

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1025 OF 2023

District: Solapur

Mr. Kuldeep Kumar Malik]
Age : 31 Years, Occupation : Ex RPF,]
Residing at : Village Dungar,]
Post : Rajpur Chajpur, Dist. Muzaffarnagar,]
Uttarpradesh – 247775.] ... Petitioner

Versus

1. Central Railway]
Through Principal Chief Security]
Commissioner, Having office at :]
RPF, Mumbai CSMT.]
2. DIG-CUM-CSC]
RPF/Mumbai CSMT]
Having office at RPF, Mumbai, CSMT.]
3. Divisional Security Commissioner]
RPF, Solapur.]
4. Enquiry officer and Inspector]
Passenger Security, RPF, Solapur.] ... Respondents

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- *Dr. Uday Warunjikar a/w. Ms. Neha G. Deshpande for Petitioner.*
 - *Mr. Vijay Killedar for Respondents.*
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Coram : R.G. AVACHAT &
AJIT B. KADETHANKAR, JJ.

Date : 6th February 2026.

JUDGMENT (PER : AJIT B. KADETHANKAR, J.)

1. SUBJECT MATTER :

The Petitioner was working as a Constable under the establishment of Railway Protection Force (hereinafter "the Force" for the sake of brevity). He was chargesheeted on account of certain departmental indiscipline and suffered departmental enquiry.

Vide 'removal from service' Order dated 25-02-2021 bearing Division Order No. 09/2021 passed by the Divisional Security Commissioner, Railway Police Force, Solapur @ the Disciplinary Authority, the Petitioner was removed from the post of Constable of Wadi Railway Station, Solapur Division. He could not succeed in the Appellate and Revisional proceedings to challenge the punishment order. Thus, the Petitioner herewith challenges the removal order dated 25-02-2021 as also the orders passed by the Appellate and Revisional Authorities.

2. **Relevant Rules :**

The subject-matter is governed by the Railway Protection Force Rules 1987. All the authorities, provisions referred herein are part of these Rules. Hereinafter those shall be referred as 1987 Rules for the sake of brevity.

For convenience, relevant rules under which the Petitioner was charged, are reproduced here for the sake of convenience.

146.4 Discreditable conduct :

No member of the Force shall act in any manner prejudicial to discipline or conduct himself in such a manner which is reasonably likely to bring discredit to the reputation of the Force.

147 Offences relatable to duties of enrolled members:

Commission of any of the following act or acts by an enrolled member of the Force –

- (i) violation of any duty;*
- (ii) willful breach or neglect of any provisions of this Act or any rule or of Directives or of any other lawful orders which he is bound to observe or obey;*
- (iii) disobeying lawful command of superior officers;*

146.2 Neglect of duty :

No member of the Force without good and sufficient cause shall –

- (i) neglect or omit to attend to or fail to carry out with due promptitude and diligence anything which is his duty as a member of the Force to attend to or carry out;*

146.3 Disobedience of orders :

No member of the Force shall –

- (i) disobey or omit or neglect to promptly carry out any lawful orders, written or otherwise, or*
- (ii) contravene any provision of the Act, these rules or Directives*

*containing restriction on the private lives of the members of the Force or requiring him to notify the Principal*Chief Security Commissioner concerned that he, or a relation included in his family, has business interest in his jurisdiction within the meaning of these rules and Directives.*

146.6 Falsehood or prefabrication :

No member of the Force shall-

- (i) knowingly or through neglect make any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for the purpose of Force.*

3. Issues under debate :

In the light of peculiar facts of the case, the disciplinary rules and the material before us, here we discuss:

- (i) If 'registration of crime' is a charge against an employee of the Force for 'causing Discreditable Conduct against the Force within the meaning of Rule 146.4 of the 1987 Rules', what is the fate of such charge if the criminal case is dismissed on failure of prosecution to prove the case?
- (ii) What defines indiscipline under Rule 147 (i) to (iii) of the 1987 Rules?
- (iii) Whether non-disclosure of a personal injury sustained at residence which is not at all concerned about office business, can be regarded as 'Neglect of Duty' within the meaning of Rule 146.2 and 146.3 (i) and (ii) of the 1987 Rules?

- (iv) A casual statement as regards to cause of personal injury, which admittedly was not offered in any official communication or in any official transaction of information or enquiry, can be regarded as misleading information for the purpose of record of the Railway Protection Force within the meaning of Rule 146.6 (i) of 1987 Rules?
- (v) Parenthetically, we also require to consider:
 - (a) The Enquiry Officer recorded that absolutely no evidence is offered by the Presenting Officer to prove the Charge No.1 u/r 146.4 of 1987 Rules, and as such he held the Charge No.1 not proved.
 - (b) Whether the disciplinary authority is justified in reverting the findings of the enquiry officer, without applying independent mind with at least a single reason, and also without recording a single reason to disagree the findings arrived at conclusion upon scrutiny of the evidence?
- (vi) As such, we are required to test the contents qua context.

4. Notices were issued to the Respondents-Authorities, who lodged their response vide their reply affidavit. The Petitioner even filed further affidavit.

4.1 During the pendency of this Petition, a significant development has taken place which goes to the root of the case. The Petitioner brought on record copy of the Judgment and Order dated 23-06-2023 passed by the learned Judicial Magistrate First Class, Chittapur in C.C. No. 1707 of 2020, wherein the Petitioner and the co accused are acquitted of the offences punishable u/s 323, 354, 448, 504, 506 read with 34 of the Indian Penal Code (I.P.C.).

5. Heard Dr. Uday Warunjikar, learned counsel for the Petitioner and Mr. Vijay Killedar, learned counsel for the Respondents i.e. authorities of Railway Protection Force (hereinafter referred as 'the Force' for the sake of convenience).

6. Rule. Rule made returnable forthwith. We heard the respective parties for final disposal of the Petition with their consent.

7. Facts in brief :-

7.1 By due process, the Petitioner joined the services of the Respondent No.1-Central Railway as Constable on 19-08-2015. He was posted at Railway Protection Force Post Wadi Railway Protection Force, Division Solapur Central Railway. It is not disputed that the Petitioner had no criminal or disciplinary antecedents.

7.2 One Mrs. XXXXXX (hereinafter referred as 'the complainant') lodged a complaint on 22-08-2020 at Police Station Wadi, Kalaburagi, Karnataka, against the Petitioner and one Manjeet Singh s/o. Ananad for the offences punishable under Sections 323, 354, 448, 504, 506 read with 34 of the Indian Penal Code (I.P.C.).

7.3 The complainant happened to be the wife of Mr.YYYYY who was Inspector at Railway Protection Force Wadi, and also superior officer of the Petitioner and Manjeet Singh. (To maintain privacy of the complainant, her name as also her husband's names are masked).

7.4 It was alleged that at about 2.30 am of 01-08-2020, the Petitioner caused the complainant to open the door of her house, trespassed therein, slapped on her cheek, and threatened to her life. It was alleged that the Petitioner committed the said act to protest the alleged work pressure imposed by complainant's husband on the Petitioner.

7.5 It is further alleged in the complaint that Petitioner's friend Manjeet Singh also threatened the complainant.

7.6 As such, Crime No. 0113 of 2020 dated 22-08-2020 was registered against the Petitioner and Manjeet Singh at police station. The complaint was culminated into a criminal case and was tried by the learned Judicial Magistrate (First Class) Chittapur against the Petitioner and Manjeet Singh for the offences punishable under

Sections 323, 354, 448, 504, 506 read with 34 of Indian Penal Code.

7.7 As many as five points were framed by the learned trial Court for its determination.

7.8 At the conclusion of trial, after assessing the evidence, the trial Court by its judgment and order dated 23-06-2023 acquitted the Petitioner and Manjeet Singh, holding that the prosecution could not prove any of the offences.

This is one chapter of the facts.

7.9 In the meanwhile Upon lodging of the aforesaid prosecution, the Petitioner was called by the Department to give a statement on 23-08-2020.

7.10 The Petitioner unfolded the facts of his side that, he and the complainant were in soft relationships. However, due to aggressive nature of the complainant he started to avoid her.

That, On 05-08-2020 at about 7.45 pm while he was resting at his residence, the Complainant knocked the door. On opening the door, she entered into the room and started quarreling with him as to why the Petitioner was not responding to her mobile calls. That, Petitioner's job shall be at palisade if he does not continue to chat with her on mobile. The Petitioner further submit that he requested the complainant to go back to her place, to which she annoyed and assaulted on his right hand with a sharp blade that caused bleeding.

At that time Petitioner's friend Manjeet Singh arrived at the place of incidence, to whom the complainant asked to advise the Petitioner to continue relations with her or else the Petitioner would suffer his job. Thereafter, she left the place and Manjeet Singh carried the Petitioner to the Railway Hospital, where four stitches were applied to the Petitioner's hand.

7.11 The Petitioner further submitted that later the complainant again called him on phone and asked as to why he was making a hue and illusion of the assault by taking stitches in the hospital. That, with an apprehension to loose relationship with the Petitioner the complainant used to become aggressive and compelled him to continue the relationship, despite both of them having been their own marital lives.

7.12 Petitioner submits that the incident occurred on 05-08-2020 at the instance of the complainant for the aforesaid count only. To avoid the complainant and her insistence, the Petitioner under apprehension left his room and shifted to the place of Manjeet Singh on 20-08-2020. The Petitioner concluded his submission that on 22-08-2020 he was informed by one Harendra Singh i.e. his another colleague on phone that a criminal complaint has been filed by the complainant against the Petitioner and Manjeet Singh.

7.13 The Authorities of the Force proposed to conduct Department Enquiry against the Petitioner and vide order dated 22-08-2020, the Petitioner was suspended. On 16-09-2020 a chargesheet was served on the Petitioner under Rule 153 of 1987 Rules for following three Charges.

- (1) Consequent to the First Information Report dated 22-08-2020 against the Petitioner, the image of the Force was spoiled. Hence, the Petitioner has committed violation Rule 146.4 and 147(i), (ii) & (iii) of R.P.F. Rules, 1987.
- (2) That, for non disclosure of the incidence dated 05-08-2020 occurred at the instance of Mrs. XXXXXX to the higher officers, the Petitioner violated Rule 146.2(i) and 146.3 (i), (ii) of R.P.F. Rules, 1987.
- (3) The Petitioner lied to Sub-Inspector Ravindra Mehra that he sustained wound on his hand while playing. As such, there was violation of Rule 146.6 (i) of R.P.F. Rules, 1987.

7.14 After giving full opportunity to all the parties to lead evidence and after minutely scrutinizing the evidence on record, the Enquiry Officer vide his report dated 08-12-2020 concluded the Enquiry and submitted it to the Force.

7.14.1 In his exhaustive report, the Enquiry Officer observed that the Charge No.1 is not at all proved by the presenting officer. He recorded that the complainant neither participated in the Enquiry by presenting herself nor offered any other witness to prove the alleged incidence of 31-07-2020. He also recorded that even no circumstantial evidence was produced by the presenting officer to prove that indeed the alleged incidence dated 31-07-2020 has taken place. For the reasons recorded, the Enquiry Officer held that the Charge No.1 could not be proved.

7.15 The Enquiry Officer held that, it has come on record that the Petitioner did not disclose sustaining wounds and assault on him to his officials, hence the Charge No.2 was held to be proved.

7.16 Relying upon the statement of Sub-Inspector Ravindra Mehra, the Charge No.3 about telling something else reason in respect of cause of sustaining the wound was held to be proved.

7.17 In due course of time, the Departmental Enquiry was completed under Rule 153 of 1987 Rules. The Petitioner was called upon to submit his final and conclusive statement. The Petitioner descriptively demonstrated how no offence could be proved against him in the Enquiry and that he deserved to be acquitted (Exh."F", page No.49 to the Petition).

7.18 The Enquiry Report was sent to the Petitioner vide a covering letter dated 22-12-2020. The Petitioner submitted his explanation dated 02-01-2021 consequent to the Enquiry Report received vide covering letter dated 22-12-2020. He again explained as regards to Charge No.2, which was held to have been proved. He submitted that to avoid malign to the modesty and image of a woman, to avoid complainant's privacy from being more affected, he prevented himself from disclosing the reason behind sustaining wound to anybody. Besides, he submitted that apparently the incidence occurred at his room and while he was not on duty. He submitted that on casual asking by the officer about the injury, he answered that the injury sustained while frolicking -cavorting with friends. He submitted that neither he suppressed anything nor he made any misleading statement in the office record or during any official communication. As such, the Petitioner prayed not to held him guilty for any punishment for the Charge No.2.

7.19 As regards the Charge No.3 which is a bit similar to Charge No.2, the Petitioner reiterated that disclosure to Sub-Inspector Ravindra Mehra about cause of wound did not contend the true incidence, only with the intention to prevent a lady's image and modesty being spoiled. He would further submit that he had no intention to deceive the administration or else. He has not made any

false/wrongful statement or entry in any office record. He showed his natural conduct to go to the Railway Hospital without going to any private hospital.

7.20 As such, the Petitioner prayed to exonerate him from the Charge No.3 too, as the main Charge i.e. Charge No.1 is already held to have been not proved by the Enquiry Officer.

7.21 On 25-02-2021 the Disciplinary Authority i.e. Divisional Security Commissioner, Railway Protection Force Solapur passed the impugned order and ordered the Petitioner to be removed from service. Pertinent to note, the Disciplinary Authority while holding the Petitioner guilty of the Charge No.1 too, did not record independent reasoning and observations as regards to the evidence.

7.22 The Petitioner carried out the punishment order in an Appeal.

7.23 The Appellate Authority vide its order dated 07-09-2021 concurred with the punishment order passed by the Disciplinary Authority and confirmed the punishment.

7.24 The Petitioner then rushed to the Revisional Authority under the Rules impugning both the orders of punishment and Appeal rejection. However, the Revisional Authority too concurred with the orders under challenge and confirmed the punishment.

7.25 As such, the Petitioner is before us under Article 226 of the Constitution of India vide present Writ Petition.

8. Petitioner's arguments:

8.1 Dr. Warunjikar, learned Counsel for the Petitioner would submit that after scrutiny of the entire evidence, the Enquiry Officer has rightly held that there was no material on record at all for which the Charge No.1 could be proved against the Petitioner. He submits that there is nothing in the record nor in the reasoning of the Disciplinary Authority, the Appellate Authority as also the Revisional Authority to take exception to the findings of the Enquiry Officer as regards to Charge No.1.

8.2 He would submit that the Charge No.1 was framed on account of the criminal prosecution. That, after due trial the learned competent criminal court has acquitted the Petitioner in respect of the alleged offence dated 31-07-2020. The Petitioner relies upon the acquittal order and submits that if no offence as alleged in the Crime is proved by the prosecution, which resulted into his acquittal, the very base of the Charge No.1 itself does not exist. Dr. Warunjikar further submits that 'registration of the crime' was the basis for Charge No.1; and consequent to dismissal of the criminal complaint for want of proof against the Petitioner, the Petitioner must not be held guilty for

the Charge No.1 and he deserves to be exonerate of it.

8.3 Dr. Warunjikar, learned counsel for the Petitioner would strenuously refer to the observations recorded by the Enquiry Officer and the evidence during the Enquiry. He would additionally submit that the Force Authorities even could not point out any direct or circumstantial evidence, which establish that the alleged incidence of 31-07-2020 had taken place. As such, the Authorities ought not to have taken exception to the findings of the Enquiry Officer as regards to the Charge No.1.

8.4 So far as Charges Nos.2 & 3 are concerned, Dr. Warunjikar would fairly submit that the Petitioner has agreed that he did not disclose the incidence of sustaining wound as also the true reason behind the wound to his seniors. He submits that the concerned Authorities as also this Court is expected to appreciate the motive of the Petitioner behind it. He would submit that both the Charges are not misconducts within the meaning of the charges framed under the relevant rules. That, it has to be appreciated that Rule 146.2(i), 146.3 (i) (ii) and 146.6 (i) of 1987 Rules have to be applied to test, the actual acts of the petitioner.

8.5 To conclude, Dr. Warunjikar submits that although the findings of the Enquiry Officer may not be obligatory on the Disciplinary Authority, however the Disciplinary Authority must record

such observation from the evidence in the trial that would independently justify its finding on the enquiry report.

8.6 Obviously, Dr. Warunjikar's prominent and foremost submission is as regards to the findings of the Authorities on Charge No.1. He submits that if correct findings are recorded in respect of the Chare No.1, as are observed by the Enquiry Officer, neither the Charge No.1 holds any field nor such a deterrent punishment could be imposed for rest of the Charges in the light of the facts that none of the charges No. 2 and 3 are attracted to Petitioner's case. He also gives thrust on the intention expressed by the Petitioner. Dr. Warunjikar thus prays to allow the Writ Petition.

9. Respondent's arguments:-

9.1 Mr. Killedar, learned counsel for the Respondents in his usual fairness would agree that the Enquiry Officer indeed could not find anything on record by which the alleged incidence dated 31-07-2020 could have been held as proved. He would however advocate the observations of the Disciplinary Authority, Appellate Authority and the Revisional Authority. He would submit that the Disciplinary Authority is not obliged to accept the findings and recommendation of the Enquiry Officer.

9.2 Mr. Killedar, learned counsel for the Respondents would submit that Charge No.1 has arisen due to lodging of Crime No. 113 of 2020 against the Petitioner. He would submit that in the light of this fact the Authorities are justified in holding that the Petitioner has violated Rule 146.4 and 147 (i) (ii) (iii) of 1987 Rules.

9.3 As regards to the findings of all the Authorities as also of the Enquiry Officer, Mr. Killedar would support those findings. He would vehemently argue that in view of the Petitioner's admission of non-disclosure of the facts to the superiors and rendering half-truth to the Sub-Inspector, all the Authorities are justified in holding that the Petitioner has violated Rule 146.2(i), 146.3(i) (ii) in respect of Charge No.(2) and violation of Rule 146.6(i) of 1987 Rules in respect of Charge No.3.

9.4 Mr. Killedar, learned counsel for the Respondents-Authorities would pray for dismissal of the Writ Petition.

10. Discussion and consideration :

10.1 With the able assistance of the learned counsel for both the parties, we have minutely gone through the documents in the Writ Petition paper-book and the Affidavits.

At the outset we record that the Petitioner has not pleaded nor argued that any opportunity of hearing was not given to him or there is

any violation of principles of natural justice.

Charge No.1

10.2 It is apparent that the base for Charge No.1 is the registration of criminal prosecution against the Petitioner. It is the first charge that due to registration of Crime No. 113 of 2020 discredit to the reputation of the Force has occurred.

10.3. Rule 146.4 of 1987 Rules is reproduced as follows for immediate convenience:

146.4 Discreditable conduct :

No member of the Force shall act in any manner prejudicial to discipline or conduct himself in such a manner which is reasonably likely to bring discredit to the reputation of the Force.

10.3.1 To hold the indiscipline under Rule 146.4, the prosecution has to prove that the delinquent acted in such a manner prejudicial to the discipline or presented such conduct in such a manner which reasonably likely to bring discredit to the reputation of the force.

10.3.2 The candid findings of the Enquiry Officer as regards to the Charge No.1 would clearly show that there was absolutely nothing on record to establish the incidence dated 31-07-2020 for which the Crime No. 113 of 2020 was registered. He recorded that the complainant neither personally turn up to prove the alleged incidence nor offered any other witness. The Presenting Officer absolutely didn't examine any witness to prove this charge. Even no circumstantial evidence is

proved by the Presenting Officer.

10.3.3 We find that none of the Disciplinary Authority, Appellate Authority or Revisional Authority recorded application of their independent mind to hold that the alleged incidence was proved by the Presenting Officer.

Thus, it goes without saying that the Authorities cautiously considered "the registration of First Information Report" against the Petitioner makes out the Charge No.1.

10.3.4 Obviously in such circumstances, we need to consider the effect of Petitioner's acquittal of the concerned crime on the Charge No.1 i.e. causing discredit to the Force.

10.3.5 We are aware that the disciplinary proceedings and the criminal prosecution against a delinquent can go parallel. The findings of either proceedings would depend upon the evidence that is produced in the respective trial. The relevant facts of each individual case decide as to whether findings in either trial can be referred to in another trial (D.E. to criminal trial and vice-versa).

10.3.6 In the case in hand, it is a matter of fact that there is judicial pronouncement by the Competent Court, which has held that Crime No. 113 of 2020 could not be proved against the Petitioner and the co-accused Manjeet Singh. The accused therein including the Petitioner, are acquitted by the criminal court. It is not disputed that

the findings and the acquittal are intact today.

10.3.7 We are cautious not to apply the findings and the evidence in the criminal trial to discuss the fate of Charge No.1 in the disciplinary proceedings. However, it is a matter of fact that the Charge No.1 itself was framed only because of 'lodging of Crime No. 113 of 2020, which now no more exists.

Thus, Petitioner can not be held guilty for violation of Rule 146.4 of the 1987 Rules.

10.3.8 As regards to Rule 147 (i) (ii) (iii) of R.P.F. Rules, we find that there is nothing on record for which the Disciplinary Authority, the Appellate Authority and the Revisional Authority could be said to have justified in holding the Petitioner guilty. It is for the prosecution to prove each indiscipline / offence alleged at Rule 147 (i) (ii) (iii) of 1987 Rules. Rule 147 (i) to (iii) speaks thus:

147 Offences relatable to duties of enrolled members:

Commission of any of the following act or acts by an enrolled member of the Force –

- (i) violation of any duty;*
- (ii) willful breach or neglect of any provisions of this Act or any rule or of Directives or of any other lawful orders which he is bound to observe or obey;*
- (iii) disobeying lawful command of superior officers;*

10.3.9 We have minutely gone through the findings recorded by the Disciplinary Authority, Appellate Authority and the Revisional Authority. The Disciplinary Authority and the Appellate Authority have merely reiterated the charges itself. Further by recording that the Force is a reputed institution and that the Petitioner ought not to have committed such guilt, those Authorities took exception to the findings recorded by the Enquiry Officer. The Enquiry Officer candidly observed there is nothing on record to prove the Charge No.1.

10.3.10 So far as the Revisional Authority is concerned, it is merely discussed about the Charge Nos.2 & 3 and has concurred that the punishment order and the order passed by the Appellate Authority. We could not find anything recorded by the Revisional Authority on merits of the findings by any Authority on the Charge No.1.

10.3.11 We find that the indiscipline of Rule 146.4 & 147 (i) (ii) (iii) and 1987 Rules by themselves are not the offences. To apply these provisions, the prosecution has to prove such instances which would demonstrate an offence or indiscipline, or violation in terms of these Rules.

10.3.12 For the reasons recorded above, we are of the considered view that it is a case of no evidence at all to sustain the Charge No.1.

Charge No. 2:

10.4 Now as regards to Charge Nos.2 & 3, which are almost of identical in nature i.e. non-disclosure of an incidence to the superiors and telling half truth to the superiors, we deal thus :

10.4.1 Charge No.2 refers to violation of Rule 146.2(i) and 146.3 (i) (ii) of 1987 Rules. Rule 146.2(i) reads thus :

146.2 Neglect of duty:

No member of the Force without good and sufficient cause shall –

- (i) neglect or omit to attend to or fail to carry out with due promptitude and diligence anything which is his duty as a member of the Force to attend to or carry out;*

10.4.2 The allegation for Charge No.2 is that he did not disclose to his seniors that he sustained wound on his hand. It is a matter of fact that the alleged incidence dated 05-08-2020 occurred at the Petitioner's room. In the given circumstances, we do not accept that the Petitioner was under official obligation to intimate any of his superior officer about the injury suffered by the Petitioner during his personal interaction with the said lady concerning the personal relations or even otherwise.

10.4.3 Incidence of sustaining the injury has nothing to do with Petitioner's job or any official duty. Its also not at case that the Petitioner earned any service benefit out of the said injury.

10.4.4 The neglect or omit as referred to in Rule 146.2 (i) of 1987 Rules must relate to an act concerned about his official duty and official transaction / business. Framing a charge against the Petitioner under Rule 146.2(i) for non-disclosure of the incident dated 05.08.2020 is, in our view wholly unjustified.

His duty as a member of the force necessarily only means something official obligation under service terms towards the force. Therefore, we are of the considered opinion that the accusation of the Petitioner for violation of Rule 146.2 (i) of the 1987 Rules is highly unjustifiable.

10.4.5 The Petitioner has specifically stated before the Force authorities that to avoid damage to the Complainant's image and modesty, he himself avoided to inform the incidence that took place at his residence. Dr. Warunjikar, learned counsel for the Petitioner adhered to the stand taken by the Petitioner and submitted that although the Petitioner was not under official obligation to share with his superiors the incidence that occurred at his residence and real cause of injury, yet the intention of the Petitioner also needs to be taken into consideration. We find that the explanation offered by the Petitioner (supra) is covered by the "Good and sufficient cause" expressed at opening words of Rule 146.2 of 1987 rules.

Hence we hold that the petitioner can not be held guilty for violation of Rule 146.2 (i) of the 1987 Rules .

10.4.6 Now let's see whether Rule 146.3 (i) (ii) of 1987 rules applies to the Petitioner's case. The Rule reads thus :

146.3 Disobedience of orders :

- No member of the Force shall –*
- (i) disobey or omit or neglect to promptly carry out any lawful orders, written or otherwise, or*
 - (ii) contravene any provision of the Act, these rules or Directives containing restriction on the private lives of the members of the Force or requiring him to notify the Principal*Chief Security Commissioner concerned that he, or a relation included in his family, has business interest in his jurisdiction within the meaning of these rules and Directives.*

10.4.7 This provision is regarding disobedience of the orders. We do not comprehend with the logic and reasoning recorded by all the Authorities including the Enquiry Authority for which the Petitioner could be termed as guilty for violation of Rule 146.3 of 1987 Rules.

10.4.8 It is not the case that the Petitioner disobeyed any written or otherwise order, nor it is the case that he omitted or neglect to promptly carry out any lawful orders, written or otherwise.

10.4.9 None of the content of Rule 146.3 (i) and (ii) comes into play on the backdrop of the facts of the present case. We find no logic at all even framing the Charge No.2 against the Petitioner referring to Rule 146.2(i) and 146.3 (i) (ii) of 1987 Rules. This provision specifically

refers to 'disobedience of order'. Undisputedly, the accusation is not in respect of disobedience of any order. The other part of the Rule 146 (ii) is also irrelevant to the petitioner's case.

10.4.10 As such we find that the Petitioner cannot be held guilty of the offences under Rule 146.3 (i) (ii) of 1987 Rules also.

Hence, we are of the opinion that the Charge No.2 against the Petitioner must go.

Charge No.3:

10.5 Now as regards to **Charge No.3** is concerned, it refers to Rule 146.6 (i) of 1987 Rules , which reads as follows :

146.6 Falsehood or prefabrication :

- No member of the Force shall-*
- (i) *knowingly or through neglect make any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for the purpose of Force;*

10.5.1 From the plain reading of the provision of Rule 146.6 (i), it is clear that any alleged falsehood, misleading or inaccurate oral or written statement or entry by member of the Force has to be 'in respect of official record or official document required for the purpose of the Railway Protection Force.

10.5.2 Stating that the injury was sustained out of a frolic and jinks with friends, instead of disclosing that it had arisen due to an assault by the lady, does not amount to a falsehood or an act falling

within the meaning of Rule 146.6(i) of the 1987 Rules.

10.5.3 The information given by the Petitioner to the Sub-Inspector about the injury suffered on his hand is purely regarding his personal affair. By no stretch of imagination it can be said that it is concerned with any office record or office document that may be kept or required for the purpose of the Force.

10.5.4 The evidence of PW-1 Ravindra Singh Mehra, Sub-Inspector would clearly show that on a casual query, he was informed by the Petitioner that the Petitioner sustained some injury while frolicking.

10.5.5 It is pertinent to note that the said witness was not engaged or under official duty to collect any evidence or statement of the Petitioner for the purpose of record in the Force. Even otherwise, as observed supra, the information given by the Petitioner was not at all concerned about office record or document for the purpose of the Force.

10.5.6 Even the conversation between the Petitioner and PW-1 Ravindra Mehra was absolutely not out of any official context or not a part of recording any statement, information, submission to maintain such statement / information in the office record or document made / kept / required for the purpose of force. We are of the firm opinion that the accusation against the Petitioner for Charge No.3 for the alleged misconduct under Rule 146.6 (i) of 1987 Rules can not stand.

10.5.7 We have exhaustively dealt with the facts and evidence of the case in hand. The Peculiar facts of the case in hand are such, that we needed to visit the contents of the accusation in the context of the applied provisions of the 1987 Rules. Contents must be tested with the context. We have minutely gone through every document in the file which form part of the enquiry proceedings against the Petitioner straight till final order of the Revisional Authority.

10.5.8 We have cautiously examined the accusation of the Petitioner in terms of the applied Rules under the 1987 Rules qua the facts of the case and the evidence on record. We have arrived at conclusion that the Petitioner deserves to be acquitted of all the charges levelled against him in the Departmental Enquiry for the reason that no charge against him could be made out in the given set of facts and circumstances.

11. We take on record that the Petitioner was placed under suspension vide order dated 25-02-2021 and since then is continuously out of service on account of the subsequent removal from service. Dr. Warunjikar, learned counsel for the Petitioner submitted that the Petitioner may be granted reinstatement. He, on instructions of the Petitioner who is physically present in the court makes statement that the Petitioner gives up claim for 50% of the back wages and that shall not claim such arrears.

12. Thus we hold that,

12.1 On termination of the criminal case on merits, the Petitioner can not be charged for causing any discredit to the reputation of the force. Its for the reason that the Charge No.1 for violation of Rule 146.4 of 1987 Rules was framed only due to Registration of Crime No.113/2020 against the Petitioner.

12.2 All other charges refer to some act or omission caused by the delinquent in connection of official duty, obligation towards official record, official documentation, administration of the office, any order passed verbally/written or otherwise by the superiors in connection with some office affair. None of the act of the Petitioner forms part of such obligation which is evident.

12.3 Even the non full disclosure of certain personal affair by the Petitioner is supported with good and sufficient reason as is recorded above.

13. For the reasons recorded above, the Petition must succeed.

Hence, we pass the following order :-

:: ORDER ::

- A)** Writ Petition stands allowed in terms of prayer clause (a).
- B)** The Order dated 25-02-2021 bearing No. SUR/X/P/227/153/06/2020 issued under the signature of the Divisional Security Commissioner, the order dated 07-09-2021 in

Appeal No. 177 of 2021 passed by the DIG-CUM-CSC / MUMBAI CSMT and the order dated 01-02-2022 in Revision Petition bearing Revision Order No. 22 of 2022 passed under the signature of PCSC/RPF/C.RLY, are quashed and set-aside.

- C)** The Respondents shall reinstate the Petitioner on his original post within Six weeks from the date of receipt of this judgment and order, with 50% of the total backwages without any interest.
- D)** Rule made absolute in above terms. Writ Petition stands disposed of.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT, J.]

OMKAR
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