



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

Reserved on: 10.03.2025
Pronounced on: 01.07.2025

+ **W.P.(C) 7039/2007 & CM APPL. 10752/2023, CM APPL. 49511/2023**

SUBODH SINGHPetitioner
Through: Ms.Laxmi Chauhan, Mr.Lalit Chauhan, Mr.Manish Yadav & Ms.Nikita Chauhan, Advocates

Versus

UOI & ORS.Respondents
Through: Mr.Rajesh Kumar, Senior Panel Counsel with Mr.Rahul Kumar Sharma & Mr.Yash Narain, Advocates
Mr.V. S. Rawat, AC/CIS

+ **W.P.(C) 2743/2008**

EX.CT. BIJENDER PAL SINGHPetitioner
Through: Mr.Loveneet Bhati, Advocate

Versus

UOI & ORS.Respondents
Through: Mr.Rakesh Kumar, CGSC with Mr.Sunil, Advocate for UOI

+ **W.P.(C) 884/2009**

EX CT SAILENDER SINGHPetitioner
Through: Ms.Hemlata Rawat, Mr.Brijesh Mehta, Ms.Poonam Mehta, Ms.Tanuja & Mr.Abhay



Singh, Advocates

Versus

UOI & ORS.

.....Respondents

Through: Mr.Rajesh Kumar, Senior Panel
Counsel with Mr.Rahul Kumar
Sharma & Mr.Yash Narain,
Advocates
Mr.V. S. Rawat, AC/CIS

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J.

1. By way of the present petitions under Article 226 of the Constitution of India, the petitioners, including Subodh Singh, who was serving as a Constable in the Central Industrial Security Force (CISF) until his dismissal from the Service, has approached this Court seeking the following reliefs: -

“a) Directing the respondents to place the relevant records pertaining to the present writ petition before the Hon’ble High Court for the proper adjudication in the matter in the interest of justice.

b) To quash and setting aside the impugned orders dt. 21.04.2006 and 05.06.2006 issued by the disciplinary authority awarding the extreme penalty of dismissal from services to the petitioner followed by the order issued by the appellate authority respectively with all other consequential benefits namely the arrears of pay, seniority, promotion etc. etc;

c) To allow the present writ petition with all other



consequential benefits and costs.

d) Any other fit and proper relief may also be granted.”

2. The other petitioners, Bijender Pal Singh and Sailender Singh, in addition to the aforesaid reliefs, have also challenged the orders passed by the Reviewing Authority.

3. The petitioners, namely Subodh Singh, Bijender Pal Singh, and Sailender Singh, were issued separate Memorandum of Charge and after conduct of separate Departmental Enquiries on different dates, they were found guilty and were imposed with the penalty of ‘Dismissal from Service’.

4. Since the vertebral of all these petitions was similar, they were heard together. However, as independent charges were framed and separate orders were passed by the Disciplinary Authority, the charges levelled against each petitioner have been dealt with separately by way of this common judgment.

W.P.(C) 7039/2007

5. We may recite the facts by noting that the petitioner, Subodh Singh, was enrolled as a Constable with the Central Industrial Security Force (CISF) on 27.06.1989. Immediately after his enrollment, he was posted to RPC, Barwah from June 1989 to March 1990. Upon successful completion of training, he was posted to the Iron and Mines Plant at Donimali, Karnataka, from April 1990 to June 1994. Thereafter, in July 1994, he was transferred to the Electric Plant at NLC, Neyveli, Tamil Nadu. He was then posted to the NTPC, Badarpur in June 1999, followed by his ultimate transfer to FGPP/NTPC, Faridabad, in June 2003. While serving in the



FGPP/NTPC Unit, he was served with a charge-sheet dated 29.06.2005, containing the following Charges: -

“

CHARGE NO. 1

Force No. 892297050 Ct. Subodh Singh (Under Suspension) of CISF unit FGPP/NTPC while on duty at FGPP, used to throw the aluminum cable scrap out side the boundary wall and used to negotiate with Sripal Singh Kabariwala and his accomplice for sale of the said scrap on telephone for consideration. Ct. Subodh Singh (under Suspension) being a member of disciplined force has committed misconduct in stealthily selling the aluminum cable scrap and illegally taking money against the same from Sripal Kabariwala and his accomplices Ram Singh by conducting the negotiation on telephone. This act on his part amounts to grave criminal offence and grave misconduct. This is the charge.

CHARGE NO. 2

Sh. Khazan Singh Inspector/works ordered Force No. 892297050 Ct. Subodh Singh on 27.04.2005 at about 20.30 hrs. to give his statement which Ct. Subodh Singh blankly refused to give. The constable being a member of disciplined force has deliberately disobeyed the orders of a higher officer and is guilty of disobedience. This is the charge.”

6. Incidental to the above Charges, the petitioner, *vide* reply dated 13.07.2005, denied the Charges framed against him and stated that he was falsely implicated in the case on the basis of a conspiracy allegedly hatched between the local inhabitants and the Haryana Police. He stated that the incident, as alleged is vague, as there is no clarification regarding the specific date(s) on which the aluminium cable in question was purportedly thrown by him outside the NTPC wall to be collected by the *kabariwalas*.



He also submitted that the *kabariwalas*, from whom the recovery of aluminium cables is alleged to have been made, were not arrayed as accused in any case. Moreover, it has not been clarified whether the recovered cables were stolen from the NTPC Plant, and the statements of witnesses recorded during the Preliminary Enquiry and the Departmental Enquiry Proceedings are largely contradictory in nature and, therefore, not worthy of reliance.

7. Pursuant to the submission of the said reply by the petitioner, Mr. Bipin Chandra, Assistant Commandant, was appointed as the Enquiry Officer on 19.07.2005 by the Group Commandant, CISF, Group Headquarters, New Delhi, to hold a Departmental Enquiry under Rule 36 of the CISF Rules, 2001, against the petitioner.

8. The Departmental Enquiry Proceedings were initiated on 27.07.2005, and during the course of the Departmental Enquiry Proceedings, the petitioner denied both the charges levelled against him and refused the assistance of a Defence Assistant. The prosecution examined eight witnesses, as PW-1 to PW-8, and two Court witnesses, as CW-1 and CW-2. All the witnesses were cross-examined by the petitioner himself, and he examined one witness in his defence, as DW-1.

9. Taking note of the statement of the witnesses and the documents produced during the Departmental Enquiry, the Enquiry Officer submitted his Report dated 18.01.2006, holding that the petitioner, while on duty at the FGPP/NTPC Plant, used to throw scrap (aluminium cable) outside the boundary wall of the Plant. Further, he used to sell the said scrap by negotiating with the *kabariwala*-Sripal and his associate, namely Ram Singh, over telephonic conversations and received money from them for



allegedly selling the said scrap. The Enquiry Officer found that Charge No.1 stood proved against the petitioner.

10. He further held that Charge No.2 was also proved against the petitioner, as on 27.04.2005 at 22:30 hours, when Inspector (General Duty) Khazan Singh of the CISF Unit, FGPP/NTPC, Faridabad directed him to get his statement recorded, the petitioner refused to do so and thereby disobeyed his Senior Officer, committing misconduct.

11. The petitioner, being unsettled by the findings in the Enquiry Report, submitted Objections thereto dated 23.01.2006 before the Competent Authority, highlighting various contradictions in the statements of the prosecution witnesses as recorded before the Enquiry Officer. He asserted that the Enquiry Report was motivated. He specifically denied that he had refused to give a statement before Inspector Khazan Singh, stating that he was under suspension and was not given any written order to get his statement recorded.

12. The Disciplinary Authority, *vide* Order dated 21.04.2006, upon examining the case file, the documents available on record, the recorded statements of witnesses, and the Enquiry Report, concurred with the findings of the Enquiry Officer and found that the aforesaid Charges stood proved against the petitioner. While exercising powers under Rule 32 and Appendix I of the CISF Rules, 2001, the Disciplinary Authority awarded the penalty of 'Dismissal from Service' to the petitioner, while granting him liberty to file an appeal within thirty days from the date of receipt of a copy of the said Order.



13. Thereupon, the petitioner preferred a Statutory Appeal against the Enquiry Report dated 21.04.2006. *Vide* Order dated 05.06.2006, the Appellate Authority observed that the Disciplinary Authority had conducted the enquiry into the Charges as per the procedure prescribed under Rule 36 of the CISF Rules, 2001, after granting a sufficient opportunity of defence to the petitioner. The Appellate Authority concluded that the petitioner had failed to produce any new facts and, therefore, declined to interfere with the Impugned Order, dismissing the Appeal.

14. The petitioner, being aggrieved by the penalty of 'Dismissal from Service' imposed by the Disciplinary Authority and affirmed by the Appellate Authority, has filed the present petition seeking setting aside of the said orders.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

15. Ms. Lakshmi Chauhan, the learned counsel for the petitioner, submitted that there was no foundation to hold an enquiry against the petitioner, as no incident of alleged theft was reported by the management of FGPP/ NTPC to the police. Thus, no FIR was ever registered by them to allege that any theft of aluminium cable had occurred at their premises.

16. The learned counsel submitted that neither the Manager nor any other witness from NTPC was examined to prove that the aluminium cable was owned by NTPC. On the contrary, the stand of the NTPC is that the aluminium cable did not belong to it.

17. She emphatically submitted that the allegation against the petitioner that he used to throw the scrap over the boundary wall, is untenable, as the height of the wall is 8 feet and it is not feasible for a person to throw



aluminium cable weighing as heavy as 25 to 30 kgs over such a wall. Moreover, as per the Seizure Memo prepared by the police, the weight of the scrap of aluminium cable was recorded as more than 90 kg, which is contradictory to the Charge itself.

18. The learned counsel, while drawing attention to the statement of various witnesses recorded during the course of the Departmental Enquiry, submitted that the entire evidence suffers from material contradictions and thus, the respondents have failed to produce any incriminating evidence against the petitioner. Furthermore, the prosecution also failed to establish that the petitioner had made telephonic calls to Ram Singh, the *kabariwala*, who himself had denied having any telephonic conversation with the petitioner.

19. The learned counsel further submitted that Sripal, the *kabariwala* the key witness, has not named the petitioner at any point in his statement, either during the course of the Preliminary Enquiry or during the Departmental Enquiry Proceedings conducted against the petitioner by the respondents.

20. She submitted that the Enquiry Report is liable to be quashed on the sole ground that the petitioner has not been identified by any of the *kabariwalas*, either before or during the course of the Departmental Enquiry Proceedings.

21. She further submitted that, in fact, both the *kabariwalas* deposed before the Enquiry Officer that they had not paid any money to the petitioner for the aluminium cable allegedly received from him. On the other



hand, Sripal, the *kabariwala*, deposed that he had paid Rs. 2,000/- to the Enquiry Officer, Inspector Khazan Singh.

22. With regard to Charge No. 2, she submitted that the respondents have further failed to cite any Rule that while delivering the Suspension Order, the statement of the delinquent Officer is required to be recorded. She submitted that the petitioner had, in fact, accepted the Suspension Order served upon him. Accordingly, Charge No. 2 was incorrectly framed against the petitioner.

23. The learned counsel submitted that the Enquiry Report, as well as the Impugned Orders passed by the Disciplinary Authority and the Appellate Authority, are liable to be quashed as the findings in the Enquiry Report are based on no evidence.

24. To conclude, the learned counsel, while relying upon the decision of the Supreme Court in *B. S. Hari Commandant v. Union of India*, 2023 SCC OnLine SC 413, submitted that this Court, while exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, can interfere in the administrative action where the dismissal of the petitioner from service is not only irrational but also illegal, there being an iota of evidence to hold the petitioner 'Guilty'.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

25. Mr. Rajesh Kumar, the learned Senior Panel Counsel for the respondents, while seeking dismissal of the petition, submitted that the Enquiry Officer had conducted the Departmental Enquiry in compliance with all applicable Rules and Regulations. The petitioner was afforded every



reasonable opportunity to conduct cross-examination of the witnesses and to present his case.

26. The learned counsel submitted that the petitioner was charge-sheeted on the basis of the statement of two witnesses, namely Head Constable (HC) Jaswant Singh (PW-7) and Constable (Ct.) Vikram Singh (PW-8), who had seen the petitioner making telephonic calls to the *kabariwala* from the P&T telephone at the main gate of the NTPC Plant on the evening of 26.04.2005 and the morning of 27.04.2005. At that time, the petitioner was on duty at Tower No. 2 of the NTPC Plant. The statements of these two witnesses, the learned counsel contended, are corroborated by the Call Detail Records of the said P&T telephone, which show that all of the four phone calls were made as three on the evening of 26.04.2005 and one on the morning of 27.04.2005 from the aforementioned telephone to the mobile phone of *kabariwala* Ram Singh (PW-5).

27. He submitted that in view of the overwhelming and concrete evidence adduced against the petitioner, he has been rightly held 'Guilty' in the Departmental Enquiry Proceedings and was awarded appropriate punishment by the Disciplinary Authority. Moreover, the recommendations made by the Enquiry Officer were contained in a speaking order, and the orders passed by both, the Disciplinary Authority as well as the Appellate Authority, are well-reasoned and supported by the evidence on record. Therefore, they do not warrant any interference by this Court. In this regard, the respondents relied upon the Judgments of the Supreme Court in *State of Karnataka & Anr v. Umesh*, (2022) 6 SCC 563, and *Union of India & Ors. v. Subrata Nath*, (2022) SCC OnLine SC 1617.



ANALYSIS AND FINDINGS:

28. We have carefully considered the submissions addressed on behalf of the parties and have perused the record, including the original record produced before us by the respondents.

29. Before delving into the merits of the submissions advanced by the parties, we may note that under Article 226 of the Constitution of India, the scope of judicial review by this Court in matters relating to departmental proceedings is limited. The Court does not ordinarily undertake a re-evaluation of the evidence adduced and appreciated by the Enquiry Officer and the Competent Authorities. The scope of judicial review is confined to examining whether there has been any procedural irregularity, gross illegality, or manifest perversity in the decision-making process. Importantly, the Court is not required to reassess the factual matrix or substitute its own conclusions for those of the Disciplinary Authority. The ambit of judicial review is, therefore, confined to examining the correctness of the decision-making process and the fairness of the procedure adopted, as has been held by the Supreme Court in ***B.C. Chaturvedi v. Union of India & Ors.***, (1995) 6 SCC 749, the relevant portion of which reads as under:

*“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. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case."

(Emphasis supplied)

30. Having noted the jurisdiction of this Court under Article 226 while dealing with the disciplinary proceedings, we may now turn to the merits of the submissions advanced on behalf of the parties.

31. The main thrust of the arguments on behalf of the petitioner is that the findings returned by the Enquiry Officer and the punishment of 'Dismissal from Service' imposed by the Disciplinary Authority, are based on no



evidence. Further, the Appellate Authority has incorrectly upheld the said findings.

32. In the present case, the record reveals that on 27.04.2005, at about 07:00 hours, the Haryana Police had recovered 25-30 kg of aluminium cable from the godown of a *kabariwala*, namely, Sripal. Upon enquiry, Sripal disclosed to the police that the said aluminium cable belonged to the NTPC. Thereafter, the police officials came to the NTPC Plant and met ASI (GD) M. S. Tyagi at 11:00 hours. They apprised him of the circumstances surrounding the apprehension of the said *kabariwala* and requested him to have the aluminium cable identified by officials of the NTPC. ASI (GD) M. S. Tyagi reported this information to Inspector Khazan Singh, who then proceeded to deal with the matter.

33. Having been appointed as the Enquiry Officer, Inspector Khazan Singh conducted a Preliminary Enquiry into the incident. Apart from recording the statements of ASI (GD) M. S. Tyagi, and the *kabariwalas*, namely Sripal and Ram Singh, he also recorded the statements of Inspector Teerath Singh, Ct. Vikram Singh, and HC Jaswant Singh. During the course of the Preliminary Enquiry, Inspector Khazan Singh also prepared an Inspection Report of the Power Grade Yard and noted that an aluminium cable similar to that recovered from the possession of *kabariwala* Sripal was lying in the Power Grade Yard. The Inspection Report further recorded that the corners of the wall, from where the aluminium cable was allegedly thrown out of the compound, were found broken. Inside the Yard, pieces of the same aluminium cable and footprints were found.



34. Based on the statements of Sripal (PW-4), Ram Singh (PW-5), and other witnesses, as well as enquiries made during the Preliminary Enquiry, the petitioner, Subodh Singh, was charge-sheeted, and a copy of the Charge-sheet was served upon him on 29.06.2005, leading to the commencement of the Departmental Enquiry Proceedings against him.

35. The petitioner pleaded not guilty to the Charges framed against him and faced the Departmental Enquiry resulting in his 'Dismissal from Service' as directed by the Disciplinary Authority.

36. At the outset, the petitioner has challenged the Enquiry Report and the consequent orders passed by the Competent Authority, on the ground that he was not named by the *kabariwala* Sripal in his statement recorded by Inspector Khazan Singh during the Preliminary Enquiry and that he was not identified by either of the *kabariwalas* during the Preliminary Enquiry or the Departmental Enquiry Proceedings, therefore, there is no evidence on the record connect him in any manner with Charge No. 1 framed against him.

37. From the original record of the Enquiry Proceedings produced by the respondents, it appears that during the Preliminary Enquiry conducted on 27.04.2005 by Inspector Khazan Singh, he recorded the statement of *kabariwala* Sripal, who, undisputedly did not name the petitioner in the said statement. It is not disputed that the petitioner came to be charge-sheeted on the basis of the statements of HC Jaswant Singh and Ct. Vikram Singh, recorded by Inspector Khazan Singh. The statement of HC Jaswant Singh is to the effect that he had seen the petitioner making telephone calls from the P&T telephone at the main gate on the evening of 26.04.2005 and the morning of 27.04.2005. Although Ct. Vikram Singh did not initially



mention anything about the petitioner making such telephone calls, in response to a leading question put to him by Inspector Khazan Singh, he admitted that the petitioner had made a phone call between 19:00 hours to 19:30 hours on the evening of 26.04.2005.

38. The respondents, relying upon the call details of the P&T telephone installed at the main gate, as retrieved on 03.05.2005, found that three telephone calls were made at 19:22 hours, 19:23 hours, and 19:24 hours on 26.04.2005, and one telephone call was made at 05:41 hours on 27.04.2005, from the said telephone to the mobile number of *kabariwala* Ram Singh. Therefore, on the basis of the statements of the two aforesaid witnesses and the Call Detail Record in respect of the P&T telephone, the petitioner was charge-sheeted under Section 36 of the CISF Rules, 2001.

39. It is important to note that the Departmental Enquiry Proceedings were entrusted to Bipin Chandra, Assistant Commandant, who examined *kabariwala* Sripal as PW-4, a key witness of the prosecution's case. Admittedly, he did not fully support the department's case. From his testimony, it emerges that on 27.04.2005, when he was asked to identify some of the CISF personnel, he could not identify anyone and stated that he did not know anyone of them. In fact, he even denied the recovery of aluminium cable from his possession and deposed that his signatures were forcefully obtained on some documents.

40. The same is the fate of the testimony of PW-5, who deposed that he did not know anything about the CISF Force personnel posted at the FGPP/NTPC Faridabad. With respect to the telephone calls received by him from the NTPC Plant, he deposed that on the evening of 26.04.2005, he had



received phone calls from Inspector Khazan Singh (PW-1), and on the morning of 27.04.2005, a phone call was received from HC Jaswant Singh (PW-8). He further stated that he was illiterate and had signed the documents on the asking of Inspector Khazan Singh in lieu of Rs. 3,000/- paid to him.

41. In view of the testimony of PW-4 and PW-5, who have not supported the case of the respondents with respect to the identity of the petitioner as being involved in the present case, the evidence of call record details or that the petitioner was seen by PW-7 (HC Jaswant Singh) and PW-8 (Ct. Vikram Singh) making telephone calls from the P&T telephone is merely link evidence. At best, the respondents have shown that a few phone calls were made by the petitioner on the evening of 26.04.2005 and the morning of 27.04.2005 from the P&T telephone. From the Call Detail Records, it emerges that the phone calls from the P&T telephone during that period were made to the mobile number of PW-5 Ram Singh. The respondents have attempted to infer from the Call Detail Records and the testimony of PW-7 and PW-8 that the calls made by the petitioner on the mobile number of PW-5 were for negotiating the illegal sale of aluminium cable.

42. Thus, the key question that arises is whether the phone calls were made by the petitioner and whether he negotiated with PW-5 for the illegal sale of aluminium cable. In this regard, it is pertinent to note that PW-5 has completely denied that he had ever received any phone call from the petitioner; He deposed that he had received 2-3 phone calls made by PW-1 (Inspector Khazan Singh) and one phone call from PW-8 (HC Jaswant Singh). Therefore, the prosecution has failed to prove that the petitioner was



negotiating with PW-5 for the sale of aluminium cable, as alleged against him.

43. Turning now to the next submission of the petitioner, as no complaint or FIR was registered by the NTPC authorities alleging theft or loss of material from its premises, the very basis for initiating the Departmental Enquiry Proceedings is fallacious. It is not disputed that the NTPC, Faridabad, did not report any theft of its aluminium cable to any Police Station. No witness from the NTPC was examined during the Departmental Enquiry Proceedings to prove that the aluminium cable which was allegedly found in the possession of PW-4, belonged to NTPC. In support of his innocence, the petitioner has relied upon a Certificate dated 27.04.2005 issued by the NTPC, Faridabad, which states that the aluminium cable in question does not form part of any stock currently held by the store at NTPC, and, in fact, the same type of cable was used during the installation of the Plant in the year 1998.

44. From the contents of the certificate dated 27.04.2005 issued by NTPC, it is evident that the ownership of the aluminium cable was not established. Though it is alleged that a similar type of cable was lying within the NTPC premises, NTPC did not specifically confirm that the recovered material belonged to it. In the absence of identification of the recovered aluminium cable by any official of NTPC, the prosecution has failed to establish that NTPC was the rightful owner of the recovered aluminium cable.

45. The Disciplinary Authority, it appears, attempted to prove Charge No. 1 against the petitioner solely on the basis of the statements of the witnesses



recorded during the Preliminary Enquiry and an inference drawn therefrom that some aluminium cables similar to those allegedly seized from the godown of PW-4 were lying in the Power Grid Yard, without securing identification of the recovered aluminium cable from its rightful owner, allegedly being NTPC.

46. The petitioner's next contention that it is inherently implausible to throw 20–25 kg of aluminium cable over an 8-foot-high boundary wall, cannot be brushed aside lightly, particularly in the absence of any evidence on record establishing that the petitioner threw the said aluminium cable outside the NTPC Compound.

47. Furthermore, there is a major inconsistency as to whether the aluminium cables were thrown over the wall from the NTPC Yard or whether the fencing around the compound wall was broken to remove the aluminium cable. It is the case of the prosecution that the aluminium cables were thrown over the wall. However, PW-1 (Inspector Khazan Singh) deposed that he observed that the fencing had been removed, which was noticed after the alleged theft was committed. On the other hand, DW-1 (Ct. P. N. Dikshit) testified that the fencing was intact when he assumed his duty on the morning of 27.04.2005.

48. It was further pointed out on behalf of the petitioner that there is a major discrepancy between the seizure memo of the recovered aluminium cable and the statement of the witnesses recorded with respect to the quantity of alleged recovery. It is apposite to note that, as per the seizure memo on record, the quantity of aluminium cable recovered is stated to be 90 kilograms. However, the case of the prosecution is that only 20-30 kgs of



aluminium cable was recovered from the possession of PW-4. This material discrepancy in the quantity of the recovered item also casts a serious doubt on the credibility of the prosecution's case.

49. From a conjoint reading of the statements of PW-1, PW-4, PW-7 and PW-8, including the testimonies of the prosecution and defence witnesses, it is evident that there are substantial inconsistencies and evidentiary gaps which materially affect the credibility of their testimony against the petitioner.

50. The Disciplinary Enquiry Proceedings were premised on the allegations made by the *kabariwalas*, namely Sripal (PW-4) and Ram Singh (PW-5), with respect to the aluminium cable recovered from PW-4 by the Haryana Police. According to the police, the *kabariwalas* claimed to have received the said aluminium cable from the CISF Personnel, namely, Bijender Pal Singh and Sailender Singh, against payment. However, during the course of the Departmental Enquiry Proceedings, both witnesses completely denied the petitioner's involvement. Notably, both unequivocally denied knowing the petitioner or paying any amount to him. Furthermore, PW-5, the associate of PW-4 and a key witness, deposed that he had spoken over the phone with PW-1 and PW-7, not the petitioner. It appears, therefore, that the Enquiry Officer relied primarily on the statements recorded during the Preliminary Enquiry.

51. Moreover, the purported recovery of 25–30 kg of aluminium scrap, which forms the crux of the allegation against the petitioner, was never identified by the NTPC at any stage of the said Enquiry. At best, the material was unclaimed aluminium cable found in the possession of the PW-



4. Admittedly, no criminal action has been initiated against PW-4 for being in possession of the said unclaimed aluminium cable.

52. Needless to say, the respondents have failed to establish the identity of the petitioner as the person who threw the aluminium cable scrap outside the boundary wall of the NTPC yard or who received money for selling the same to the *kabariwalas*. It could also not be proved that the petitioner had negotiated an illegal deal with respect to the aluminium cable in exchange for consideration with PW-5 over the telephone.

53. In view of the above, it emerges that there is an absence of direct or cogent evidence against the petitioner to prove Charge No. 1 framed against him.

54. Proceeding to deal with Charge No. 2, it is alleged against the petitioner that, on 27.04.2005, at about 20:30 hours, the petitioner bluntly refused to get his statement recorded by Inspector Khazan Singh and, therefore, deliberately disobeyed the orders of a Senior Officer, amounting to misconduct.

55. The learned counsel for the petitioner submitted that the petitioner was under no obligation to give any statement when the Suspension Order was being served upon him.

56. From the statement of PW-2 (Inspector/Fire Teerath Singh), recorded during the Departmental Enquiry Proceedings, it emerges that on 27.04.2005, at about 20:30 hours, he and PW-1 (Inspector Khazan Singh) went to serve the Suspension Order on the petitioner. Though the petitioner immediately accepted the Suspension Order, he refused to give a statement. The respondents have failed to justify why a statement of the petitioner was



required at the time. At most, his signatures could have been obtained as an acknowledgement of receipt of the Suspension Order. Accordingly, Charge No. 2 has been framed without any basis against the petitioner.

57. In view of the above discussion, we allow the present writ petition and set aside the Impugned Order dated 21.04.2006, awarding the penalty of 'Dismissal from Service', as well as the Order of the Appellate Authority dated 05.06.2006, confirming the same. We direct that the petitioner be reinstated in service with immediate effect from the date of his 'Dismissal from Service', that is, 21.04.2006, with all consequential benefits arising therefrom, including continuity of service and notional seniority. However, considering the fact that the petitioner has been out of service for almost 20 years, we direct that he be paid 25% of the back wages as arrears from the date of the petitioner's dismissal until his reinstatement.

58. The consequential orders shall be passed by the respondents within a period of eight weeks.

59. The present petition is, accordingly, disposed of in the above terms.

60. There shall be no order as to cost.

61. The original record of the Enquiry Proceedings shall be returned to the respondent/Department by the Court Master.

W.P.(C) No.2743/2008

62. The brief facts leading to the filing of the present petition are that the petitioner, Bijender Pal Singh, was enrolled as a Constable in the CISF on 14.07.1986. Thereafter, during the period from 01.05.2002 till 18.04.2005, he was posted with the CISF Unit FGPP/NTPC, Faridabad, and was subsequently relieved to join his new place of posting, pursuant to a transfer.



It was at that time that he was served with the charge-sheet dated 29.06.2025, imposing the following Charges:-

“ **CHARGE NO.1**

On 27.04.2005 at about 0700 hours, Haryana Police caught Sripal, Rag picker from his godown along with about 25-30 kilogram of aluminum cable, then Sripal, Rag Picker told that about 20 days ago Constable Bijendra Pal Singh had about 50 kgs. of aluminum cable from over the boundary wall of NTPC/ FGPP unit and got it lifted, for which he had paid Sripal, Rag Picker Rs.5,200/-. Constable Bijendra Pal Singh (suspended), being a member of a disciplined Security Force, by throwing out the scrap (Aluminum cable) of FGPP/NTPC unit out of the four boundary walls of the unit secretly, had committed a serious crime for earning money illegally, which is indicative of gross indiscipline and to malign the image of the force. Hence, this is the charge.

CHARGE NO. 2

Force No. 862190200 Constable Bijendra Pal Singh (suspended) CISF Unit, FGPP/ NTPC Faridabad unit, during the duty, he used to throw out scrap (Aluminum cable pieces) of the FGPP Faridabad unit and this thrown away scrap (Aluminum cable pieces) was sold to the Rag pickers, Sripal Singh and his accomplices in lieu of that for getting the money, through phone use to conspire with Sripal, Ragpicker and his accomplice Ram Singh. The Constable Bijendra Pal Singh (suspended) being a member of a disciplined Security Force by secretly selling the scrap (Aluminum cable pieces) of the unit with intention to earn money illegally, had conspired with Sripal, Rag Picker and his accomplice Ram Singh through phone which is an act of serious crime and is an indication of gross misconduct. Hence, this is the charge.”



63. The petitioner filed a detailed reply denying the charges framed against him and asserted that he had been falsely implicated in the present case due to a conspiracy hatched by local residents in collusion with the Haryana Police. He further contended that the allegations were vague and baseless, made at the behest of certain subordinate officers of the department who were allegedly in collusion with the scrap mafia. The petitioner stated that all the documents relied upon were forged and fabricated, and were erroneously relied upon by the Disciplinary Authority while framing the aforesaid charges against him.

64. Pursuant to the submission of the said reply dated 14.07.2005 by the petitioner, the respondents, *vide* Order dated 19.07.2005 issued by the Group Commandant, CISF, Group Headquarters, New Delhi, appointed Mr. Bipin Chandra, Assistant Commandant, as the Enquiry Officer under Rule 36 of the CISF Rules, 2001.

65. The Presenting Officer furnished his Report on 13.01.2006, and the petitioner was asked to submit a representation in his defence. In pursuance thereof, the petitioner submitted his representation dated 16.01.2006, wherein he refuted the charges levelled against him and declined the assistance of a Defence Assistant.

66. Subsequent thereto, the prosecution examined seven witnesses, as PW-1 to PW-7, and two court witnesses, as CW-1 and CW-2, in the course of the Departmental Enquiry Proceedings,.

67. Upon conclusion of the Departmental Enquiry Proceedings, and after considering the statements of the witnesses and the documents presented during the proceedings, the Enquiry Officer submitted his Report dated



21.01.2006, concluding that the Charges against the petitioner were not substantiated and not proved.

68. Dissatisfied with the findings of the Enquiry Officer, the Disciplinary Authority, *vide* letter dated 23.02.2006 accompanied by a Note of Disagreement, informed the petitioner about the conclusion of the Departmental Enquiry Proceedings and expressed its disagreement with the findings of the Enquiry Officer. Furthermore, the Disciplinary Authority held that the Charges against the petitioner stood proved and called upon him to submit his defence representation.

69. In response to the above, the petitioner submitted his representation on 08.03.2006 to the Disciplinary Authority.

70. The Disciplinary Authority, *vide* Order dated 04.05.2006, after examining the case file, documents on record, and the statements of the witnesses, concluded that the Charges against the petitioner stood proved. Consequently, in exercise of the powers conferred under Rule 32 and Appendix I of the CISF Rules, 2001, the Disciplinary Authority imposed the penalty of 'Dismissal from Service' upon the petitioner.

71. Aggrieved with the said order of the Disciplinary Authority, the petitioner preferred an appeal dated 05.06.2006. However, the appeal was dismissed by the Appellate Authority on 19.09.2006, thereby confirming the penalty imposed by the Disciplinary Authority.

72. Thereafter, the petitioner approached this Court by way of a Writ Petition, which was withdrawn by the learned counsel with the liberty to file a Statutory Revision Petition under Rule 54 of the CISF Rules, 2001. Pursuant thereto, the petitioner preferred a Revision Petition, which was



subsequently dismissed *vide* Order dated 31.01.2008, leading to the filing of the present petition to assail the aforesaid Orders.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

73. Mr. Loveneet Bhati, the learned counsel for the petitioner, submitted that the penalty of 'Dismissal from Service' imposed by the Disciplinary Authority, is based on biased and perverse findings, which have been erroneously confirmed by both, the Appellate Authority and the Revisional Authority. The allegations made in the charge-sheet stem from a case of mistaken identity, and the actual culprits have not been properly identified. Moreover, no such incident as alleged, ever took place within the Unit, nor was it reported to any senior officer or the police. In fact, the management of FGPP/NTPC itself stated that the aluminium cable in question did not belong to the NTPC Plant, thereby rendering the very basis for the initiation of the enquiry baseless.

74. He further submitted that the statements of the *kabariwalas*, namely, Sripal and Ram Singh, which were relied upon in the proceedings, recorded during the Preliminary Enquiry or before the police and were taken into consideration, whereas the deposition of Ram Singh before the Enquiry Officer, as recorded during the Departmental Enquiry Proceedings, was completely ignored. Moreover, the non-examination of Sripal during the Departmental Enquiry Proceedings, completely demolishes the case of the prosecution. Furthermore, there is no material on record to establish the petitioner's involvement in the alleged incident of throwing the aluminium cable outside the boundary wall or of having any negotiation with the *kabariwalas*.



75. The learned counsel emphatically submitted that it is highly implausible for an individual to throw 50 kg of aluminium cable over an 8-foot-high boundary wall. While the allegation refers to 50 kg of scrap, the police seizure memo records the quantity of the seized aluminium cable as 90 kg. These material contradictions regarding the quantity of the aluminium cable cast serious doubt on the case of the prosecution.

76. The learned counsel submitted that in these facts and circumstances, upon analyzing the entire evidence adduced on record, the Enquiry Officer rightly concluded that the Charges against the petitioner were not proved. However, the Disciplinary Authority, ignoring the fact that there was no evidence on the record against the petitioner, substituted its own findings, which are perverse in nature. The Disagreement recorded by the Disciplinary Authority is, therefore, untenable in law.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

77. *Per contra*, Mr. Rakesh Kumar, the learned Central Government Standing Counsel on behalf of the respondents, submitted that the allegations levelled against the petitioner stand proved on the basis of oral and documentary evidence. Therefore, the penalty of 'Dismissal from Service' awarded by the Disciplinary Authority *vide* Order dated 21.04.2006 is valid and justified. The revision petition and appeal preferred against the said order have also been dismissed by way of reasoned and speaking orders.

78. He contended that under the provisions of Rule 36(21)(ii) of the CISF Rules, if the Disciplinary Authority disagrees with the findings of the Enquiry Officer, it is empowered to record its reasons for such disagreement



and substitute its own findings. The Disciplinary Authority has comprehensively analysed the evidence adduced on record and thereafter, passed a speaking order, which has been upheld by both the Appellate Authority as well as the Reviewing Authority.

ANALYSIS AND FINDINGS:

79. Apart from hearing the arguments advanced on behalf of the parties, we have also perused the record.

80. It is to be noted that a common Preliminary Enquiry was conducted against all three petitioners, including the petitioner in the present petition, the details of which have already been noted in W.P.(C) No. 7039/2007.

81. The main grievance of the petitioner in the present petition is that the *kabariwala*, Sripal, who was the key witness to the alleged incident, was not examined during the course of the Departmental Enquiry Proceedings. This omission, according to the petitioner, vitiates the Departmental Enquiry itself, particularly as the entire case of the respondents hinges upon the alleged transactions between the petitioner and *kabariwala* Sripal.

82. The learned counsel submitted that the petitioner was not identified at any stage during the Enquiry Proceedings, as he had already been relieved from his post prior to the initiation of the Preliminary Enquiry, in order to report at his new place of posting pursuant to a transfer order.

83. Undoubtedly, *kabariwala* Sripal, the key witness, was not examined during the course of the Departmental Enquiry Proceedings, since he failed to appear before the Enquiry Officer despite being summoned. Moreover, PW-7, Ram Singh, who was the accomplice of *kabariwala* Sripal, categorically denied any knowledge about the identity of the petitioner in his



statement before the Enquiry Officer and stated that he was unaware of the allegations or the Departmental Enquiry initiated against the petitioner.

84. In the present case, during the Preliminary Enquiry held on 27.04.2005, *kabariwala* Sripal had stated before Inspector Khazan Singh, the Enquiry Officer, that around 20 days before the date of recovery of the aluminium cable, he had given Rs. 5,200/- to petitioner in exchange for 50 kg of aluminium cable thrown outside the premises of NTPC, which he had brought to his shop with the help of Ram Singh. However, the petitioner could not be produced for identification, as he had already been transferred from his posting at NTPC pursuant to a transfer order.

85. It is noted from the record that the petitioner was charged solely on the basis of the statement of *kabariwala* Sripal recorded during the Preliminary Enquiry, however, Sripal was not examined as a witness during the Departmental Enquiry Proceedings, and PW-7, *kabariwala* Ram Singh, did not support the case of the prosecution, having testified that he did not know anything about the charges levelled against the petitioner.

86. Pertinently, the Disciplinary Authority, while imposing the penalty upon the petitioner, erred in recording the punishment of 'Dismissal from Service' against the petitioner on the basis of the statement of *kabariwala* Sripal recorded during the Preliminary Enquiry.

87. In this context, we may refer to the order passed by the Disciplinary Authority on 04.05.2006, the relevant extract of which is reproduced hereinbelow: -

"6. From the documentary evidences, statements and the discussion of the enquiry officer it is clear that on 27.04.05 the Haryana police caught Shri pal Kabadi and Shri Ram along with aluminum wire and on their



statement that the said wire was stolen by them with the help of the members of CISF posted at CISF unit FGPP Faridabad only, the police party reached to FGPP unit Faridabad along with them, this fact is being corroborated by the statement of PW-1, 2 & 3, and the statements of could witnesses 1 & 2 which is a documentary evidence which can't be neglected as the police party has visited to faridabad unit on there own as per the indication of the thief's only it is not there that they visited on instruction of any of the employees or the officials of CISF. Therefore the plea taken by the charged officer that his name is wrongly implicated is false. Admittedly the facts have been admitted by the management of FGPP Unit Faridabad that the stolen property does not belongs to their unit but it has also been indicated that such type of wires are being used at the time of erection. No intimation had been given to the police of theft therefore it was not expected to accept the material to their belonging. Thus going thought the details of mobile there is very possibility that the charge officer had been facilitating to Shri Pal Kabadi through telephone for stealing the wires. Shripal Kabadi himself has confirmed in his earlier statements but subsequently Ram Singh changed his statement under the influence of the charged officer that is after thought. Shripal Kabadi has not appeared during the regular inquiry proceedings but his statements dated 27.04.2005 too cannot be overlooked and so for as changing of the statements of Ram Singh is concern that is not surprising because his statements recorded during the preliminary enquiry is a documentary evidence, which cannot be overlooked. During the regular enquiry his statement is either after thought or the same is under influence of the charged officer or in lieu of some consideration."

88. From the above, it is evident that the Disciplinary Authority has placed reliance upon the untested statement of *kabariwala* Sripal recorded during the Preliminary Enquiry and that of PW-7, Ram Singh, who did not support the case of the prosecution before the Enquiry Officer. The



Disciplinary Authority probably got swayed away with the proposition that since the Haryana Police had approached the CISF Officials at the NTPC Plant, therefore, the same is sufficient to connect the petitioner with the alleged offence of throwing the aluminium cable outside the boundary wall of the NTPC Plant and negotiating with the *kabariwalas* for alleged sale of the said aluminium cable.

89. The order of the Disciplinary Authority is based on conjecture, as it records that, based on the mobile phone details, there is a 'very possibility' that the charged officer had been facilitating Sripal, the *kabariwala*, through telephone calls for selling the wires. The Disciplinary Authority completely relied upon the statement of Ram Singh dated 27.04.2005, recorded during the Preliminary Enquiry, and observed that his failure to support the prosecution during the departmental enquiry was a mere afterthought or due to being under the influence of the petitioner or in lieu of some consideration.

90. There is, therefore, no substantive evidence on record to connect the petitioner with the charges framed against him, except for the statement of a few other witnesses recorded before the Enquiry Officer, who themselves have relied upon the earlier statements made by Sripal and Ram Singh. Similarly, the Appellate and the Revisional Authorities, ignoring the deposition of PW-7 Ram Singh during the Disciplinary Enquiry and the fact that Sripal did not appear as a witness, erroneously relied upon the statements recorded during the Preliminary Enquiry and upheld the order passed by the Disciplinary Authority.



91. Moreover, it has already been observed in W.P.(C) No. 7039/2007 that the theft of the aluminium cable could not be established, as NTPC, the alleged owner of the recovered aluminium cable, did not lodge any FIR regarding the theft. The other discrepancies with respect to the identity and quantity of the recovered aluminium cable have also been noted.

92. In view of the foregoing discussion, it is clear that the Disciplinary Authority, while disagreeing with the well-reasoned exoneration recorded by the Enquiry Officer, failed to furnish any cogent or legally sustainable reasons for overturning those findings, and incorrectly relied upon the statements recorded only during the Preliminary Enquiry.

93. Accordingly, we set aside the Impugned Order dated 04.05.2006 passed by the Disciplinary Authority, imposing the penalty of 'Dismissal from Service', and the Orders dated 19.09.2006 and 31.01.2008 passed by the Appellate Authority and the Revisional Authority, respectively, upholding the findings and penalty imposed by the Disciplinary Authority.

94. At this stage, it is important to note that during the pendency of the present appeal, the petitioner has expired on 12.05.2021. Subsequently, the Legal Heirs of the petitioner, being the wife, sons and mother of the petitioner, were impleaded *vide* Order dated 19.09.2022.

95. Having said so, as unfortunately, the petitioner has expired during the pendency of the present Writ Petition, therefore, the relief of reinstatement cannot be granted. In this regard, we may quote the decision of the Supreme Court in *State of Uttar Pradesh vs. Mohd. Sharif (Dead) through LRs*, (1982) 2 SCC 376, which reads as under:-

"3. Having regard to the aforesaid admitted position it is difficult to accept the contention urged



by the counsel for the appellant that the view taken by the trial Court should be accepted by us. We are satisfied that the dismissal order has been rightly held to be illegal, void and inoperative. Since the plaintiff has died during the pendency of the proceedings the only relief that would be available to the legal heirs of the deceased is the payment of arrears of salary and other emoluments payable to the deceased.”

96. Following the principles of law as enunciated in the above decision, since the deceased petitioner cannot be reinstated, the Legal Heirs of the deceased petitioner are nonetheless entitled to the payment of arrears of 25% of the salary upto the date of the death of the petitioner or his superannuation, whichever is earlier, and other allowances that would have been payable to him.

97. Accordingly, the consequential orders shall be passed by the respondents within a period of eight weeks.

98. The present petition along with the pending applications, if any, are disposed of with the above observation.

99. There shall be no order as to cost.

W.P. (C) No. 884/2009

100. The brief factual matrix of the petitioner's case, as emerging from the record, is that the petitioner, namely Sailender Singh, was enrolled as a Constable in the CISF on 25.09.1990 and underwent training at RTC, Bhilai, from September 1990 to August 1991. Upon successful completion of training, he was posted to HPCL, Visakhapatnam (Refinery Plant), from September 1991 to October 1996. Thereafter, he was transferred to the 11th Reserve Battalion, Arakkonam, Tamil Nadu, and subsequently to the 9th Reserve Battalion, Bhilai, in February 2000. In July 2001, the petitioner was



posted to the 8th Reserve Battalion, Kishtwar, Jammu & Kashmir, and was thereafter transferred to CISF Unit FGPP/NTPC, Faridabad, in March 2004. While he was posted at the CISF Unit FGPP/ NTPC, he was served with a charge-sheet Charge-Sheet dated 29.06.2005, wherein the following Charges were framed against him: -

“

CHARGE NO. 1

Haryana Police caught Sripal kabari from his Godown on 27/04/05 at 7:00 o Clock with 25-30 kg of aluminium wire. He told that CISF Constable Shailender Singh, who has been posted at FGPP/NTPC Faridabad has thrown aluminium cable of 20-25 kg. (approx.) out of the boundary of the plant from inside in lieu of Rs.4500/- taken by him from Shripal Kabari. After that once more Constable Shailender Singh has thrown out aluminium cable from the wall to give him, he has taken Rs. 700/- from Shripal Kabari in its exchange Constable Shailender Singh (under suspension) has done a major offence by taking money illegally by throwing scrap (Aluminum cable) out of the boundary of the plant theft fully and is a sign of defaming the force and gross indiscipline. This is the charge.

CHARGE NO. 2

CISF No.902334922 Constable Shailender Singh (under suspension) CISF Unit, FGPP/ NTPC Fardiabad.

Was coordinating on duty over telephone with Shripal Kabari and his associate for the sale of Scrap (aluminum cable pieces) thrown out by him and to get money from them in exchange. Being a member of the disciplined security force the action of Constable Shailender Singh (under suspension) of -coordinating over telephone with Shripal Kabari and his associate to get money illegally by the sale of scrap (aluminum



cable) of plant is major offence and sign of gross misbehavior. This is the charge.

CHARGE NO.3

CISF No.902334922 Constable Shailender Singh, CISF Unit, FGPP/ NTPC Faridabad was ordered to give his statement on the incident of theft of Aluminum cable dated 27.4.2005 and earlier by Inspector (Works) Khajan Singh, CISF Unit, FGPP Faridabad at 22:30 on 27.04.2005. But Constable Shailendra Singh refused clearly, is a sign of violation of orders knowingly despite, being the member of a disciplined force. This is the charge.”

101. The petitioner filed a reply on 14.07.2005 and, while denying the charges levelled against him, made similar submissions as contended by the other two petitioners, namely Subodh Singh and Bijender Pal Singh, as recorded herein above. Likewise, the petitioner also submitted that he had been falsely implicated at the instance of the local police and the scrap mafia. He contended that no material or documentary evidence had been placed on record to substantiate the allegations against him. The charges framed, according to the petitioner, were vague and lacked the essential particulars necessary to constitute an offence of “theft” or “connivance.” The *kabariwalas*, in order to absolve themselves of liability, had wrongly implicated the petitioner. Moreover, the allegedly stolen aluminium cable had not been claimed by NTPC, as no complaint of theft had been lodged by its management, and even the Haryana Police had not registered any FIR in respect thereof.



102. In the present case also, Shri Bipin Chandra, Assistant Commandant, was appointed as the Enquiry Officer on 19.07.2005 to conduct a Departmental Enquiry into the charges levelled against the petitioner under Rule 36 of the CISF Rules, 2001.

103. The Enquiry Proceedings were initiated on 27.07.2005, and during the course of the Departmental Enquiry, the statements of seven witnesses, as PW-1 to PW-7, and two witnesses, as CW-1 and CW-2, were recorded.

104. Upon culmination of the Departmental Enquiry Proceedings, the Enquiry Officer, *vide* Order dated 08.02.2006, held that Charge No.1 against the petitioner, alleging that he had surreptitiously thrown aluminium cable over the boundary wall of the NTPC/FGPP Plant and received money in exchange from a scrap vendor, stood proved.

105. The Enquiry Officer further found that Charge No.2, pertaining to the use of a mobile phone by the petitioner during duty hours to coordinate the sale of the said aluminium cable to one Sripal Singh, *kabariwala*, for monetary consideration, also stood proved. Additionally, Charge No.3, relating to the petitioner's denial of having made any statement in connection with the alleged theft of aluminium cable, was similarly held to be established.

106. Aggrieved by the said findings recorded in the Enquiry Report, the petitioner submitted his objections on 22.03.2006, contending, *inter alia*, that the Enquiry Officer had failed to appropriately evaluate the material available on record and had erroneously arrived at conclusions unsupported by the evidence.



107. The Disciplinary Authority passed an Order on 21.04.2006, concurring with the findings of the Enquiry Officer, and imposed the penalty of 'Dismissal from Service' upon the petitioner.

108. To challenge the order of 'Dismissal from Service', the petitioner preferred a Statutory Appeal, which came to be rejected *vide* Order dated 07.07.2006. Thereafter, the petitioner approached this Court by way of a writ petition, which was disposed of with liberty to avail the remedy of a Statutory Revision under Rule 54 of the CISF Rules, 2001. Pursuant thereto, the petitioner preferred a Revision Petition, which was also dismissed *vide* Order dated 04.08.2008, leading to the filing of the present petition by the petitioner.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

109. Ms. Hemlata Rawat, the learned counsel appearing on behalf of the petitioner, made similar submissions to those advanced on behalf of the petitioner Subodh Singh in W.P.(C) No. 7039/2007. She also highlighted the contradictions in the statement of the witnesses recorded during the Departmental Enquiry Proceedings and emphasized that the identity and ownership of the aluminium cable, as well as the alleged recovery, have not been proved. Nevertheless, the Enquiry Officer proceeded on an erroneous premise to hold the petitioner guilty of the charges framed against him, relying on the statements of the *kabariwalas* recorded during the Preliminary Enquiry.

110. With respect to Charge No. 3, she submitted that it is not even the case of the prosecution that the petitioner had refused to accept the Suspension Order. Moreover, the respondents have failed to explain the



necessity of recording the statement of the petitioner at that stage. She submitted that Charge No. 3, as framed against the petitioner, is wholly misconceived.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

111. Mr. Rajesh Kumar, the learned Senior Panel Counsel appearing on behalf of the respondents, vehemently opposed the submissions made by the petitioner and submitted that the petitioner is a habitual offender with a tainted service record. He submitted that, on earlier occasions, the petitioner had been awarded statutory punishments for misconduct, including overstaying leave, and had also been issued a written warning. Therefore, the petitioner cannot claim to have an unblemished service record.

112. The learned SPC contended that while the NTPC may have stated that the recovered aluminium cable did not belong to it, it is an admitted position that a similar unused aluminium cable had been lying inside the NTPC premises since 1998. Therefore, the Departmental Authority had reasonably inferred that the recovered aluminium cable was pilfered from the NTPC Plant and that the petitioner was involved in the act of throwing the same outside the wall of the NTPC Plant and negotiated with the *kabariwalas* for illegal gratification.

113. The learned counsel drew our attention to the Call Detail Records of the petitioner and submitted that from the said record, it is clear that the petitioner had been frequently making mobile calls to Sripal from his mobile phone. He pointed out that multiple calls were made by the petitioner to Sripal on 20th March, 3rd, 4th, 16th, 17th, 20th and 26th April 2005. Furthermore, the petitioner had also been in contact with Ram Singh, the



accomplice of Sripal, over the phone on 20th, 21st, 23rd, 26th, and 27th April 2005. These repeated calls between the petitioner and the *kabariwalas* substantiate his involvement in the alleged theft.

114. The learned counsel highlighted that in this background, it can be seen that the Disciplinary Authority, after a comprehensive appreciation of the oral and documentary evidence on record and after considering the reply and objections filed by the petitioner, rightly concluded that the charges against the petitioner stood proved. The said findings were duly upheld by both the Appellate Authority and the Reviewing Authority by passing detailed and reasoned orders. He also submitted that the Enquiry Proceedings were conducted in a fair and judicious manner and that adequate opportunity was afforded to the petitioner to present his defence.

ANALYSIS AND FINDINGS:

115. The submissions of the parties, and the records have been perused.

116. In the present case, the petitioner was charge-sheeted on the basis of the statement of PW-4, Sripal, recorded during the Preliminary Enquiry by Inspector Khazan Singh on 27.04.2005, wherein he stated that he had given Rs. 4,500/- to the petitioner for receiving aluminium cable allegedly thrown outside the compound of NTPC by him. He further stated that he had paid an additional Rs. 700/- to the petitioner and had received 18 kg of aluminium cable. During further enquiry conducted by the Enquiry Officer, Sripal stated that the petitioner was well known to him as his son had introduced the petitioner to him. He also stated that the petitioner used to come alone to collect money from him.



117. The respondents have contended that from the proceedings of the Preliminary Enquiry, it is evident that PW-4, Sripal, had identified the petitioner in the presence of PW-2 Teerath Singh, PW-6 Onkar Singh, and CW-2 Ravesh Singh, a Police Officer from Haryana. PW-6 and CW-2 have supported the prosecution's version regarding the identification of the petitioner by PW-4 in their presence.

118. Noticeably, the Preliminary Enquiry proceedings do not record the presence of the petitioner, and his signatures also do not appear on the proceeding sheets. From the testimony of PW-2, Inspector Teerath Singh, it appears that some identification parade was conducted, during which the petitioner was identified by PW-4 and PW-5. However, the proceedings do not record if any such identification parade had happened to identify the petitioner. CW-2, ASI Ravesh Singh, categorically deposed that the name of the petitioner was not mentioned in any Enquiry register, and the petitioner was not identified by PW-4 Sripal or PW-5 Ram Singh in his presence. PW-4 and PW-5 have not supported the case of the prosecution with respect to the identification of the petitioner. Therefore, based on the above evidence, it is doubtful that the petitioner was identified by PW-4 and PW-5 in the presence of the aforementioned witnesses, as alleged against him.

119. The primary submission of the petitioner is that it could not be proved that PW-4 had received any aluminium cable from the petitioner. Furthermore, no monetary transaction between them could be established. Hence, it was urged that the report of the Enquiry Officer lacks merit.

120. From the report of the Enquiry Officer, it emerges that although Sripal was examined as PW-4 during the Departmental Enquiry



Proceedings, wherein, his partial statement was recorded, and thereafter, he did not appear to conclude his further examination-in-chief. The incomplete testimony of PW-4, who did not even support the case of the prosecution, is thus of no evidentiary value for the prosecution.

121. PW-5, Ram Singh, during the Departmental Enquiry Proceedings, did not support the prosecution's case. In relation to the phone calls made on 26.04.2005 and 27.04.2005, he deposed that the same was made by Inspector Khazan Singh and HC Jaswant Singh.

122. To explain the telephone calls made between him and the petitioner, PW-5 deposed that he had undertaken some work for making a cooler frame for the petitioner, and the telephone enquiries pertained to the completion of the said work. He also clarified that he had not given any money to the petitioner in exchange for throwing aluminium cable from the NTPC. PW-5 categorically stated that he had not given any statement to Inspector Khazan Singh on 27.04.2005 but admitted his signatures, which he deposed were taken by Inspector Khazan Singh. He further deposed that his signatures were obtained on 3-4 papers by Inspector Khazan Singh, who had given him Rs. 3,000/- for the same.

123. The Enquiry Officer had also put questions to the petitioner to seek clarification regarding his call details for the period from 13.03.2005 to 28.04.2005. The petitioner denied having conversed with PW-4 and PW-5 about any theft and explained that the conversation pertained to some household problem. He stated that in February 2025, Mr. Vinod, son of Sripal, had helped him in getting a house on rent, and he and Sripal were



residing in the same colony. As his wife generally used to fall sick, he had spoken to Sripal for assistance in that regard.

124. The petitioner further explained that he had spoken with PW-5, Ram Singh, who was working at the shop of Sripal as a welder, and that he had assigned him the task of making a cooler stand. To enquire about the progress of that work, he used to contact Ram Singh on his mobile.

125. From the testimony of PW-1, Inspector Khazan Singh, it is evident that no complaint or FIR was lodged against the petitioner. The identification and allegations against the petitioner were based solely on the statement of Sripal recorded during the Preliminary Enquiry conducted by the respondents. Even the testimony of PW-6 corroborates that his deposition was based entirely on what was stated by PW-4, Sripal, and PW-5, Ram Singh, to the Assistant Commandant, and apart from that, he had no independent knowledge of the facts of the case.

126. PW-1 has also acknowledged that the fencing near Tower 2, where the scrap was reportedly kept, was found to be damaged only after the alleged theft came to light.

127. From a careful consideration of the above, it is apparent that the case against the petitioner rests primarily on the statements of PW-4 and PW-5. The identification of the petitioner during the Preliminary Enquiry is doubtful, as PW-5 has deposed during the Departmental Enquiry that he did not identify any of the CISF personnel during the Preliminary Enquiry. The statements of the other witnesses are contradictory in this respect. As far as the testimony of PW-4 is concerned, his deposition remained incomplete and is of no help to the prosecution.



128. Even PW-1, in his cross-examination, admitted that there was no prior complaint against the petitioner and that the allegations were based solely on the version given by PW-4. In addition, PW-5, who was also examined as a material witness, did not make any incriminating statement against the petitioner and further refuted any knowledge of or transaction involving the payment of Rs. 4,500/- to the petitioner. The entire Departmental Proceedings hinges upon the testimony of PW-4 and PW-5 recorded during the Preliminary Enquiry. In the absence of complete testimony of PW-4 and PW-5 did not support the prosecution version, the case of the prosecution has stumbled.

129. It is already noted in W.P.(C) No. 7039/2007 and W.P. (C) No. 2743/2008 that the prosecution could not prove the ownership of the aluminium cables recovered from the godown of Sripal (PW-4) as being that of NTPC, since no FIR regarding any theft from the NTPC complex exists. The identity of the recovered aluminium cables could also not be established, as no witness from NTPC identified the cables as belonging to NTPC. The certificate dated 27.04.2005 issued by the NTPC explicitly states that its officials were not interested in lodging any complaint of theft and, in fact, did not admit to the theft of any of their goods. Moreover, there is also a discrepancy with respect to the quantity of the recovered aluminium cables, whether it was 90 kgs or 25-30 kgs.

130. Noticeably, the Enquiry Officer has concluded the Enquiry on the basis of the testimony of PW-1, PW-2, CW-1, and PW-6. He has discarded the testimony of PW-4 and PW-5 by observing that their statements were to be ignored since PW-4 had left the Enquiry midway on the pretext of illness.



Thus, the Enquiry Officer has erroneously relied upon the testimony of PW-1, PW-2, CW-1, and PW-6 to conclude that the petitioner was identified by PW-4 and PW-5 in their presence, even though the key witnesses did not, in fact, identify the petitioner in their presence.

131. From the above, it is apparent that there is an absence of cogent evidence against the petitioner to establish Charge No. 1 and Charge No. 2 against him. As noted hereinabove, the statements recorded before the Enquiry Officers contain material contradictions. Moreover, the prosecution has failed to establish the identity of the petitioner as the individual who allegedly sold the NTPC cables to the *kabariwalas*. The purported call records, even if assumed to be accurate, constitute merely circumstantial or link evidence and fail to establish any culpability in the absence of the context or content of the conversations. On the other hand, the petitioner has offered a reasonable explanation for his contact with PW-4 Sripal and PW-5 Ram Singh, and the respondents have failed to rebut the same.

132. Insofar as Charge No. 3 is concerned, in this regard, relevant observations have already been made in W.P.(C) No. 7039/2007. In such circumstances, Charge No. 3, as framed against the petitioner, appears to be wholly misconceived and unsustainable.

133. In view of the foregoing discussion, we allow the present petition and set aside the Impugned Order dated 21.04.2006, whereby the petitioner was 'Dismissed from Service', as well as the Appellate Authority and the Revisional Authority Orders dated 04.07.2006 and 04.08.2008 respectively, upholding the said dismissal. We direct the petitioner to be reinstated in service with effect from the date of his dismissal from service, that is,



21.04.2006, with all consequential benefits, including continuity of service and notional seniority. However, considering the fact that the petitioner has been out of service for almost 20 years, we direct that the petitioner be paid 25% of the back wages as arrears from the date of his dismissal until his reinstatement.

134. The consequential orders shall be passed by the respondents within a period of eight weeks.

135. Accordingly, the present petition and pending applications, if any, are disposed of.

136. There shall be no order as to cost.

SHALINDER KAUR, J.

NAVIN CHAWLA, J.

JULY 01, 2025

KP/r/ss