



2025:DHC:9252-DB



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

+ **W.P.(C) 7559/2021**

DINESH KUMAR

.....Petitioner

Through: Mr. Ved Vyas Tripathi, Mr.
Pramod K Sah and Mr. Amit Sharma, Advs.
with Petitioner in Person.

versus

**UNION OF INDIA THROUGH
THE SECRETARY & ORS.**

.....Respondents

Through: Mr. P.S. Singh, CGSC with Ms.
Sunita Ojha, PC and Mr. GS Rathore, AC,
Inspector Prahlad Devendra and Insp. Yespal
Yadav

Ms. Sunieta Ojha and Ms. Vasudha
Priyansha, Advs. for Ms. Talish Ray, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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14.10.2025

OM PRAKASH SHUKLA, J.

1. The petitioner by this writ petition assails the following orders:
(i) the suspension and dismissal order dated 18.05.2017 and 22.05.2017
passed by the Disciplinary Authority, Senior Commandant and CASO,
CISF, ASG, Bengaluru, (ii) the appellate order dated 02.01.2018 of the
Deputy Inspector General (Airport Sector), CISF, Headquarters South
Zone, Chennai, rejecting his statutory appeal; and (iii) the revisional
order dated 29.10.2018 of the Inspector General (APS-II), CISF
Headquarter, Bangalore camp at CISF ASG Hyderabad.



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2. Succinctly put, the brief facts leading to the filing of the instant petition are that on the intervening night of 15.05.2017 and 16.05.2017, the petitioner was deployed at Kempegowda International Airport, Bengaluru. On 16.05.2017, the Directorate of Revenue Intelligence (DRI), Bengaluru Zonal Unit, informed the Central Industrial Security Force (CISF) that, acting on specific intelligence, its officers had intercepted a passenger named Abdul Rahim@ Abdul Karim at the international departure terminal of Kempegowda International Airport, Bengaluru. The passenger, who was scheduled to travel to Bangkok, was found in possession of foreign currency equivalent to ₹1,14,22,720/- in his hand baggage at departure aerobridge.

3. During investigation, the passenger stated that he was to collect a packet containing foreign currency from a uniformed officer inside the toilet located in the International Security Hold Area¹ near the prayer hall at Gate No.18, after completion of immigration and security check. Subsequently, the DRI obtained the CCTV footage of the relevant area and, upon viewing it, identified the petitioner in the CCTV footage when the passenger was going to the toilet.

4. Thereafter, on 17.05.2017, the petitioner was interrogated by officials of the Central Industrial Security Force², whereby he stated that he had performed anti-sabotage checks and had entered the international SHA washroom adjacent to the prayer hall at around 10:00

¹ "SHA", hereinafter

² "CISF", hereinafter



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p.m. on the previous night. He, however, denied having met or exchanged any item with any person inside the said area.

5. On the same day, the petitioner was handed over to officers of the Directorate of Revenue Intelligence³ for further inquiry. Certain articles were seized from his possession, including a laptop, mobile phone, multiple SIM cards, two pen drives, a memory card, and multiple bank passbooks. The DRI recorded his statement under Section 108 of the Customs Act, 1962, wherein it is stated that the petitioner admitted to having knowingly abetted and carried foreign currency amounting to ₹1,14,22,720/-, it was also stated that he had allegedly received the currency from a person outside the airport and had to hand it over to a particular passenger inside the international SHA washroom near Gate No.18.

6. Subsequently, the petitioner was arrested on 17.05.2017 under Section 104 of the Customs Act, 1962, for alleged offences punishable under Section 135 of the said Act and was thereafter remanded to judicial custody by the Special Court for Economic Offences, Bengaluru.

7. Thereafter, the petitioner was placed under suspension with immediate effect on 18.05.2017 by the Senior Commandant and Chief Airport Security Officer⁴, CISF, ASG Bengaluru and Subsequently, by order dated 22.05.2017, the petitioner was dismissed from service.

³ “DRI”, hereinafter

⁴ “CASO”, hereinafter



8. The order of dismissal recorded that the petitioner had been found guilty of a serious offence involving the smuggling of foreign currency in collusion with an organised group, which was stated to have tarnished the image of the Force and affected the discipline and integrity of the institution. It was further observed that it was not reasonably practicable to conduct a regular departmental enquiry under Rule 36 of the CISF Rules, 2001, as the department was unaware of the whereabouts of the other individuals allegedly involved in the racket.

9. In the interregnum, the petitioner was arrested and subsequently came to be released on bail *vide* order dated 23.06.2017 of the Additional City Civil and Session Judge, Bengaluru. After his release, the petitioner preferred an appeal against the order of dismissal dated 22.05.2017. However, the said appeal was rejected by the appellate authority *vide* order dated 02.01.2018. The petitioner thereafter filed a revision petition challenging the dismissal order dated 22.05.2017, which was also dismissed by the revisional authority *vide* order dated 29.10.2018.

10. Aggrieved by the aforesaid orders, the petitioner has preferred the present writ petition before this Hon'ble Court.

11. During the course of arguments, the counsel for the petitioner has primarily contended that the order of dismissal is unsustainable in law as well as on facts. It was argued that the CCTV footage relied upon by the respondents does not depict the petitioner taking or handing over any bag or package to any individual. The only area not covered by the CCTV namely, the toilet adjacent to the prayer hall has been incorrectly



projected as the place of exchange, which creates a serious element of doubt and renders the allegation speculative.

12. It is submitted that the petitioner, being a member of the Bomb Detection and Disposal Squad, was discharging highly sensitive and technical duties at the airport, and there appears to be an attempt to make him a scapegoat in a larger investigation without any direct or conclusive evidence of his involvement.

13. It is further submitted that the suspension and subsequent dismissal were carried out in a hasty and arbitrary manner, without affording the petitioner a fair and reasonable opportunity to defend himself. The plea that holding a regular departmental enquiry was not “reasonably practicable” is wholly untenable as per the facts of the present case, as no incriminating material has been produced to show any real impediment to follow the due process prescribed under Rule 36 of the CISF Rules, 2001. On the contrary, the available CCTV footage supports the petitioner’s version that he did not engage in any exchange or unlawful activity, and therefore, the finding of guilt recorded by the disciplinary authority is based on conjecture and surmise rather than concrete evidence.

14. In rebuttal, the learned Counsel for the respondent has contended that after the case of *Union of India v Tulsiram Patel*⁵ the law in this regard is settled.

⁵ (1985) 3 SCC 398



15. It was further contended that the disciplinary authority had rightly concluded that it was not reasonably practicable to conduct a regular departmental inquiry, having regard to the gravity and sensitivity of the allegations. It was argued that the petitioner had compromised the security arrangements of a highly sensitive airport for pecuniary advantage and had allegedly associated with anti-national elements for the purpose of obtaining personal monetary gain. Accordingly, the disciplinary authority was justified in invoking the exceptional provision dispensing with a formal inquiry, keeping in view the nature of the misconduct and its potential impact on national security.

16. We have considered the submissions made by the learned counsel for the parties.

17. Before delving into merits of the case, we deem it necessary to extract Rule 39 (ii) of the CISF, Rules 2001 (read with amendment of the CISF Rules, 2013), thus:

“39. Special procedure in certain cases - Notwithstanding anything contained in rules 36 to 38 –

(i) where any penalty is imposed on an enrolled member of the Force on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or

(iii) where the President is satisfied that in the interest of the security of the state, it is not expedient to hold any inquiry in the manner provided in these rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit;



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Provided that the enrolled member of the Force may be given an opportunity of making representation against the penalty proposed to be imposed before any order is made in case under clause (i).”

18. It is pertinent to note that this rule empowers the disciplinary authority to adopt a special procedure in exceptional circumstances, whereby it may dispense with the regular departmental inquiry contemplated under Rules 36 to 38, if it is satisfied that it is not reasonably practicable to conduct such an inquiry in the manner ordinarily prescribed.

19. Furthermore, Article 311(2) of the Constitution of India embodies the fundamental protection available to persons employed in civil capacities, however with an exception that where the authority empowered to dismiss or remove a person or reduce him in rank is satisfied that it is not reasonably practicable to hold such an inquiry, the requirement of conducting a regular inquiry may be dispensed with. Additionally, Article 311(3) provides that the decision of such authority, as to whether it was reasonably practicable to hold the inquiry, shall be final, though it remains subject to judicial review on grounds of mala fides, arbitrariness, or absence of material to justify such satisfaction.

20. The issue as to whether the services can be terminated without holding a formal departmental inquiry by invoking the provisions of clause (b) of the second proviso to Article 311(2) of the Constitution of India stands settled by a judgment delivered by the Constitution Bench



of the Hon'ble Supreme Court in ***Union of India v Tulsiram Patel*** (supra), wherein it was held as follows:

“130. The condition precedent for the application of clause (b) is the satisfaction of the disciplinary authority that “it is not reasonably practicable to hold” the inquiry contemplated by clause (2) of Article 311. What is pertinent to note is that the words use are “not reasonably practicable” and not ‘impracticable’. According to the Oxford English Dictionary ‘practicable’ means “Capable of being put into practice, carried out in action, effected, accomplished, or done; feasible”. Webster's Third New International Dictionary defines the word ‘practicable’ inter alia as meaning “possible to practice or perform; capable of being put into practice, done or accomplished : feasible”. Further, the words used are not “not practicable” but “not reasonably practicable”. Webster's Third New International Dictionary defines the word ‘reasonably’ as “in a reasonable manner : to a fairly sufficient extent”. Thus, whether it was practice able to hold the inquiry or not must be judged in the context of whether it was reasonably practicable to do so. It is not a total or absolute impracticability which is required by clause (b). What is requisite is that the holding of the inquiry is not practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation. XXXXX The reasonable practicability of holding an inquiry is a matter of assessment to be made by the disciplinary authority. Such authority is generally on the spot and knows what is happening. It is because the disciplinary authority is the best judge of this that clause (3) of Article 311 makes the decision of the disciplinary authority on this question final. XXXXX The finality given to the decision of the disciplinary authority by Article 311(3) is not binding upon the court so far as its power of judicial review is concerned and in such as case the court will strike down the order dispensing with the inquiry as also the order imposing penalty.”

21. In the said judgment, the Court upheld the constitutional validity of dispensing with an inquiry under exceptional circumstances but simultaneously emphasized that the power under Article 311(2)(b) is of an extraordinary nature, which is to be exercised sparingly and only



when the disciplinary authority records reasons demonstrating that it is not reasonably practicable to conduct a regular inquiry.

22. The Division Bench of this Court in ***Yacub Kispotta v. Director General BSF***⁶, held that it is for the Disciplinary Authority exercising its executive judgment to decide, on the basis of objective facts, whether a departmental inquiry is not reasonably practicable. The Court's role in judicial review is a limited one where it examines only whether the recorded reasons are relevant and germane, not whether it would have reached the same conclusion.

23. Adverting to facts of the present case, the reason given by disciplinary authorities while dismissing the petitioner from service *vide* order dated 22.05.2017 is reproduced below:

i)	<i>The pax namely Abdul Rahim Abdul Kareem was involved in antinational activity and was arrested by the DRI Officials, presently in Police Custody. Mr. Abdul Rahim Abdul Kareem is involved in smuggling of foreign currency, which is not possible to done alone and he might have linked with many other smugglers in India as well as abroad. On analysis of CCTV recording available with the CISF ASG Bangalore, it is established that the said constable \Vas involved at least on two earlier occasions viz 02.05.2017 and 08.05.2017 with similar modus operandi.</i>
ii)	<i>Constable/GD Dinesh Kumar (US) has confessed to the DRI Officials that he knowingly involved, abetted and carried foreign currency equivalent to INR:1,14,22,720/- (Rupees one crore fourteen lakhs twenty two thousa.nd seven hundred twenty only) which he received from a person outside. the Airport and handed over it to an international passenger Shri Abdul Rahim Abdul Kareem at the toilet located at International SHA near prayer hall near boarding gate No.18.</i>

⁶ (2015) SCC OnLine Del 12437



iii)	<i>Constable/GD Dinesh Kumar did not disclose name of that person from whom he received foreign currency outside the Airport for smuggling.</i>
iv)	<i>Constable/GD Dinesh Kumar was arrested on 17.05.2017 under section 104 of Customs Act, 1962 for the act of abetting the smuggling of foreign currency which is an offence punishable under Section 135 of Customs Act, 1962.</i>
v)	<i>The department is not aware about the whereabouts of the various smugglers involved in this racket. Hence conducting regular enquiry U/R-36 of CISF Rules 2001, is not possible.</i>
vi)	<i>CCTV footage which is the clinching evidence is available with the the Department which clearly shows involvement of Const/GD. Dinesh Kumar and he himself had confessed before DRI authorities. Added to this , the items seized from the possession of Const/GD Dinesh Kumar, mentioned at Para-2 clearly shows that he had several SIM cards of almost all mobile operators and nine bank pass books which clearly denotes deep rooted involvement in unwarranted and malafide activities.</i>

24. Among other considerations, we find the consideration of the smugglers involved with racket being unknown outsiders by itself sufficient to warrant dispersing with the enquiry. It must be remembered that the disciplinary authority is only required to satisfy itself that an enquiry is not reasonably practicable; not that it is impossible.

25. The allegations levelled against the petitioner are of a grave and sensitive nature, involving claims of participation in activities of an anti-national character and possible association with other smugglers. The primary basis for the proceedings initiated against the petitioner is the CCTV footage relied upon by the respondents. The report of the DRI also reveals that the petitioner was allegedly involved in two earlier instances of a similar nature, indicating a repeated pattern. In view of these circumstances, and applying the principles laid down by the



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Hon'ble Supreme Court in ***Tulsiram Patel*** (supra), we find ourselves in a difficult position to interfere with the impugned orders.

26. The submission of the learned Counsel for the petitioner is that in the present case, the petitioner is being made a scapegoat in a larger investigation without any direct or conclusive evidence of his involvement, cannot be accepted by this court, and the petitioner's absence of 26 minutes coupled with entry into SHA area without a threat call appears to be contrary to BDDS SOP which suggests against unauthorised movement while on sensitive duty. Further, the petitioner has not denied being in possession of multiple mobile phones, SIM cards and various passbooks.

27. Accordingly, no infirmity is found in the respondents' decision to dispense with the departmental inquiry prior to passing the order of dismissal.

28. For the aforesaid reasons, we do not find merit in the present writ petition which is accordingly dismissed.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

OCTOBER 14, 2025/rjd