



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 16843/2015

CNR: RJHC020602312015 | URN: CW / 30155U / 2015

Sheesh Ram S/o Bajranglal, aged about 28 years, R/o VPO Kansi
Ka Bas (Via Bajaj Gram Sanwali) District Sikar.

-----Petitioner

Versus

1. Union of India through Director General, Central Industrial Security Force (Ministry of Home Affairs) Central Government (Union of India) New Delhi.
2. Inspector General, Central Industrial Security Force, INES (Ministry of Home Affairs) Government of India, Premises No.553, East Kolkatta Township, Kasba, Kolkata-107.
3. Deputy Inspector General, Central Industrial Security Force, Unit DSP, Durgapur, District Bardwan (West Bengal)
4. Commandant, Central Industrial Security Force, Unit DSP, Durgapur, Dist Bardwan (West Bengal).

-----Respondents

For Petitioner(s) : Mr. Tanmay Dhand
For Respondent(s) : Mr. Divyesh Maheshwari
Mr. Harshvardhan Katara
Mr. Ghanshyam Gaur

HON'BLE MR. JUSTICE ANAND SHARMA

Order

17/09/2026

1. Petitioner has approached this Court by way of filing this writ petition to assail order dated 23.07.2013 passed by the Disciplinary Authority, whereby after conducting disciplinary enquiry, penalty of removal from services has been imposed upon the petitioner. Further the petitioner has also challenged appellate and revisional orders dated 08.09.2014 & 28.05.2015, whereby



appeal and revision petition filed by the petitioner against penalty order have been dismissed.

2. It is stated that the petitioner was initially appointed on the post of Constable (G.D.) in Central Industrial Security Force on 31.10.2009. However, in the year 2012, since he was not well, therefore, he availed medical rest at Unit Line. However, he received an information with regard to serious illness of his mother, therefore, under emergent circumstances, he rushed to his home without seeking permission from authorities to leave headquarters. Unfortunately, thereafter, petitioner himself became unwell and was under medical treatment. Absence of the petitioner has been treated as unauthorized and wilful for which memorandum of charges along with statement of allegations was issued by the respondents under Rule 36 of the Central Industrial Security Force Rules, 2001 (for short, 'the CISF Rules), levelling as many as two charges relating to wilful absence and unsatisfactory performance. As per the petitioner, pursuant to the aforesaid charge-sheet, enquiry officer conducted enquiry behind his back and without serving copy of enquiry report, and thereafter penalty of removal from service has been imposed by the Commandant of Central Industrial Security Force, Durgapur.

3. First and foremost ground taken by the petitioner is that under the CISF Rules, Commandant has got no power to inflict penalty of removal from services, therefore, it was issued by an incompetent authority and without authority of law.

4. Learned counsel for the petitioner also submits that order dated 28.05.2015 passed by the Revisional Authority itself would reveal that copy of enquiry report was served upon the





father of the petitioner subsequent to passing of penalty order, therefore, it is clear that the petitioner was deprived of his right to file representation against the findings of the enquiry officer. Such irregularity is quite significant and would vitiate the entire proceedings.

5. Learned counsel for the petitioner further submits that even the charge of wilful absence is not made out against the petitioner, and is misconceived for the reason that the absence of petitioner for justified reasons coupled with his illness cannot be treated as either wilful or unauthorized.

6. Learned counsel for the petitioner further submits that even the appellate and revisional authorities did not appreciate the grounds raised by the petitioner, and have mechanically dismissed the appeal as well as revision petition filed by the petitioner.

7. *Per contra*, learned counsel for the respondents supported the impugned order and submitted that the material available on record would reveal that the petitioner abruptly absented himself from the duties without seeking any prior permission of the higher authorities or without getting the leave sanctioned. Despite so many notices issued by the respondents calling upon the petitioner to join back his duties, neither he resumed the duties, nor did he submit any sufficient explanation. It is also submitted that even after service of so many notices, when the petitioner did not turn up, the disciplinary authority rightly took a decision to initiate disciplinary enquiry against the petitioner, and accordingly, definite charges were framed and charge memorandum was sent to the petitioner through registered



post at his home address, and another copy of charge memorandum was physically served upon father of the petitioner on 26.03.2013.

8. Learned counsel for the respondents further submits that despite receiving copy of charge memorandum, the petitioner did not file any reply to the charge-sheet, nor did he submit any explanation to justify long unauthorized absence of three months. Thereafter, enquiry officer was appointed and before proceeding further, even the enquiry officer issued several notices to the petitioner at his declared home address, yet he did not participate in enquiry proceedings. Resultantly, *ex parte* enquiry was conducted, documents were taken on record and statement of relevant witnesses were also recorded. After analyzing the entire record, the enquiry officer submitted enquiry report to the disciplinary authority on 05.06.2013.

9. After receiving the enquiry report, copy thereof was sent by the disciplinary authority to the petitioner vide letter dated 06.06.2013 through registered post in order to provide him opportunity to submit his representation, however, the letter was returned undelivered. Thereafter, physical copy of the notice along with enquiry report was handed over to the father of the petitioner on 30.06.2013.

10. Learned counsel for the respondents further submits that on account of bona fide clerical error in revisional order dated 28.05.2015, instead of 30.06.2013, date of service of enquiry report upon father of the petitioner has wrongly been mentioned as 30.08.2013.



11. Learned counsel for the respondents sought indulgence of the Court over the reply to the writ petition, where in para No.10, it has been clarified that copy of enquiry report was handed over to Sh. Bajranglal, father of the petitioner, on 30.06.2013 under proper receipt. Receipt to show acknowledgment has also been place on record as Annexure-R/18, which bears the correct date i.e. 30.06.2013. Even after receiving copy of enquiry report, when the petitioner did not file any representation against the findings of enquiry officer, therefore, looking to the fact that the respondent-Department is a disciplined force, where the indiscipline shown by the petitioner with regard to wilful and unauthorized absence is taken to be quite serious as well as the significant fact that degree and standard of discipline in respondent-Department is higher than any other civil department, after due application of mind over the entire record as well as after being satisfied by the procedure of enquiry, the disciplinary authority has rightly passed the penalty order against the petitioner for removing the petitioner from service.

12. Learned counsel for the respondents further submits that the appeal as well as revision petition filed by the petitioner against the penalty order have been decided by a reasoned and speaking order by the concerned authorities, and after dealing with all the issues raised by the petitioner, hence there is no infirmity in the impugned orders passed by the respondents.

13. As regards, question of competence of the disciplinary authority, learned counsel for the respondent indicated the relevant Rules as well as Schedule appended to the CISF Rules to demonstrate that penalty of removal from service against a



Constable can be imposed by Senior Commandant/Commandant, and since, the disciplinary authority was holding the post of Commandant, therefore, it cannot be said that there was any element of incompetence in exercise of power by the disciplinary authority.

14. Learned counsel for the respondents further submits that scope of the writ petition under Article 226 of the Constitution of India is very limited and the evidence recorded by the enquiry officer cannot be re-appreciated by this Court under Article 226 of the Constitution of India. It is further submitted that petitioner has utterly failed to point out any material irregularity, illegality or perversity in the impugned orders, nor is able to show that the impugned penalty, under the facts and circumstances of the case, is either disproportionate or excessive to the guilt committed by the petitioner. It is also submitted that the petitioner was initially appointed in October, 2009, and only after a period of three years, he showed grave indiscipline and misconduct for which penalty of removal from service is quite justified.

15. Heard learned counsel for the parties and perused the record.

16. After examining the Schedule appended to the Rules, this Court is satisfied that the Rules confer power upon Senior Commandant/Commandant to inflict penalty of removal from services, in case, charges levelled against the delinquent for committing grave misconduct are proved. In the instant case, the disciplinary authority was holding the post of Commandant, hence, the ground of lack of competence as raised by the petitioner is not made out and is hereby rejected.



17. Second ground raised by the petitioner with regard to non-compliance of principles of natural justice as well as procedure contemplated in the Rules in as much as that copy of enquiry report was served upon the petitioner much after passing of penalty order, is also not sustainable in view of reply to the writ petition as well as acknowledgment receipt dated 30.06.2013, which makes it evident that copy of enquiry report was duly served upon father of the petitioner on 30.06.2013, whereas penalty order was passed on 23.07.2013. No rejoinder to reply was filed by the petitioner to controvert the above statement in reply.

18. This Court has examined the material placed by both the parties on record and is satisfied that respondents have followed the complete procedure of enquiry contemplated in the Rules and it was the petitioner, who himself failed to avail opportunity at every stage. Neither, he filed reply to the charge-sheet, nor did he participate in enquiry proceedings, nor did he filed any representation against the findings of the enquiry report.

19. Under these circumstances, in view of the limited scope of judicial review under Article 226 of the Constitution of India, the evidence led before the enquiry officer cannot be re-appreciated by this Court as an appellate authority.

20. Although, under these circumstances, where charges have been fully proved against the petitioner, scope of interference on the question of quantum of punishment is very limited, yet since this question was raised by the petitioner, this Court examined the facts in entirety and found that petitioner rendered service of hardly three years prior to issuance of charge-sheet and



this Court is also conscious of the fact that the respondent-CISF is a disciplined force, where wilful and unauthorized absence is treated to be a serious misconduct. Hence, under these circumstances, this Court finds that penalty of removal from service imposed upon the petitioner is neither excessive, nor disproportionate to the guilt of the petitioner.

21. For the reasons mentioned hereinabove, there is no scope for interference in the instant writ petition and the same is hereby dismissed.

22. Pending application(s), if any, stand(s) disposed of.

(ANAND SHARMA),J

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