



2025:DHC:6370-DB



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

% ***Date of decision: 25th July, 2025***

+ **W.P.(C) 11563/2016 & CM APPL. 42190/2024**

GIRIRAJ SINGH **.....Petitioner**

Through: Ms. Saahila Lamba, Advocate

Versus

UOI AND ORS. **.....Respondents**

Through: Mr. Vivek Goyal with Mr. Gokul Sharma, Advocates.

+ **W.P.(C) 11587/2016**

BHAGAT SINGH **.....Petitioner**

Through: Ms. Saahila Lamba, Advocate

Versus

UOI AND ORS. **.....Respondents**

Through: Mr. Nitinja Chaudhry with Mr. Rahul Mourya, Advocates for UoI.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT (ORAL)

1. By way of the present writ petitions under Article 226 of the Constitution of India, each of the petitioner in these petitions are seeking issuance of Writ of Certiorari for quashing the orders dated 27.01.2015, 08.04.2025 and 18.08.2015 being same in each of the petition passed by the Disciplinary Authority, the Appellate Authority and the Revisional



Authority (*Departmental Authorities*) respectively, against each of the petitioner. Since the facts involved, the issues involved and the respondents are same in the present writ petitions, they are being taken up together for disposal.

2. Briefly put, the petitioner in W.P.(C) 11563/2016, while working as a Head Constable and the petitioner in W.P.(C) 11587/2016, while working as a Constable, respectively in Railways Police Force (**RPF**), were issued Charge Sheet(s) on 05.11.2014, by the Assistant Security Commissioner under *Rule 153* of the Railway Protection Force Rules, 1987 (*the RPF Rules*) for violation of *Rule 146.2(i)*, *Rule 146.2(ii)* and *Rule 146.3(i)* of the RPF Rules during the course of their duty.

3. As per Charge Sheet(s), violation of the aforesaid Rules occurred on the night between 31.10.2014 and 01.11.2014, from 18:00 to 06:00 hours, when each of the petitioner, armed with requisite arms and ammunition, were on duty for security of the OHE wire between Kilometre nos.79 and 82, Simbhauli - Gadmukteshwar stretch. During the course of their duty then, one accused person, with the intent to commit theft, cut the OHE wire at Kilometre no. 80/24, which wire subsequently got entangled in Train no.14208, on account of which, the said train had to be stopped. It was alleged that had the petitioners performed due diligence in patrolling the assigned beat, the criminal act of tampering with the OHE wire would have been prevented, thereby avoiding the damage caused to approximately 250 meters of OHE wire. Thus, for failure of the petitioners to prevent such a criminal occurrence during their assigned duty, despite being specifically tasked with the security of the OHE wire, the said act



was alleged to have amounted to gross negligence and dereliction of their duties.

4. As such, in the Charge Sheet, three charges framed against each of the petitioner were violation of *Rule 146.2(i)*, *Rule 146.2(ii)* and *Rule 146.3(i)* of the RPF Rules.

5. In furtherance thereto, the petitioners were subject to disciplinary proceedings wherein, *vide* orders both dated 27.01.2015, the Assistant Security Commissioner, RPF, Northern Railway, Muradabad (***Disciplinary Authority***) observed that had the petitioners been diligent and present in performing their duty, the criminal intervention with the OHE wire at Kilometre no.80/24 would not have occurred. Thus, acknowledging the seriousness of the act, the Disciplinary Authority *vide* the aforesaid orders observed that the three charges levelled against the petitioners for violation of *Rule 146.2(i)*, *Rule 146.2(ii)* and *Rule 146.3(i)* of the RPF Rules stood proved. Further, adopting a sympathetic view, the Disciplinary Authority imposed penalty of 'reduction of pay by one stage for a period of one year with cumulative effect with immediate effect' upon each of the petitioner, in exercise of powers under Schedule III of the RPF Rules and the period of suspension from 01.11.2014 to 05.11.2014 was regularised.

6. Aggrieved thereby, each of the petitioner preferred respective appeal before the Senior Divisional Security Commissioner/ Muradabad (***Appellate Authority***), which, dismissed the appeal of each of the petitioner *vide* orders both dated 08.04.2025 observing that considering the seriousness of the charges, the punishment imposed by the Disciplinary Authority is valid and requires no interference.



7. Thereafter, each of the petitioner filed respective revision petition against the orders both dated 08.04.2025 of the Appellate Authority before the ACSC/ RPF/ Northern Railway, Baroda House, New Delhi (***Revisional Authority***), which were also dismissed *vide* orders both dated 18.08.2015, observing that the orders passed by the Appellate Authority are correct and it would not be justified for it to interfere with the same in any manner.

8. Aggrieved by the aforesaid orders dated 27.01.2015, 08.04.2025 and 18.08.2015 passed by the Departmental Authorities, the petitioners have preferred the present writ petitions.

9. Learned counsel for petitioners submits that merely because the OHE wire was cut during duty hours of the petitioners, the Departmental Authorities have wrongly implied/ concluded that they were negligent in performing their duty instead of giving due weightage to their promptness and vigilance. As such, amongst the various grounds taken by the petitioners, learned counsel has primarily restricted her submissions to the excessive penalty imposed upon them, as it is grossly disproportionate to the charge levied against them.

10. *Per Contra*, both learned counsels for respondents submit that even though the petitioners were well equipped with arms and ammunition, since they were unable to stop the accused, the Departmental Authorities have rightly passed the orders after giving due consideration to the material evidence and documents available on record. Based thereon, their prime contention is that the penalty imposed upon the petitioners is reasonable, appropriate and proper.



11. Having heard the limited submissions advanced by the learned counsel for the parties and after going through the materials placed on record, it is clear that since there is no dispute *qua* the factual matrix involved, we are to decide *qua* the proportionality/ quantum of penalty imposed upon the petitioners by the Departmental Authorities.

12. To consider the aforesaid, due consideration needs to be given to the fact that both the petitioners were physically present at the time of the incident on the spot whole time, i.e. not only when it took place, but also throughout and thereafter as well. Interestingly, there is no denial to the above fact by the respondents. In fact, this confirms that both the petitioners were always present at the time of the incident and discharging their respective duties. Simply because they were unable to stop the accused does not mean that they were negligent and/ or irresponsible in performing their duties, which called for imposition of such type of penalty. Thus, the penalty imposed upon them is harsh and disproportionate and the quantum levied needs a relook.

13. Similarly, another vital factor overlooked by the Departmental Authorities is that since the respondents had never raised any allegations of any kind against either of the petitioners, they always had an unblemished past record with a clean slate and were only first-time offenders. In our opinion, this is another factor which ought to have been given due consideration and weightage at the time of imposition of penalty upon them. As such, interference by us is called for, more so, as the Departmental Authorities have completely overlooked, rather ignored, the aforesaid factors.



14. The Hon'ble Supreme Court in *Union of India v. Sunil Kumar*, [(2023) 3 SCC 622] reiterated the settled position of law with regard to the extent of judicial review that may be exercised by the High Courts observing as under:-

“11.In Surinder Kumar [CRPF v. Surinder Kumar, (2011) 10 SCC 244 : (2012) 1 SCC (L&S) 398] while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in Union of India v. R.K. Sharma [Union of India v. R.K. Sharma, (2001) 9 SCC 592 : 2002 SCC (Cri) 767] that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under Articles 226 or 227 or under Article 32 of the Constitution.”

[Emphasis supplied]

15. The same are relevant as the age, general character and behaviour, years of active service, type of service and previous punishments, if any, are all relevant criteria while imposing penalty on any delinquent like the petitioners. In the present case, none of the above, including the above vital factors were considered by the Departmental Authorities at the time of imposition of penalty upon the petitioners. Consequently, since there is a complete ignorance of the aforesaid factors, for the sake of justice, equity and conscience, we modify only the quantum of punishment awarded to the petitioners to “... ..*reduction of pay by one stage for a period of one year without cumulative effect with immediate effect*... ..”.

16. The present petitions are, thus, partially allowed in the aforesaid terms, with a direction to the respondents to give proportional and due



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adjustments and/ or clear all dues, as the case may be, of both the petitioners within a period of *six weeks* from today.

17. Accordingly, the present petitions along with pending application(s), if any, are disposed of. No order as to costs.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

JULY 25, 2025

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