

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15343-2003
Decided on: 20.03.2026

WAZIR SINGH

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Gaurav Rana, Advocate for the petitioner.

Mr. Ramesh Chand Sharma , Advocate
for the responents-UIOI

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this court has been invoked under Article 226 of the Constitution of India seeking quashing of the impugned order dated 14.11.2000 (Annexure P-2) passed by respondent removing the petitioner from service and also orders dated 05.02.2001 and 29.08.2001 dismissing the appeal and revision of the petitioner respectively. With a further prayer for reinstatement of the petitioner back in service.

Brief Facts

2. The petitioner was appointed as a Constable in the Central Reserve Police Force (CRPF) in April 1990 and served in various sensitive areas. During his posting in Nagaland, he developed a chronic skin ailment, which, according to him, impaired his ability to wear the prescribed uniform.

3. On 20.05.2000, upon rejoining at Japla (Bihar) after leave, the petitioner reported that his kit containing uniform articles was lying at Battalion Headquarters, Gaya, and despite requests, was not made available to him. On 29.06.2000, the petitioner attended roll call wearing kurta-pajama instead of the prescribed dress. While the petitioner attributes this to non-availability of uniform and medical condition, the respondents treat the same as an act of indiscipline.

4. On 03.07.2000, the petitioner was called to the orderly room. The petitioner alleges that he was abused and physically assaulted by superior officers, whereas the respondents allege that the petitioner committed a serious act of indiscipline by assaulting his superior officer. A preliminary enquiry was conducted, followed by a regular departmental enquiry.

5. Upon conclusion of enquiry, the petitioner was removed from service by order dated 14.11.2000 under Section 11(1) of the CRPF Act, 1949 (in short as "CRPF Act") read with Rule 27 CRPF Rules. The petitioner's statutory appeal before the Deputy Inspector General and revision before the Additional Director General were also dismissed. A writ petition filed before the High Court of Delhi was dismissed on 16.08.2002 on the ground of lack of territorial jurisdiction.

6. Aggrieved thereby, the petitioner has instituted the present writ proceedings laying challenge to the order of removal and the consequential appellate and revisional orders.

Contentions

On behalf of petitioner

7. Learned counsel for the petitioner contends that the impugned

disciplinary proceedings stand vitiated for violation of principles of natural justice, inasmuch as material documents including the preliminary enquiry report and relevant witness statements were not supplied, thereby disabling an effective defence while further urging that the entire enquiry was tainted by bias and mala fides attributable to the Company Commander, against whom an anonymous complaint had been made and who, suspecting the petitioner, initiated a course of victimisation culminating in the disciplinary action.

8. Learned counsel submits that the allegation of indiscipline is factually untenable, as the petitioner's appearance in kurta-pajama during roll call was occasioned by non-availability of uniform and compounded by a documented medical condition, which has not been duly considered.

9. It is further contended that the enquiry proceedings were neither fair nor impartial, as material witnesses were either threatened or not examined in their true capacity, and the petitioner was effectively prevented from conducting a meaningful cross-examination.

10. The finding of guilt, it is argued, is not supported by any cogent or direct evidence and rests on conjectures, rendering the punishment arbitrary and disproportionate, particularly in the absence of any prior misconduct in the petitioner's service record.

On behalf of respondents

11. Per contra, learned counsel for the respondents submits that the petitioner, being a member of a disciplined force, committed a grave act of indiscipline by disobeying lawful orders and assaulting his superior officer, which constitutes a serious offence under the CRPF Act and justifies strict action.

12. It is contended that a preliminary enquiry followed by a regular departmental enquiry was conducted strictly in accordance with prescribed procedure, wherein the petitioner was afforded full opportunity to defend himself, including participation in recording of evidence and cross-examination of witnesses.

13. Learned counsel submits that the plea of non-supply of documents is misconceived, as relevant materials were duly furnished and, in any event, supply of preliminary enquiry report is not mandatory under the governing procedure.

14. It is further urged that the petitioner's justification regarding non-wearing of uniform is untenable, as the force operates under strict discipline, and deviation from prescribed dress during roll call, coupled with insubordinate conduct, constitutes misconduct.

15. Lastly, it is contended that the penalty imposed is commensurate with the gravity of misconduct in a disciplined force, and the concurrent findings of the disciplinary, appellate and revisional authorities warrant no interference.

16. Heard.

Analysis

17. The present case, at its core, raises not merely a question of disciplinary control within a uniformed force, but the far more fundamental issue of whether such control can be exercised in derogation of fairness, which is the non-derogable essence of Article 14 of the Constitution of India. Discipline, howsoever stringent, cannot eclipse due process and it must operate within its confines.

Margin of appreciation and Judicial restraint

18. This court is of the opinion that it is important to recognize the scope of judicial review in service matters. The jurisdiction under Articles 226 and 227 of the Constitution of India is extraordinary and discretionary, intended to ensure that the State and its instrumentalities act within the parameters of law, fairness, and reasonableness. It is well settled that judicial review is not an appellate function. The courts do not sit to re-appreciate evidence or substitute their discretion for that of the disciplinary authority. The scope is circumscribed to cases where the authority has acted without jurisdiction, in violation of principles of natural justice, mala fide, discriminatory, or where the punishment is shockingly disproportionate. The Supreme Court in “***B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749***”, held that,

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to

reappreciate the evidence and to arrive at its own independent findings on the evidence.

19. The Supreme Court in “***Union of India v. P. Gunasekaran, (2015) 2 SCC 610***”. The High Court does not sit as an appellate authority over the decision of the Disciplinary Authority. Judicial review is confined to examining whether the enquiry was conducted in accordance with the principles of natural justice, whether findings are based on some evidence, whether the process was vitiated by *malafide* or arbitrariness, or whether the punishment imposed is so disproportionate as to shock the conscience of the Court. Relevant extract of the same is as under:

20. Similarly in the recent case of “***Union of India v. Subrata Nath 2022 INSC 1221***”, it was held that disciplinary authority in uniformed services must maintain strict discipline, and courts should tread cautiously in interfering with the punishment imposed for serious misconduct. Relevant extract is as follows:

15. It is well settled that courts ought to refrain from interfering with findings of facts recorded in a departmental inquiry except in circumstances where such findings are patently perverse or grossly incompatible with the evidence on record, based on no evidence. However, if principles of natural justice have been violated or the statutory regulations have not been adhered to or there are malafides attributable to the Disciplinary Authority, then the courts can certainly interfere.

21. Moreover, though discipline in the armed forces is paramount, constitutional courts cannot remain silent spectators where dismissal, the severest civil consequence is imposed without adherence to settled legal parameters. The balance between discipline and fairness must be maintained, and where that balance is disturbed, judicial review becomes not merely

permissible, but imperative.

22. Coming to the facts of the case, the petitioner is a Constable with nearly a decade of service, was posted in sensitive areas and, during his tenure in Nagaland, admittedly developed a chronic skin condition. Upon his posting at Japla (Bihar), it stands borne out from the record that his kit containing uniform was lying at Battalion Headquarters, Gaya, and was not made available despite request.

23. The contention of the petitioner that the punishment of dismissal has been imposed under Section 11(1) of the CRPF Act dealing with minor punishments, contending that the penalty imposed is outside the statutory bounds. However, this court is of the opinion that there can be no quarrel with the proposition that Section 11(1) CRPF Act permits imposition of major penalties, including removal. The mere fact that the charge-sheet may have adverted to a lesser penalty does not, by itself, invalidate the ultimate punishment. To that extent, the statutory argument advanced by the petitioner cannot be accepted.

24. However, the validity of power does not legitimise its exercise in an arbitrary or procedurally flawed manner. Section 11(1) is an enabling provision and does not dilute the requirement of a fair enquiry or the necessity of establishing misconduct on the basis of reliable evidence. Crucially, the evidentiary substratum of the findings is rendered suspect when examined in light of documents A-1 to A-4 placed on record. These documents, which encapsulate witness accounts, do not unequivocally establish the charge of assault by the petitioner. On the contrary, they indicate a scenario where the petitioner himself was subjected to verbal abuse and physical manhandling.

The narrative emerging from these documents is that the allegations against the petitioner were inconclusive, as emerged from the conclusion of the inquiry officer himself in Annexure A1..

25. The law is well settled that findings in disciplinary proceedings must be supported by “some evidence” which a reasonable person would accept. In ***Kuldeep Singh v. Commissioner of Police 1991(1) SCT 303***, it was held that where conclusions are based on no evidence or ignore relevant material, they are perverse. Relevant extract is as under:

“6. In Nand Kishore v. State of Bihar, AIR 1978 Supreme Court 1277 : 1978(3) SCC 366 : 1978(3) SCR 708, it was held that the disciplinary proceedings before a domestic Tribunal are of quasi-judicial character and, therefore, it is necessary that the Tribunal should arrive at its conclusions on the basis of some evidence, that is to say, such evidence which, and, that too, with some degree of definiteness, points to the guilt of the delinquent and does not leave the matter in a suspicious state as mere suspicion cannot take the place of proof even in domestic enquiries. If, therefore, there is no evidence to sustain the charges framed against the delinquent, he cannot be held to be guilty as in that even, the findings recorded by the Enquiry Officer would be perverse.

7. The findings, recorded in a domestic enquiry, can be characterised as perverse if it is shown that such a finding is not supported by any evidence on record or is not based on the evidence adduced by the parties or no reasonable person could have come to those findings on the basis of the evidence. This principle was laid down by this Court in State of Andhra Pradesh v. Sree Rama Rao, 1964(2) LLJ 150 : AIR 1963 Supreme Court 1723 : 1963(3) SCR 25, in which the question was whether the High Court, under Article 226, could interfere with the findings recorded at the departmental enquiry. This decision was followed in Central Bank of India v. Prakash Chand Jain, 1969(2) LLJ 377

(SC) : AIR 1969 Supreme Court 983 and Bharat Iron Works v. Bhagubhai Balubhai Patel & others, 1976 Labour & Industrial Cases 4 (SC) : AIR 1976 Supreme Court 98 : 1976(2) SCR 280 : 1976(1) SCC 518. In Rajinder Kumar Kindra v. Delhi Administration through Secretary (Labour) and others, AIR 1984 Supreme Court 1805: 1985(1) SCR 866 : 1984(4) SCC 635, it was laid down that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man could come, the findings can be rejected as perverse. It was also laid down that where a quasi-judicial tribunal records findings based on no legal evidence and the findings are his mere ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated.

8. Normally the High Court and this Court would not interfere with the findings of fact recorded at the domestic enquiry but if the finding of "guilt" is based on no evidence, it would be a perverse finding and would be amenable to judicial scrutiny.

9. A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with."

26. In the present case, not only is there absence of cogent evidence establishing guilt, but there is also positive material (A-1 to A-4) which undermines the prosecution case. The Inquiry Officer's own conclusion drawn after a due inquiry renders the disciplinary proceedings and the final punishment imposed upon the petitioner unsustainable in law.

27. Moreover, the element of selective enforcement further compounds the illegality. The record reflects that multiple personnel were in deviation of prescribed dress, yet disciplinary action was initiated only against the petitioner. Such selective targeting is antithetical to the equality clause under Article 14 of the Constitution and renders the action arbitrary.

28. The proportionality of punishment also warrants scrutiny. Even assuming arguendo that some lapse occurred, the imposition of the extreme penalty of removal from service, in the absence of clear proof of grave misconduct, is manifestly excessive. The Supreme Court in “**Mgmt. of Coimbatore Distt. Central Co-op. Bank v. Secy., Coimbatore Distt. Central Co-op 2007 (4) SCC 669**” has held that punishment which is shockingly disproportionate invites judicial interference, wherein it was held that,

11. So far as the doctrine of proportionality is concerned, there is no gainsaying that the said doctrine has not only arrived at in our legal system but has come to stay. With the rapid growth of Administrative Law and the need and necessity to control possible abuse of discretionary powers by various administrative authorities, certain principles have been evolved by Courts. If an action taken by any authority is contrary to law, improper, unreasonable, irrational or otherwise unreasonable, a Court of Law can interfere with such action by exercising power of judicial review. One of such modes of exercising power, known to law is the 'doctrine of proportionality'.

'Proportionality' is a principle where the Court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality thus steps in focus true nature of exercise - the elaboration of a rule of permissible priorities.

de Smith states that 'proportionality' involves 'balancing test' and 'necessity test'. Whereas the former ('balancing test') permits scrutiny of excessive onerous penalties or infringement of rights or

interests and a manifest imbalance of relevant considerations, the latter ('necessity test') requires infringement of human rights to the least restrictive alternative. [Judicial Review of Administrative Action'; (1995); pp. 601-605; para 13.085; see also Wade & Forsyth; 'Administrative Law'; (2005); p.366].

In Halsbury's Laws of England, (4th edn.); Reissue, Vol.1(1); pp.144-45; para 78, it is stated :

"The court will quash exercise of discretionary powers in which there is no reasonable relationship between the objective which is sought to be achieved and the means used to that end, or where punishments imposed by administrative bodies or inferior courts are wholly out of proportion to the relevant misconduct. The principle of proportionality is well established in European law, and will be applied by English courts where European law is enforceable in the domestic courts. The principle of proportionality is still at a stage of development in English law; lack of proportionality is not usually treated as a separate ground for review in English law, but is regarded as one indication of manifest unreasonableness."

The doctrine has its genesis in the field of Administrative Law. The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without abuse of discretion. There can be no 'pick and choose', selective applicability of Government norms or unfairness, arbitrariness or unreasonableness. It is not permissible to use a 'sledge-hammer to crack a nut'. As has been said many a time;

"Where paring knife suffices, battle axe is precluded".

29. The present case falls within that category. It must be emphasised that judicial review in such matters is not an exercise in re-appreciation of evidence, but in ensuring that the decision-making process is fair, rational and legally tenable. Where the process itself is compromised, the resultant decision cannot be allowed to stand.

Conclusion

30. Consequently, this Court is constrained to hold that the impugned order of removal dated 14.11.2000, along with the appellate and revisional

orders, cannot be sustained and are liable to be set aside.

- 31. The writ petition is allowed. The impugned orders are quashed. The petitioner shall be entitled to reinstatement with consequential benefits, subject to appropriate calibration, if necessary, in accordance with law.
- 32. Consequently, the writ petition is allowed.
- 33. Pending applications, if any, stand disposed of

(SANDEEP MOUDGIL)
JUDGE

20.03.2026
Meenu

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No