engaged in a physical altercation with the said Sanjay Singh. He further submits that, upon deterioration of Sanjay Singh’s health, his family members lodged an FIR at Police Station Ambikapur on 08.08.2015, and after about 70 days from the date of the incident, Sanjay Singh succumbed to his injuries on 11.10.2015, whereafter a criminal case was registered against the petitioner under Sections 294, 506, 323 and 302 of the IPC. He further submits that the petitioner was arrested by the State

Police on 08.08.2016 and was remanded to judicial custody, pursuant to which he was placed under deemed suspension with effect from 08.08.2016 by the Commandant, 227 Bn. CRPF, vide Office Order No. P. VIII-1/2016-227-EC.II dated 12.08.2016. It is further submitted that the petitioner failed to report the incident of physical altercation to the department or his controlling authority and thereby suppressed the material facts, which, according to the respondents, brought disrepute to the CRPF. Learned counsel submits that a *prima facie* case was accordingly established against the petitioner. He further submits that the petitioner has an efficacious alternative remedy available under law and, therefore, the present petition is not maintainable. On the aforesaid grounds, learned counsel lastly submits that the petition, being devoid of merit and not maintainable in view of the availability of an alternative remedy, deserves to be dismissed in the interest of justice, but the debatable question in this case is in respect of grant of principles of natural justice. It is trite law that the order having civil consequences, that too removal from service cannot be passed without following principles of "*audi alteram partem*".

5. Learned counsel for the State opposes the petition and submits that the petitioner, against whom a criminal case was registered in connection with the alleged incident, was placed under deemed suspension and that he had suppressed the material facts from the department. He further submits that the petitioner has an efficacious alternative remedy available under law and, therefore,

the present petition is not maintainable and deserves to be dismissed.

6. Having heard learned counsel for the parties, upon perusal of the record, this Court finds grounds to interfere with the impugned orders. The departmental proceedings were conducted against the petitioner in violation with the applicable procedure and the petitioner was not afforded due opportunity of hearing and to defend himself. Procedural irregularity and violation of the principles of natural justice has been demonstrated before this Court. The petitioner primarily seeks interference on the ground of his subsequent acquittal in the criminal case arising out of the same incident and after non grant of opportunity of hearing. From the material placed on record, it appears that the petitioner was acquitted by extending the benefit of doubt, and such acquittal, by itself, does not obliterate or render invalid the findings recorded in the departmental proceedings. The standard of proof and the nature and scope of a criminal prosecution and departmental enquiry are distinct, and the disciplinary authority is entitled to examine the conduct of the delinquent employee independently on the basis of the material available in the departmental proceedings. In the present case, the departmental enquiry was conducted in violation of the prescribed procedure and the petitioner was denied a reasonable opportunity to defend himself. Mere acquittal in the criminal case, particularly when based on benefit of doubt, cannot by itself confer an automatic right of

reinstatement. However, it is evident that the entire departmental enquiry was conducted behind the back of the petitioner as when a notice for departmental enquiry was issued, the petitioner was languishing in jail and replied that as he is in jail, the proceedings may be deferred and be heard after the petitioner gets released on bail. The reply as made by the petitioner was not given heed to and the entire departmental enquiry was conducted behind the back of the petitioner.

7. The Hon'ble Supreme Court in the matter of ***Manohar Lal vs. Commissioner of Police & Ors*** delivered in **Civil Appeal No. 13860 of 2024** reported in **2026 OnLine SC 263** has held in paras 13 & 14 which reads as thus:-

> "**13**. Upon perusal of the above, it is clear that as per Article 311(2) a member of the civil service of the Union or a State may be dismissed or removed or reduced in rank by the appointing authority after a regular inquiry on charges which have been informed to him, affording him a reasonable opportunity. As per first proviso thereto, in case an inquiry is conducted for the purpose of imposing penalty, it is not necessary to afford an opportunity to the appellant at the stage of penalty.
>
> **14**. Clause (b) of the second proviso to Article 311 (2)n restricts the applicability of Article 311 (2) in a specific

situation: (I) if the appointing authority is satisfied that there should be deviation from mandate of Article 311(2) because adherence to the same is not 'reasonably practicable'; and (ii) such reasons are to be recorded in writing. Similarly, when such power is to be exercised under clause (c) of the second proviso by the President or the Governor, they may, in the interest of security of the State or if it is not expedient to hold such inquiry, deviate from the applicable procedure."

8. The Hon'ble Supreme Court in the matter of ***State of Uttar Pradesh vs. Ram Prakash Singh*** delivered in **Civil Appeal No. 14724 of 2024** reported in **2025 SCC OnLine SC 891** has reiterated this view that a fair and reasonable opportunity of hearing must be afforded to the delinquent employee in departmental proceedings, The relevant observations made by the Hon'ble Supreme Court in paragraphs 27, 58 and 70 are reproduced hereinbelow for ready reference:-

"**27**. Due to an apparent conflict between the decisions in Kailash Chander Asthana v. State of U.P.36 and Union of India v. Mohd. Ramzan Khan37-both delivered by Benches comprising three Judges-a reference was made to a Constitution Bench for authoritative resolution. Kailash Chander Asthana (supra) was a case where the enquiry had been conducted by an

Administrative Tribunal under applicable disciplinary rules. It was held that the failure to serve a copy of the enquiry report was not material. In contrast, Mohd. Ramzan Khan (supra) marked a momentous progress in the jurisprudence on disciplinary proceedings by holding that a delinquent employee is entitled to receive a copy of the (1988) 3 SCC 600 (1991) 1 SCC 588 enquiry report before the disciplinary authority decides on the charges against them. Observing the divergence in these rulings, a Bench of co-equal strength referred several cases to a Constitution Bench through an order dated 5th August, 1991, which was decided in B. Karunakar (supra). Notably, Mohd. Ramzan Khan (supra) judgment heralded a watershed moment in disciplinary law, declaring that withholding the enquiry report before the disciplinary authority's decision strikes at the very heart of natural justice. It firmly entrenched the employee's right to be heard before a final decision to punish him is taken.

58. It is clear, on a bare reading of Rule 9, that the procedure contemplated therein corresponds to the procedure that was ordinarily followed in conducting disciplinary proceedings prior to amendment of Article 311 by the Constitution (42nd Amendment) Act, 1976. As held in paragraph 27 of B. Karunakar (supra),

where the enquiry officer is other than the disciplinary authority, the disciplinary proceedings break into two stages. The first stage ends when the disciplinary authority arrives at its conclusions on the basis of the evidence, enquiry officer's report and the delinquent employee's reply to it with regard to his alleged guilt. The second stage begins when the disciplinary authority decides to impose penalty on the basis of its conclusions reached at the first stage. If the disciplinary authority decides to drop the disciplinary proceedings, the second stage is not even reached. The employee's right to receive the report is, thus, a part of the reasonable opportunity of defending himself in the first stage of the enquiry. If this right is denied to him, he is in effect denied the right to defend himself and to prove his innocence in the disciplinary proceedings.

70. Respondent, undoubtedly, was denied a reasonable opportunity to defend himself in the enquiry by the appellant, as ordained by the 1999 Rules. The manner in which the disciplinary proceedings were conducted and continued against the respondent did not satisfy the requirements of 'due process'. The flaws creeping in such proceedings have rendered the same wholly illegal. The routine course of action in a case, such as the present, where an order of punishment is

set aside on grounds of breach of statutory rules and the charged officer is not acquitted on merits, is to remit the case the disciplinary authority and direct resumption from the stage the proceedings is found stand vitiated."

9. The Hon'ble Supreme Court in the matter of ***State Of U.P. & Ors vs Saroj Kumar Sinha*** reported in (2010) 2 SCC 772 has held in paras 27 to 30 and 33 which are reproduced as under:-

"**27**. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the b charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer

has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.

33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court, therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The Respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet."

10. The Hon'ble Supreme Court in the matter of ***R. Saravanan vs. Periyar University, Rep by its Registrar and Others*** reported in **(2026) SCC OnLine SC 2202** has held in paras 10 and 22 which are reproduced as under:-

“**10**. The rules of natural justice require a reasonable opportunity of hearing to a Government servant before a decision is taken against him. These rules presuppose that the administrative and quasi-judicial inquiries are held in good faith and without bias. However, a complaint regarding violation of the rules of natural justice must be examined on the facts and circumstances of the case. There are different facets of natural justice, all of which or some of which may not apply in every case. It is, therefore, necessary to examine the nature of complaint and the consequences thereof. Ultimately, it comes to whether any prejudice has been caused to the Government servant on account of violation of natural justice or breach of any procedural requirement under the statutory Rules. However, every minor violation in observing the procedural requirement shall not vitiate the inquiry or the punishment imposed upon the delinquent employee, if it does not entail any prejudice to the Government servant. This Court has held on many occasions that a distinction has to be drawn between the cases of substantive violation and technical infringement of the rules of natural justice (see "Viveka Nand Sethi v. Chairman, J&K Bank Ltd."[4]; "State of U.P. v. Neeraj Awasthi"[5]; "Mohd. Sartaj v.

State of U.P."[6]; "P.D. Agrawal v. State Bank of India"[7]). It is also necessary to examine whether the Government servant had clear and sufficient knowledge of the proceedings against him and whether he participated in the inquiry. without any demur or whether by raising a technical objection he is trying to make a mountain out of a molehill. There is also considerable unanimity of judicial opinion that the Courts can, in exercise of their discretion, refuse certiorari, prohibition, mandamus, or injunction even where the facts are admitted or beyond dispute and natural justice was not followed[8]. The case set up by the appellant before the writ Court has to be examined keeping in mind the aforesaid principles.

22. There was one moment in the case when it was argued on behalf of the University that the petition under Article 226 of the Constitution filed by the appellant was not maintainable and the appellant was liable to be relegated to alternate remedy of appeal under Rule 19 of the T.N. Service Rules. This issue was not expressly decided by the writ Court and the Division Bench also did not advert to this point. However, this does not require a reference of any case law that the powers of writ Court are not restricted by any fetters except for some self-imposed

restrictions. These powers are though discretionary, the High Court can exercise its jurisdiction under Article 226 of the Constitution in furtherance of justice, equity and good conscience. The powers of judicial review are also exercised by the High Court to examine the legality, irrationality or procedural impropriety in an order passed by the departmental Authority. Sometimes it may be a sound exercise of discretion to refuse to interfere with the order of the departmental Authority because there is a legal remedy available to the Government servant. But then, the rule of exhaustion of statutory remedy is a rule of convenience and not a rule of rigid application. It is a self-imposed limitation and does not create a bar or prohibition on exercise of the powers by the writ Court. The award of punishment of dismissal or removal from service is the harshest measure of punishment and no less than death penalty for the Government servant. It has cascading effects and touches even the family of the employee. Such order of punishment entails forfeiture of all service-linked benefits accrued to the Government servant who is then rendered penniless. If such are the drastic consequences, the writ Court should not be a mute spectator. In appropriate cases, the writ Court is required to come out of the self-

imposed bar and entertain the challenge laid to an order of punishment.”

11. In view of the afore cited judgments of the Hon’ble Supreme Court, when the matter is considered, it is found that the petitioner was behind bars when the notices were served upon him. He categorically replied that he was in jail and, as such, the departmental proceedings may be conducted in his presence after his release from jail. The order of punishment passed by the Deputy Inspector General, Central Reserve Police Force, dated 03.09.2018, goes to show that the departmental enquiry was conducted behind the back of the petitioner. The petitioner had replied to the notice issued to him on 23.07.2018, which was served upon him at Central Jail, Ambikapur (C.G.), where he was languishing as an undertrial prisoner. He was directed to submit, within 15 days, his report, documents and evidence, if he intended to defend himself or adduce any evidence. The petitioner duly replied to the said notice, stating that since he was languishing in jail as an undertrial prisoner, the departmental enquiry may not be concluded until the final judgment in the Sessions Trial was pronounced. However, the said request was not considered by the authorities concerned, and, on 03.09.2018, they categorically recorded that the petitioner/delinquent was not having any evidence or witness to defend himself and, accordingly, the charges were found to be proved. Such a course of action is totally unknown to the principles governing departmental

enquiries. In Permanent Order No. 20 of 2001, paragraph 14 it is specifically provided that the delinquent employee should be given a proper opportunity of hearing. However, from a perusal of the order dated 03.09.2018, there is nothing on record to show that the petitioner was ever granted an opportunity of hearing. On the contrary, it appears that the petitioner was languishing in jail as an undertrial prisoner and, as such, he had replied that, at that stage, it would not be possible for him to appear before the concerned authorities and put forth his defence, as he was in jail.

12. Subsequently, in the criminal trial, the petitioner was acquitted by extending to him the benefit of doubt vide judgment dated 01.11.2021. However, much prior thereto, on 03.09.2018 itself, the entire departmental enquiry had been concluded behind the back of the petitioner. The petitioner was not afforded any opportunity to rebut the circumstances which were found against him. In that view of the matter, it appears that the order dated 03.09.2018 has been passed in violation of the principles of natural justice. The petitioner was not given any opportunity of hearing, and the aforesaid order was passed when he was behind bars, a fact which had been duly brought to the notice of the respondent authorities by the petitioner himself. Though the petitioner has not availed himself of the alternative remedy of appeal, the present writ petition was entertained by this Court, after hearing the petitioner, vide order dated 17.02.2023, and the matter has remained pending consideration before this Court. In the facts and

circumstances of the case, particularly when the departmental enquiry was conducted behind the back of the petitioner and he was not afforded any opportunity of hearing, the objection regarding the availability of an alternative remedy is required to be considered in the light of the violation of the principles of natural justice. Further, in view of paragraph 14 of Standing Order No. 20 of 2001, which requires adherence to the principles of natural justice whenever an order adverse to the delinquent employee is passed, and in view of the aforesaid law laid down by the Hon'ble Supreme Court, this Court is of the view that, while passing the order of removal against the petitioner pursuant to the departmental enquiry, the petitioner was not afforded a due opportunity of hearing. There is, therefore, a violation of the principles of natural justice, and, as such, the entire departmental enquiry stands vitiated. The plea of alternative remedy is thus not required to be considered in view of law laid down by the Hon'ble Supreme Court in **Harbanslal Sahnia & Another Vs. Indian Oil Corpn. Ltd. & Others** reported in **(2003) 2 SCC 107**, the Hon'ble Supreme Court categorically held that the rule of exclusion of jurisdiction due to the availability of an alternative remedy is a rule of discretion and not one of compulsion. It is evident from the law laid down that when the principles of natural justice is violated then the plea of aternative remedy cannot be takien into consideration.

13. The Hon'ble Supreme Court in the matter of ***Sujal Vishwas Attavar and Another vs. State of Maharashtra and Others*** reported in **2026 SCC OnLine SC 798** has held in para 5 which reads as under:-

> "**5**. At the outset, it would be apposite to reiterate the settled principle of law governing the exercise of writ jurisdiction. While the jurisdiction of the High Court under Article 226 of the Constitution of India is wide, it is well established that such jurisdiction is extraordinary, discretionary and subject to certain self-imposed restrictions. In Radha Krishan Industries v. State of H.P.[1] a co-ordinate Bench of this Court has summarized the principles governing the exercise of writ jurisdiction by the High Court in the presence of an alternative remedy and held as under:
>
> > "**27**. The principles of law which emerge are that:
> >
> > **27.1**. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.
> >
> > **27.2** The High Court has the discretion not to entertain a writ petition. <u>One of the restrictions placed on the power of the High Court is where an</u>

1 (2021) 6 SCC 771

effective alternate remedy is available to the aggrieved person.

27.3 Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5 When a right is created by a statute, which itself prescribes the remedy of procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6 In cases where there are disputed questions of facts, the High Court may decide to decline jurisdiction in a writ petition. However, if the High

Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."

14. Accordingly, the impugned order dated 11.05.2022, as well as the order dated 03.09.2018, whereby the petitioner was removed from service as Inspector in the Central Reserve Police Force, is hereby quashed. The respondents are directed to reinstate the petitioner in service in accordance with law, however, without any back wages. It is, however, open to the concerned respondents to initiate fresh departmental proceedings against the petitioner in accordance with law.

15. As an upshot of the foregoing discussion, and subject to the aforesaid observations and directions, the writ petition stands **allowed.**

Sd/-

(Amitendra Kishore Prasad)
Judge

U.K. Raju

WPS No. 8456 of 2022

Head Note

"Due process" implies adherence to a fair, just, and reasonable procedure before taking any action that adversely affects the rights or interests of an individual. In the context of departmental proceedings, it requires that the delinquent employee be informed of the charges, afforded a reasonable opportunity of hearing, and given an effective opportunity to defend himself in accordance with the applicable statutory rules and the principles of natural justice. Any disciplinary action taken without affording such an opportunity, particularly where the employee is denied the right to present his defence, violates the requirements of due process and renders the proceedings legally unsustainable.