



2026:DHC:396-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 13th JANUARY, 2026

IN THE MATTER OF:

+ **W.P.(C) 5712/2019**

PRIYA RATAN JHA

..... Petitioner

Through: **Mr. Praveen Kumar and Ms. Sumaiya
Kalim, Advs.**

versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Mr. T.P. Singh, Sr. Central Govt.
Counsel.**

**Mr. Ajay Pal Law Officer CRPF,
INSP Athurv CRPF, Mr. Ramniwas
Yadav CRPF.**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present Writ Petition has been filed under Article 226 of the Constitution of India with the following prayers:

“(i) Issue a writ of certiorari quashing the order dated 19.12.2018 issued by the disciplinary authority / DG, CRPF imposing penalty of censure upon the petitioner.

(ii) Quash the order dated 19.12.2018 rejecting the representation of the petitioner.

(iii) Issue a writ of mandamus directing the respondents to promote the petitioner in the rank of Deputy Commandant from the date the batch mates of



the petitioner were promoted to the said rank in 2010 pursuant to DPC held on 20.08.2009 for vacancy year 2009-10 with all consequential benefits and reckon eligibility of petitioner for the purposes of promotion in the rank of 21/C on that basis with benefits of seniority as well.

(iv) issue appropriate orders to find out reasons for delayed enquiry as a 7 year long time to finish the enquiry and issue final orders has resulted in taking away the promotion from a combatant which was due to him.

(v) issue any other writ/direction that this Hon'ble Court may deem fit and proper in the facts of this case."

2. Shorn of unnecessary details, facts leading to the present case are as follows:

- a) The Petitioner joined the Central Reserve Police Force (*hereinafter referred to as "CRPF"*) on 04.01.1997, as a Sub-Inspector (General Duty). Pursuant thereto, on 03.10.2003, the Petitioner was appointed as the Assistant Commandant after qualifying in the Limited Competitive Departmental Examination held for the said post.
- b) During the period from April, 2004 to November, 2006 – the Petitioner was functioning as Officer Commanding of D/54 Bn. CRPF. It is alleged that he committed a serious act of misconduct on 10.04.2006, wherein he disbursed the pay and supplementary TA/DA amount in respect of No.830730441 HC/GD Ram Bharose Yadav of his Coy to No.850849614 HC/GD J.M. Jha on authority slip though the latter was not authorised to receive the same. Further, when the



HC/GD Ram Bharose Yadav requested for his dues, the Petitioner pressurized him to give authority slip to HC/GD J.M. Jha on a back date.

- c) Subsequently, major penalty proceedings under Rule 14 of Central Civil Services (Classification, Control & Appeal) Rules, 1965 [hereinafter referred to as “CCS (CCA) Rules”] were initiated against the Petitioner *vide* Presidential Memo dated 26.03.2009. The Presidential Memo is being reproduced hereinbelow for ease of reference:

“

ARTICLE-I

That the said Shri P R Jha, A/C, while functioning as Officer Commanding of D Company, 54 Bn CRPF during the period from April 2004 to November 2006 committed a serious act of misconduct in that on 10/04/06, with ulterior motive, he disbursed the pay and supplementary TA/DA amount in respect of No. 830730441 HC/GD Ram Bharose Yadav of his coy to No.850849614 HC/GD J M Jha on authority slip though the latter was not authorized to receive the same. Subsequently, when HC Ram Bharose Yadav requested for his dues, he harassed and pressurized him to give authority slip to HC JM Jha on back date. Thus, the said Officer misused his official position and failed to maintain devotion to duty thereby violating the provisions contained in Rule 3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri P R Jha, A/C committed a serious act of misconduct in that when HC Ram Bharose Yadav reported about non-receipt of his



pay and TA/DA amount, Shri PR Jha, in order to conceal his wrong doing, tampered with the signature / entries in disbursement register and cash book, by applying whitener, overwriting and cancelling entry etc. and returned the amount to main office on 01/05/06. Thus, the said Shri PR Jha, A/C failed to maintain absolute integrity and devotion to duty, thereby violating the provisions contained in Rule 3 (1) (1) & (li) of CCS (Conduct) Rules, 1964.”

- d) Thereafter, a Memorandum of charges was served on the Petitioner on 01.05.2009.
- e) It is stated that the Petitioner, *vide* his Application dated 08.05.2009, requested additional documents, in addition to the listed documents (article of charges), for submissions of his statement of defence, including a copy of the CVC proposal and the Preliminary Enquiry Report, as well as documents relating to the Disciplinary Enquiry conducted against HC/GD Ram Bharose Yadav of D/54 Bn. CRPF.
- f) It is stated that the Petitioner submitted his written statement of defence dated 22.06.2009, denying all the charges levelled against him. Accordingly, *vide* Order No.D.IX-26/2008-CRC dated 30.07.2009, the President in the exercise of the powers conferred under Rule 14(2) of the CCS (CCA) Rules appointed Sh. Amar Singh Negi, Comdt (Staff) to DIGP CRPF Jammu, as the Inquiring Authority to inquire into the charges framed against the Petitioner. Subsequently, due to administrative reasons, *vide* Order No.D.IX-26/2008-CRC dated 02.12.2009, the President in the exercise of the powers conferred under Rule 14(2) of the CCS (CCA) Rules further



appointed another officer as the Inquiring Authority to inquire into the charges framed against the Petitioner.

- g) Pursuant thereto, the Inquiry Officer examined the Petitioner, 10 prosecution witnesses, and Defence Assistant Sh. S.C. Jha, Ex-DC, CRPF and ultimately, in June, 2011, came to a conclusion that both the Article of Charges levelled against the Petitioner – stands not proved.
- h) The Disciplinary Authority after going through the entire records of the enquiry proceedings tentatively disagreed with the report of the Inquiry Officer and came to a finding that Article 1 had been partially proved and Article 2 had been proved against the Petitioner, on the principles of preponderance of probabilities.
- i) A copy of the Inquiry Officer's Report along with the tentative disagreement note dated 21.03.2012 was served upon the Petitioner *vide* Letter dated 21.03.2012 for submission of a representation.
- j) The Petitioner submitted his representation dated 05.05.2012 against the tentative disagreement note of the Disciplinary Authority on the Inquiry Officer's Report. Pursuant thereto, the Disciplinary Authority forwarded the proposal to the Union Public Service Commission (*hereinafter referred to as "UPSC"*) for its advice on the quantum of penalty to be imposed upon the Petitioner.
- k) The UPSC conveyed its opinion *vide* Letter No.F.3/142/12-SI dated 30.11.2012 advising that the ends of justice would be met, if the penalty of "censure" were imposed upon the Petitioner. Further, as there was a difference of opinion between the Disciplinary Authority and UPSC with regard to the quantum of penalty, the Ministry of



Home Affairs *vide* note dated 21.02.2013 referred the proposal to DoP&T, for resolving the matter because the quantum of penalty of “censure” as advised by UPSC seems to be disproportionate and low as compared to the charges levelled against the Petitioner. The said advise of the UPSC is extracted herein below for ease of reference:

“Subject: Major Penalty Proceedings under Rule 14 of CCS (CCA) Rules, 1965 against Shri P.R. Jha, Asstt. Commandant (IRLA-5963) CRPF.

Sir,

I am directed to refer to your letter No. D.IX-26/2008-CRC (CRPF/MHA dated 23.07.2012 on the above mentioned subject and to convey the advice of the Commission as under:

2. The Commission note that the Competent Authority vide Memorandum No. D.IX-26/2008-CRC, dated 26.03.2009 initiated disciplinary proceedings against Shri P.R. Jha, Asstt. Comdt. (IRLA No.5963) [hereinafter called Charged Officer (CO)] under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and asked the CO to explain the following Articles of Charge.

Article of Charge I

That the said Shri P.R. Jha, AC, while functioning as Officer Commanding of D Company, 54 Bn CRPF during the period from April 2004 to November 2006 committed a serious act of misconduct in that on 10/04/06, with ulterior motive, he disbursed the pay and supplementary TA/DA amount in respect of No. 830730441 HC/GD Ram Bharose Yadav of his coy to No.850849614 HC/GD J.M. Jha on authority slip though the letter was not authorized to receive the



same. Subsequently, when HC Ram Bharose Yadav requested for his dues, he harassed and pressurized him to give authority slip to HC J.M. Jha on back date. Thus, the said Officer misused his official position and failed to maintain devotion to duty thereby violating the provisions contained in Rule 3(1)(ii) of CCS (Conduct) Rules, 1964.

Article of Charge II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri P R Jha, A/C committed a serious act of misconduct in that when HC Ram Bharose Yadav reported about non-receipt of his pay and TA/DA amount, Shri P R Jha, in order to conceal his wrong doing, tampered with the signature/entries in disbursement register and cash book, by applying whitener, overwriting and cancelling entry etc. and returned the amount to main office on 01/05/06. Thus, the said Shri P R Jha, A/O failed to maintain absolute integrity and devotion to duty, thereby violating the provisions contained in Rule 3(1) (i) & (ii) of CCS (Conduct) Rules, 1964.

3. A statement of imputations of misconduct or misbehavior in support of the Articles of Charge, a list of documents by which and list of witnesses by whom the Articles of charges framed against the CO were proposed to be sustained were also enclosed with the Memorandum dated 26.03.2009 as Annexure I, III and IV respectively. The CO vide his reply dated 08.05.2009 requested for certain documents so that he could submit his written statement of defence. After examining the reply of the CO, the case was referred for oral inquiry and IO was appointed vide Order dated 02.12.2009 and also a PO was appointed vide Order dated 30.07.2009. The IO concluded his report on 31.10.2011 by stating that the both the Articles of



Charge I and II are not proved. The DA disagreed with the findings of IO with regard to both the Articles of Charge and held Article of Charge I as partly proved and Article II as fully proved. The DA forwarded a copy of the IO's Report, along with tentative reasons for disagreement with regard to both the Articles of Charge I and II, to the CO vide letter dated 21.03.2012 for submission of his representation, if any. The CO submitted his representation vide letter dated 05.05.2012. After examining the representation of the CO, the DA found that the CO has not been able to put forth any cogent point which warrants reconsideration of the disagreement note. After considering the Charge-sheet, IO's Report, representations of the CO and all other aspects relevant to the case, the DA observed that Article of Charge I is partly proved whereas Article of Charge II is fully proved and took a tentative decision to impose a suitable major penalty and sent the case records to the Commission for advice.

4. The case records have been carefully examined by the Commission and their observations are given below:

ARTICLE – I

4.1 The Commission note that the first charge against the CO is that he, with an ulterior motive, disbursed the pay and supplementary TA/DA amount in respect of Shri Ram Bharose Yadav of his coy to Shri J M Jha on authority slip although the latter was not authorized to receive the same. Further, when Shri Ram Bharose Yadav requested for his dues, the CO harassed and pressurized him when he refused to give authority slip to Shri J M Jha on back date. The Commission further note that the IO had held this Article of Charge as not proved and the DA had disagreed with the findings of



the IO and held the Article of Charge as partly proved to the extent that the CO, with an ulterior motive, had disbursed the pay and supplementary TA/DA amount respect of Shri Ram Bharose Yadav of his coy to Shri J M Jha on authority slip though the latter was not authorized to receive the same with.

4.2 The Commission note that the CO at no point of time had stated that he had not directed the payments pertaining to Shri Ram Bharose Yadav be made by Ct/GD Shri Haste Lal Ram to Shri J M Jha. In fact, the CO had himself admitted it and stated that this was done because of orders of the Commandant that no cash should lie un-disbursed. The Commission further note that the then Commandant (Shri S S Yadav) had deposed during the oral enquiry that he had ordered that no amount should lie un-disbursed in Government Cash Book and the Government Cash Book should always have 'nil' balance. This fact was also collaborated by several PWs. Further many PWs had also added during their deposition that the Commandant visited the 54 Battalion and had admonished the CO and the Company Writer for the pendency of amount in Government Cash.

4.3 The Commission further note that the payment of pay for the month of March 2008 was disbursed by the Company, after three days of the Commandant's visit and at that time Shri Ram Bharose Yadav was not present in the Company, because he was on training. Therefore, the amount towards the pay and TA/DA of Shri Ram Bharose Yadav would have lied un-disbursed had someone not withdrawn it. The Commission also note that PWs had deposed that the CO had directed for payment of the pay and TA/DA amount to ensure the compliance with the instructions of the Commandant and presuming that Shri Ram Bharose Yadav would give the proper authority slip on return



from the training and the amount would be paid to him by the person viz. P R Jha, who had drawn the amount on his behalf.

4.4 The Commission further note that all the PWs, including the Commandant, Deputy Commandant and even the Complainant had deposed that when Shri Ram Bharose Yadav returned from the training, he was requested to give an authority slip and accept the payment after deducting the amount of sold ration and mess cutting. Shri Ram Bharose Yadav refused to give the authority slip and also refused to accept the payment because he did not had faith in the CO that the money would be returned. The Commission further note that certain PWs had deposed that Shri Ram Bharose Yadav wanted the full amount without deduction of the amount for mess cutting and sold ration. The Commission further note that the Commandant and the Deputy Commandant and also other PWs had stated that the CO had drawn the money without any malafide intention and that the CO had done so in good faith. None of the PWs had deposed that the CO was not willing to make the necessary admissible payment to Shri Ram Bharose Yadav but the complainant himself was not willing to give the authority slip and accept the payment.

4.5 The Commission further note that Shri Ram Bharose Yadav had himself deposed that he had erased an amount of Rs. 936.96 (the sold ration amount of Bhandara), by pasting paper on the accounts register before handing over charge of Mess NCO D/54 Bn CRPF to HC/GD Dhuli Chand. He had justified this act by stating that when he took over the charge of Mess NCO, HC/GD, Shri J M Jha and his predecessor told him that he should not charge any amount from the OC (i.e. CO) for the ration purchased by him for his personal use from the ration store of the Mess and



because of fear of the CO he did not enter the amount of sold ration to the CO in the sold ration register and that he maintained this account on a separate piece of paper. The amount of ration provided to the CO till 13.03.2006 amounted to Rs. 927.33 and on that day while handing over the charge of the Mess NCO, he had informed and handed over the amount spent on personal ration to his incumbent Shri Dhuli Chand. However, the incumbent refused to accept this and thereafter, he had brought this fact to the knowledge of SI/GD Shri K. B. Thapa, who told him to do as deemed, fit. Therefore, he had erased the amount of Rs. 936.96/- spent on Bhandara from the account by pasting the page on which it was entered, thereby making good for his loss. The Commission observe that this argument of the Shri Ram Bharose Yadav is devoid of any merit and weightage because Shri Dhuli Chand had deposed and contradicted the statement of Shri Ram Bharose Yadav. Further, Shri K B Thapa had deposed that the discrepancy of Shri Ram Bharose Yadav was noticed by Shri Dhuli Chand and it was reported by him that a paper had been pasted on the entry of the sold ration amount pertaining to 'Bhandara' by Shri Ram Bharose Yadav. The Commission also note that Shri Ram Bharose Yadav had not brought the fact that ration were being supplied to the CO without payment and that because of his fear, it is not being posted in the relevant register to the knowledge of seniors of the CO, viz., the Commandant or the Deputy Commandant at that time.

4.6 The Commission observe that Shri Ram Bharose Yadav had himself deposed that a disciplinary proceedings was initiated against him for misappropriation of mess cutting, improper mess accounting and upkeep of records. It is also a fact that Shri Ram Bharose Yadav had preferred a complaint on 17.01.2007 to DIGP, CRPF, New Delhi (Exhibit-1)



wherein he had made numerous allegations against the CO. It was on the basis of this complaint that the instant disciplinary proceedings were initiated against the CO. During the course of the oral enquiry, the IO found that the allegations levelled could not be corroborated by even a single witness. This gives a very firm impression that Shri Ram Bharose Yadav had lodged the complaint against the CO after the enquiry was ordered against him. Hence, the contention of the CO that allegations were made against him by Shri Ram Bharose Yadav only after an enquiry of misappropriation/embezzlement of sum of Rs. 936.96 pertaining to the sold ration amount for the Bhandara was ordered against Shri Ram Bharose Yadav holds good. The Commission further note that none of the PWs, except for the complainant, had stated that the CO was not a person to be trusted upon rather everyone had pointed that Shri Ram Bharose Yadav had refused to accept the money and give the authority slip. The Commandant had also deposed that Shri Ram Bharose Yadav was an in-disciplined problem creator HC/GD and that he had ordered to keep him under watch in Bn Hqr for having a close eye on his conduct.

4.7 The Commission observe that although the element of charge that the CO disbursed the pay and supplementary TA/DA amount in respect of Shri Ram Bharose Yadav of his coy to Shri J M Jha on authority slip though the latter was not authorized to receive, is established but this was without any malafide intention or ulterior motive and is in contradiction to what has been mentioned in the Statement of Imputations and also in the Disagreement Note of the DA. It was done in good faith to comply and ensure compliance of the directions of the Commandant by minimizing the amount unpaid in the Cash Book Register. Further, the preponderance of probability shows that Shri Ram Bharose Yadav, i.e., the complainant vide which the



instant case had resulted, had lodged the complaint only after an enquiry was ordered against him and thereby had an ulterior motive. Therefore, Article of Charge I is partly proved.

4.8 The Commission note that the second charge against the CO is that when Shri Ram Bharose Yadav reported about non-receipt of pay and TA/DA amount, the CO tampered with the signature/entries in disbursement register and cash book by applying whitener, overwriting and canceling entry etc. and returned the amount to main office on 01.05.2006.

4.9 The Commission note that the CO had done his level best to hand over the withdrawn money pertaining to Shri Ram Bharose Yadav and had requested him to give the authority letter. However, Shri Ram Bharose Yadav refused to accept this. Further, when the matter came into the knowledge of the Commandant, he had deputed the Deputy Commandant for settling the matter and even after the request of the Deputy Commandant, the complainant had refused to accept the money. Thereafter, the Commandant had called Shri Ram Bharose Yadav and requested him to accept the money, but even then, he had refused to do so. Therefore, the Commandant had directed the CO to get money deposited as undistributed money in the Government account. This was accordingly done by the CO but instead of making fresh entries for accounting purpose, the CO had done corrections with the signature/entries in disbursement register and cash book. Therefore, Article of Charge II is fully proved.

5. In view of the findings as discussed above and after taking into account all other aspects relevant to the case, the Commission are of the view that the ends of Justice would be met in this case if the penalty of



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'Censure' be imposed upon Shri P.R. Jha (the CO). They advise accordingly.

6. The case records as per enclosed list are returned herewith. Receipt of the same may kindly be acknowledged.

7. A copy of the order passed by the Ministry in this regard may kindly be forwarded to the Commission for perusal and records.

Yours faithfully,

(Signature)
(Sanjay Prasad)
Under Secretary

- 1) Subsequently, *vide* Presidential order dated 24.07.2013, the penalty of "censure" was imposed on the Petitioner. The said order is being reproduced herein below for ease of reference:

"

ARTICLE-I

That the said Shri P R Jha, A/C, while functioning as Officer Commanding of D Company, 54 Bn CRPF during the period from April 2004 to November 2006 committed a serious act of misconduct in that on 10/04/06, with ulterior motive, he disbursed the pay and supplementary TA/DA amount in respect of No. 830730441 HC/GD Ram Bharose Yadav of his coy to No.850849614 HC/GD J M Jha on authority slip though the latter was not authorized to receive the same. Subsequently, when HC Ram Bharose Yadav requested for his dues, he harassed and pressurized him to give authority slip to HC JM Jha on back date. Thus, the said Officer misused his official position and failed to maintain devotion to duty thereby violating



the provisions contained in Rule 3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri P R Jha, A/C committed a serious act of misconduct in that when HC Ram Bharose Yadav reported about non-receipt of his pay and TA/DA amount, Shri PR Jha, in order to conceal his wrong doing, tampered with the signature / entries in disbursement register and cash book, by applying whitener, overwriting and cancelling entry etc. and returned the amount to main office on 01/05/06. Thus, the said Shri PR Jha, A/C failed to maintain absolute integrity and devotion to duty, thereby violating the provisions contained in Rule 3 (1) (1) & (li) of CCS (Conduct) Rules, 1964.

4. AND WHEREAS the Memorandum of charge was served on the Charged Officer (C/O) through the Commandant 168 Bn., CRPF on 01/05/2009. In his written statement of defence dated 22/06/2009, the C/O denied the charge levelled against him. The DE was hence set in motion by appointing Shri Amar Singh Negi, Commandant and the Inquiry Officer and Shri Vivek Bhandral, Second-in-Command as Presiding Officer vide Presidential order dated 30/07/2009. Due to administrative reasons Shri Shallendra. Commandant appointed as IO in place of Shri Amar Singh Nagi, Commandant vide Presidential order dated 02/12/2009. Shr S.C. Jha, Dy. Commandant (Retd), was engage as Defence Assistant by the Charged Officer. The Charged Officer participated in the enquiry along-with his Defense Assistant from beginning to end.



5. AND WHEREAS the IO has conducted the DE as per Instructions on the subject and the Charged Officer was provided with reasonable opportunity to defend his case at every stage during the enquiry. In the DE, statement of all the 6 listed PWs and 4 additional PWs has been recorded. The Charged Officer has neither produced and DW nor submitted any exhibits in his defence. During the course of enquiry, the Charged officer refuted the charge leveled against him and deposed that in order to comply the directions of Commandant-166 Bn to keep the Govt. cash balance in Coy Cash Book as zero, he had disbursed the said amount to another HC/GD J.M. Jha of 166 Bn on authority slip with the view to further hand over the same to HC/GD Ram Bharose Yadav of his coy on his arrival from course.

6. AND WHEREAS in the DE, the IO has held the charge at Article-I and Article-II as not proved. The Inquiry Officer in his report has held that allegations leveled by complainant (HC/GD Ram Bharose Yadav) against the Charged Officer, and false and are not corroborated by any witnesses rather they stand contradicted by the other witnesses. It could not be substantiated that the Charged Officer had disbursed the pay and supplementary TA/DA amount in respect of HC/GD Ram Bharose Yadav to HC/GD J.M. Jha on unsigned authority slip with any ulterior motive, rather it stands substantiated that the CO had done so in good faith and in order to keep the balance zero in cash Book in compliance of the verbal directions of the Commandant and in the belief that the above HC/GD Ram Bharose Yadav would sign on the unsigned authority slip while taking the amount. Further, the IO, in regard to Article-II held that the signature/entries in disbursement register and cash book were tampered by applying whitener and overwriting was not done to conceal any wrong doing of the CO, but the same was



necessitated as the complainant had refused to receive the said two amounts and as a result thereof, the amounts were required to be taken back in the cash book for returning them to the Bn Hqrs as undelivered amounts. The disciplinary authority did not agree with the findings of the IO and held the charges at Article- and II as tentatively proved, Accordingly, a copy of tentative disagreement not along-with copy of IO's report, was served on the Charged Officer vide Dte letter of even No. dated 21/03/2012 through the Commandant 168 Bn for submission of representation if any, within 15 days from the date of its receipt. The Charged Officer submitted representation dated 05/05/2012, in response, to tentative disagreement not/l.O's report through 168 Bn vide letter No. G-II-1/2012-168-Steno dated 07/05/2012. In his representation, the Charged Officer has mainly put forth that the complainant HC/GD Ram Bharose Yadav, leveled the allegation against the him (Charged Officer) when Rs.936.96/- on account of misappropriated/embezzled amount of Coy mess was deducted from his pay and the cutting/erasing/tempering in Cash Book was necessary as the above HC/GD Ram Bharose Yadav refused to accept the amount. The Charged Officer failed to bring out any new fact on, cogent point worth consideration in his representation dated 5/5/2012.

7. AND WHEREAS on evaluation of the proceedings of the DE along-with report of the IO and tentative disagreement note and various aspects related to the case, it is observed that the Charged Officer disbursed the pay and supplementary TA/DA amount in respect of Shri Ram Bharose Yadav of his coy to HC/GD J.M. Jha on authority slip and latter was not authorized to receive the same, is established. Since HC/GD Ram Bharose Yadav refused to accept his amounts which was already paid by Charged Officer to HC/GD JM.



Jha on unsigned authority lip, the Charged Officer had made corrections with the signature/entries in disbursement register and cash book. Thus, considering the above facts, the Disciplinary Authority came to the conclusion that both the charges framed against Shri P.R. Jha, Asstt. Commandant (CO) stand proved. Accordingly, case was referred to the UPSC for their advice. The Commission after examination of the case, vide their letter No.F.3/142/12-S1 dated 30/11/2012, advised for Imposition of the penalty of "Censure" upon Shri P.R. Jha (the CO).

8. AND WHEREAS the Disciplinary Authority found that the UPSC after taking into account all other aspects relevant to the case, has held Article of Charge-I as partially proved and Article of charge-II as fully proved. However the quantum of penalty of 'Censure' Imposed on the Charged Officer seemed to be disproportionate and very low as compared to gravity of charge. DoP&T OM No.39023/02/2006-Estt (B) dated 5/12/06 states that "in disciplinary and other cases if Disciplinary Authority/competent authority disagree with the advice of UPSC, a reference is required to be made to DoP&T (Estt. Division) in the relevant file indicating reasons for the proposed disagreement and its advice taken Into consideration before a final order is passed. Accordingly the matter was referred to DOP&T for resolving the difference of opinion between DA and UPSC. The Under Secretary to Government of India vide DoP&T's UO No.39034/04/2013-Estt(B) dated 12/06/2013 has Intimated that Keeping in view of all the facts and merits of the case, observations of UPSC, reports of I.O and observations of Ministry of Home Affairs and other records and circumstances of the case, the Competent Authority Le., Hon'ble Prime Minister has approved/accepted the recommendation of the UPSC



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for imposition of minor penalty of "Censure" on Shri P.R. Jha, Asstt. Commandant, the CO.

9. NOW THEREFORE, in the light of above and having regard to all aspects of the case, the President coonsideres that the ends of justice would be met in this case, if the penalty of "Censure", is imposed on Shri P.R. Jha, Asstt. Commandant, CRPF 9IRLA-5963) of 166 Bn (now posted in 168 Bn) the Charged Officer and orders accordingly. A copy of the UPSC letter No. F.3/142/12/SI dated 30/11/2012 is enclosed."

- m) The Petitioner submitted his Representation dated 06.09.2013 requesting to constitute review DPC to consider his promotion to the rank of Deputy Commandant and restore his seniority with all consequential benefits. However, after the award of the said penalty of "censure", the Petitioner was considered by DPC held on 20.09.2013 for the year 2013-14 in normal course and graded Fit with a rider that he be promoted after completion of penalty. Further, the Representation dated 06.09.2013 submitted by the Petitioner was examined and the factual position / reply to the same was sent to Spl. DG, CZ, CRPF vide Letter dated 27.09.2013 for further information of the Petitioner. Further, since the penalty of "censure" has no currency, he was released on promotion to the rank of Deputy Commandant vide Dte. signal dated 24.10.2013.
- n) The Petitioner filed W.P.(C) No.9170/2014 before this Court with the prayer to "*consider his promotion and seniority in the rank of Deputy Commandant above his juniors by quashing the order dated 24.07.2013 of penalty of censure and order dated 27.09.2013 rejecting his representation*". This Court vide Order dated 22.12.2014,



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directed the Union of India/Respondents to decide the Petitioner's Representation dated 06.09.2013 and thereafter, if the Petitioner is still aggrieved by the decision of the Respondents, then the Petitioner may approach this Court again. Further, this Court also directed the Respondents to decide the Petitioner's Representation within a period of two months from the date of this Order.

- o) Thereafter, Director General, CRPF had gone through the whole case of the Petitioner and came to a conclusion that the Representation dated 06.09.2013 of the Petitioner warrants no favourable consideration and thus, the same was rejected. The same was communicated to the Petitioner *vide* Order No.P.VII-6/2013-Pres-DA-I on 23.02.2015.
- p) It is stated that the Petitioner aggrieved by the Order dated 23.02.2015 passed by the Director General, CRPF, filed another W.P.(C) No.3453/2015 before this Court for quashing the Respondent's Orders dated 27.09.2013 and 23.03.2015 respectively, *vide* which the Petitioner's Representation dated 06.09.2013 was rejected. The Petitioner further prayed to quash Order dated 24.07.2013 issued by the Disciplinary Authority imposing penalty of "censure" upon the Petitioner and also to promote the Petitioner in the rank of Deputy Commandant with all consequential benefits from the date his batchmates were promoted to the said rank in 2010, including taking eligibility for promotion to 2-I/C w.e.f 2010. Further, this Court *vide* Order dated 16.11.2015, was pleased to allow the W.P.(C) No.3453/2015 filed by the Petitioner. The said Order is being reproduced herein below for ease of reference:



“The petitioner's limited grievance is that the penalty of censure imposed on him after completion of disciplinary proceedings was not preceded by any information or reference to him of the advice tendered by UPSC to the appropriate authority under Article 320 (3) of the Constitution of India. The petitioner relies upon the decision of Supreme Court in Union of India vs. R.P.Singh (2014) SCC 340. The court in that decision had highlighted that besides following the procedure prescribed i.e. completion of enquiry, furnishing of an enquiry report as a prelude to the imposition of the penalty, wherever law mandates prior consultation with the UPSC, the opinion tendered by the UPSC has to be furnished to the concerned officer/employee before penalty is actually imposed.

In the present case, the advice/opinion actually tendered by the UPSC was not furnished to the petitioner. Consequently, the writ petition is entitled to succeed. The impugned order is hereby quashed. Since, the petitioner now possesses a copy of the opinion tendered by the UPSC, it is open to him to represent to the appropriate authorities, i.e. Central Reserve Police Force (CRPF) within four weeks. The CRPF shall pass appropriate order within four weeks after duly considering the representation and other material on record including the enquiry report etc.

The writ petition is allowed in the above terms.”

- q) Further, the Petitioner in compliance with the Order dated 16.11.2015 passed by this Court in W.P.(C) No.3453/2015, submitted his Representation dated 08.12.2015 with the Respondent. The same was received through Pers. Branch ION No.P.VII-6/2013-Pers-DA-I dated 25.01.2016 in the CR & Vig. branch of the Respondent. The said Representation of the Petitioner was examined and submitted to MHA



vide UO note dated 17.06.2016 with recommendation to review the punishment of “censure” imposed upon the Petitioner in terms of CCS (CCA) Rules. It is stated that MHA thereafter, returned the proposal *vide* its UO note dated 19.10.2016 with the following remarks: “*none of the ground raised by the CRPF appears to be sufficient to change their previous stand or for reviewing the penalty of ‘censure’*”.

- r) Thereafter, the case of the Petitioner was re-submitted to MHA *vide* UO note dated 07.11.2016 with justification for obtaining approval of competent authority to review the penalty of “censure” imposed on the Petitioner. The MHA after examination of the case forwarded it to UPSC *vide* Letter dated 14.03.2017 for seeking its advice. Further, UPSC *vide* Letter No.F.3/400/2016-S.I dated 23.06.2017 informed the MHA that *vide* Order dated 16.11.2015 passed by this Court in W.P.(C) No.3453/2015, this Court issued directions to the Disciplinary Authority to examine the Petitioner’s Representation and not to the UPSC. It was further clarified by UPSC that “*as such, presently, UPSC has no further role with regard to the disciplinary case of Shri. P.R.Jha*”.
- s) Pursuant thereto, a proposal was made to the MHA *vide* Directorate UO note dated 14.07.2017. Thereafter, the MHA *vide* UO note dated 07.11.2017 returned the proposal stating that as the Disciplinary Authority is not in agreement with the advice of the UPSC and as such the case referred to DoP&T for advice. Thereafter, MHA *vide* UO note dated 07.06.2017 returned the proposal to furnish a self-contained note with the reasons for disagreement with the advice of the UPSC incorporating various details of the case.



- t) Thereafter, the proposal was re-submitted to MHA *vide* UO note dated 29.11.2017 in chronological manner incorporating all details of the case. Further, the MHA *vide* UO note dated 30.11.2018 intimated that the proposal of DG, CRPF has been considered in the Ministry and no justification was found by the Competent Authority i.e. Hon'ble Home Minister for reviewing the penalty of "censure" imposed on the Petitioner. Further, the representation dated 08.12.2015 submitted by the Petitioner was rejected, being devoid of merit *vide* Presidential Order dated 19.12.2018.
- u) Aggrieved by the same the Petitioner approached this Court by filing the present Writ Petition seeking to quash the impugned order dated 19.12.2018 passed by the Disciplinary Authority / DG, CRPF, imposing penalty of "censure" upon the Petitioner.
3. Before advertng to merits of the present Petition, this Court deems it necessary to delineate the contours of judicial review in context of administrative enquiries. It is trite law that the High Courts under Article(s) 226 and 227 of the Indian Constitution do not sit as a second Court of first appeal in disciplinary matters and, therefore, this Court, while exercising its powers under Article(s) 226 and 227 of the Indian Constitution, shall not venture into re-appreciation of evidence. The limited scope of interference that is permissible is to see whether there has been any procedural irregularity or violation of principles of natural justice and fair play or whether the findings in the administrative enquiry are based on no evidence at all.
4. The scope of administrative review is further circumscribed when it comes to disciplinary proceedings relating to members of the Armed Forces



and Paramilitary Forces. These are disciplined forces where the paramount consideration is maintaining cohesion, discipline and respect for hierarchy and chain of command. The Courts are not meant to sit over in appeal as second courts of first appeal. The Apex Court in the case of Union of India v. P. Gunasekaran, **(2015) 2 SCC 610**, has held as under:

"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority; (b) the enquiry is held according to the procedure prescribed in that behalf; (c) there is violation of the principles of natural justice in conducting the proceedings; (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case; (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations; (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion; (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence; (h) the disciplinary authority had erroneously admitted



inadmissible evidence which influenced the finding; (i) the finding of fact is based on no evidence."

(emphasis supplied)

5. The Apex Court in State of Rajasthan v. Bhupendra Singh, **2024 SCC OnLine SC 1908**, has reiterated the settled principle that the High Courts while exercising its powers under Article 226 and 227 of the Indian Constitution, does not sit as an appellate forum over the decisions of the disciplinary authorities. The Apex Court while relying on its earlier decision in State of A.P. v. S. Sree Rama Rao, **1963 SCC OnLine SC 6**, has held that as long as there is some evidence to reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and arrive at an independent finding on the evidence. The Apex Court clarified that the Courts shall not ordinarily interfere with administrative decisions unless it is illogical or suffers from procedural impropriety or was shocking to the conscience of the Court. The relevant paras of the judgment read as under:

"23. The scope of examination and interference under Article 226 of the Constitution of India (hereinafter referred to as the 'Constitution') in a case of the present nature, is no longer res integra. In State of Andhra Pradesh v. S Sree Rama Rao, AIR 1963 SC 1723, a 3-Judge Bench stated:

'7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an



authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.

(emphasis supplied)

24. *The above was reiterated by a Bench of equal strength in State Bank of India v. Ram Lal*



Bhaskar, (2011) 10 SCC 249. Three learned Judges of this Court stated as under in State of Andhra Pradesh v. Chitra Venkata Rao, (1975) 2 SCC 557:

'21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723 : (1964) 3 SCR 25 : (1964) 2 LLJ 150]. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in



violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

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23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact



recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal. See Syed Yakooob v. K.S. Radhakrishnan [AIR 1964 SC 477 : (1964) 5 SCR 64].

24. *The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do.*

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26. *For these reasons we are of opinion that the High Court was wrong in setting aside the dismissal order by reviewing and reassessing the evidence. The appeal is accepted. The judgment of the High Court is set aside. Parties will pay and bear their own costs.'*



(emphasis supplied)

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26. In *Union of India v. K.G. Soni*, (2006) 6 SCC 794, it was opined:

'14. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case [Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., [1948] 1 K.B. 223 : [1947] 2 All ER 680 (CA)] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in the decision-making process and not the decision.

15. To put it differently, unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigations it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In the normal course if the punishment imposed is shockingly disproportionate, it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.'

(emphasis supplied)



27. The legal position was restated by two learned Judges in State of Uttar Pradesh v. Man Mohan Nath Sinha, (2009) 8 SCC 310:

'15. The legal position is well settled that the power of judicial review is not directed against the decision but is confined to the decision-making process. The court does not sit in judgment on merits of the decision. It is not open to the High Court to reappreciate and reappraise the evidence led before the inquiry officer and examine the findings recorded by the inquiry officer as a court of appeal and reach its own conclusions. In the instant case, the High Court fell into grave error in scanning the evidence as if it was a court of appeal. The approach of the High Court in consideration of the matter suffers from manifest error and, in our thoughtful consideration, the matter requires fresh consideration by the High Court in accordance with law. On this short ground, we send the matter back to the High Court.'

6. In Bhupendra Singh (Supra), the Apex Court has also placed reliance on the case of State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364. However, we deem it apposite to deal with it separately because in S.K. Sharma (Supra) the Apex Court has drawn clear cut distinctions between substantial and procedural violations. The gist of the Apex Court's observations is that a violation of a substantial statutory rule would ipso facto vitiate the enquiry. However, when it comes to procedural rules the metric of assessment would be the test of prejudice. The relevant parts of the observation of the Apex Court reads as under:

"33. We may summarise the principles emerging from the above discussion. (These are by no means



intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.

(2) A substantive provision has normally to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under — “no notice”, “no opportunity” and “no hearing” categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is



called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) hereinbelow is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his



conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in B. Karunakar [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] . The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice — or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action — the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be made between “no opportunity” and “no adequate opportunity, i.e., between “no notice”/“no hearing” and “no fair hearing”. (a) In the case of former, the order passed would undoubtedly be invalid (one may call it ‘void’ or a nullity if one chooses to). In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem). (b) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the standpoint of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair



hearing and the orders to be made shall depend upon the answer to the said query. [It is made clear that this principle (No. 5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.]

(6) While applying the rule of audi alteram partem (the primary principle of natural justice) the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

(7) There may be situations where the interests of State or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

7. Applying the aforesaid law to the facts of the present case and after having perused the two Representations given by the Petitioner i.e., one given prior to Order dated 22.12.2014 passed in W.P.(C) No.9170/2014 i.e., Representation dated 06.09.2013, and the second Representation given after the Order dated 16.11.2015 passed in W.P.(C) No.3453/2015 i.e., Representation dated 08.12.2015. This Court is of the opinion that no extra material has been furnished by the Petitioner in his fresh representation after obtaining recommendation of the UPSC which would warrant any change of opinion by this Court. The UPSC after perusing the records of the case was of the opinion that the Article of Charge No.1 is partly proved and that the



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Article of Charge No.2 is fully proved and, therefore, penalty of censure be imposed on the Petitioner.

8. As held by the Apex Court, this Court is of the opinion that the Enquiry that has been held is in accordance with the procedure prescribed, there is no violation of principles of natural justice and the authorities have not been influenced by irrelevant and extraneous considerations. Material on record does not show that conclusion of the authorities imposing punishment of censure is so wholly arbitrary and extraneous that no reasonable person would have ever arrived at such a conclusion or would have not imposed the penalty. It is well settled that the High Courts do not substitute their conclusion to an independent finding based on the evidence arrived at by the authority. Viewed in this manner, the Order dated 19.12.2018 rejecting the representation of the Petitioner does not warrant any interference.

9. Coming to the third prayer in the present Petition regarding as to whether the Petitioner would be entitled to consideration for promotion to the rank of Deputy Commandant from the date of his batch mates or not because of the punishment of censure, the said issue has not been considered in the Order dated 19.12.2018. Promotion to the rank of Deputy Commandant would depend on the relevant promotion rules. The issue as to whether the punishment of censure would deprive the Petitioner of the promotion or not can be considered after examining the relevant promotion rules and the Order dated 19.12.2018 does not have any discussion regarding what was the relevant promotion rules and as to how the Petitioner would not be entitled for promotion on the basis of punishment of censure which has been imposed upon the Petitioner vide Order dated 24.07.2013.



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10. In view of the above, the present petition is disposed of by directing the Respondents to consider the case of the Petitioner regarding promotion to the post of Deputy Commandant based on the relevant promotion rules, pursuant to the DPCs held for the vacancy in the year 2009-10 and as to whether the Petitioner would be entitled to further promotions as and when eligibility of the Petitioner arose. The Respondents are directed to consider the said case of the Petitioner within a period of eight (08) weeks from the date of this Judgment and communicate the decision to the Petitioner.

11. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

JANUARY 13, 2026

S. Zakir/JR