



2025:DHC:7668-DB



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

+ **W.P.(C) 8449/2021**

VIRENDER KUMAR MEENAPetitioner

Through: Mr. Shanker Raju and Mr.
Nilansh Gaur, Advs

versus

UNION OF INDIA AND OTHERSRespondents

Through: Ms. Ritu Reniwal, Sr PC

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **27.08.2025**

OM PRAKASH SHUKLA, J

1. The present writ petition has been filed under Article 226 of the Constitution of India, wherein the petitioner has prayed for the following relief(s):

“a) To call for the records of the enquiry and set aside Administrative order dated 24.06.2020 and also order dated 24.05.2021 and also enquiry officer's report dated 25.02.2020 forwarded on 27.02.2020 and direct the respondents to reinstate the petitioner in service with all consequential benefits including continuity of service, pay and allowances, seniority and promotion; and

b) Any order or further relief which this Hon'ble Court deems fit, just and proper in the peculiar circumstance of the case in the interest of justice may also please be awarded.”



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2. Briefly stated, the petitioner, having been appointed in the Railway Protection Force¹ on 01.02.1997, had his service, discipline, and conduct governed under the provisions of RPF Act of 1957 and the rules framed in 1987. In the year 2014, while the petitioner was serving as an Inspector in the RPF, certain irregularities were detected during a vigilance check conducted by the Northern Railway Vigilance Department. It was reported that three parcels booked from Kanth to Amritsar went missing from Amritsar Station on 25.11.2014. In relation to this incident, Vigilance initiated a preliminary enquiry and, as such on 09.12.2014, contacted the RPF at Amritsar to ascertain which staff members were on platform duty on 23.11.2014. During this process, the Vigilance team examined the RPF attendance register and also contacted the petitioner, who was expected to be on duty at the platform when the consignment allegedly went missing. On verification, it was found that his attendance remained unmarked from 01.12.2014 to 09.12.2014, with leave sanctioned up to 08.12.2014 and no reporting having been made even by 5:00 PM on 09.12.2014. Upon enquiring into his whereabouts, the Vigilance team observed that the petitioner had misused his duty pass by travelling on 09.12.2014 on Train No. 12925 (Paschim Express) while on leave and had tampered with the journey details in the said duty pass.

3. Thus, the enquiry which was primarily initiated regarding the missing parcels, rather went on to allege the misuse of the duty card pass during leave by the petitioner. Consequently, a draft major penalty charge-sheet was prepared by Vigilance and sent to the

¹ "RPF" hereinafter



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Principal Chief Security Commissioner², RPF, Northern railway, for approval and appropriate action. Acting on this, the disciplinary authority, Senior Divisional Security Commissioner³ on 03.10.2016, issued a charge sheet against the petitioner on three counts, namely (i) misuse of the duty card pass while on leave, (ii) destroying the Government records to divert investigation and (iii) for not making any entry of availed journeys in duty card pass. All these charges were denied by the petitioner. In the interregnum, records reveal that the PCSC requested the General Manager to issue a minor penalty charge-sheet under rule 158 of the RPF Rules, as on perusal of the charge-sheet and keeping in mind the administrative prospective, the PCSC was of the view that a minor penalty was warranted in the said facts & circumstances.

4. Be that as it may, after a gap of almost three years, the Disciplinary Authority, vide an order dated 30.07.2019, cancelled the charge sheet issued under Railway Service (Conduct) Rules, apparently on the ground that the said charge-sheet does not refer to rule 153 of the RPF Rules and rather refers to the Railways conduct Rules, which is not applicable to the case of the petitioner.

5. Thereafter, on the heels of the said cancellation order, a fresh charge sheet was issued under Section 9 of the RPF Act, read with 153 of the RPF Rules, against the petitioner. Upon receipt of the charge sheet, the petitioner sought a copy of the preliminary enquiry report of

² “PCSC” hereinafter

³ “Sr. DSC” hereinafter



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witness Vinod Kumar Dhiman, along with other documents. However, on 07.10.2019, through a reply by the office of Sr. DSC, the said preliminary enquiry report was denied to the petitioner on the ground that the report of PW-1, Sh. Vinod Kumar Dhiman is a confidential record which cannot be given to a charged official like the petitioner.

6. The petitioner also submitted a representation before the Sr. DSC seeking withdrawal of the said fresh charge sheet, on the ground that no reasons were assigned for cancelling the earlier charge sheet framed under different rules, and in terms of Rules 145 and 146 of the RPF Rules, the Railway Services (Conduct) Rules were applicable to all members of the Force, including the petitioner.

7. Apparently, the said representation was not responded to, and an enquiry was initiated with the appointment of an Enquiry Officer and a Presenting Officer. During the prosecution, Shri Vinod Kumar Dhiman was examined as witness No.1, wherein he referred to his preliminary enquiry reports and marked exhibits therein. The prosecution examined 4 witnesses, and the defence also examined the same number of witnesses. After the conclusion of the evidence, the petitioner submitted a detailed statement of defence, denying the charges on various grounds & quoting the provisions of RPF Rules, and further contending that the whole enquiry was malafide since the alleged missing parcels were found in the 'lost and found' section. Nevertheless, an enquiry report dated 25.02.2020 was prepared, and the same was forwarded to the disciplinary authority for its comments.



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8. The enquiry report recorded that information was received by the vigilance team on 08.12.2014, where a railway consignment of three packages booked from Kanth to Amritsar went missing. The Vigilance Team, while investigating, checked the RPF register and contacted the petitioner, who was supposed to be on duty at the platform when the missing consignment was received. Upon examination, the Vigilance team found that the petitioner, while being on unauthorised leave, had wrongly utilised his duty pass to travel from New Delhi to Amritsar on Train No. 12925 (Paschim Express), and upon verification with Conductor on reservation (COR), the details for the same were found in the reservation charts of coach No. A-2 of the above-mentioned train.

9. Further, the enquiry report noted that the petitioner was misusing his duty card pass, as he had travelled on it while he was on leave, and this had led to the vigilance team seizing the attendance register as well as the working chart of Train no. 12925, with other records.

10. The defence statement of the petitioner was obtained in this regard wherein he stated that he was on leave from 01.12.2014 to 08.12.2014 and on 09.12.2014, he could not join duty in forenoon but joined in afternoon as allegedly he missed the Train from Delhi for onward travel to Amritsar and had to take a bus in emergency to join his duty at Amritsar on 09.12.2014. Also, the petitioner refuted the claims about the disputed journey and asserted that he travelled by bus and not by train, and denied all the allegations of foul use of a duty



pass and misconduct.

11. Further, the enquiry report noted that when the petitioner's duty card pass was produced, during the enquiry, it had only eight pages instead of the prescribed twelve, and no entry of the disputed journey was available therein. The statement of Conductor on reservation (COR) Nirmal Singh was noted, where he stated that he had duly endorsed the petitioner's journey both on the working chart of Train No. 12925 as well as on the petitioner's duty card pass. To verify this, the Vigilance team sought clarification from the Chief Manager Passenger Services⁴, Punjabi Bagh, and also from the issuing clerk, both of whom confirmed that duty card pass No. 117709 was originally issued to the petitioner with twelve pages (six foils). Also, the enquiry report dated 25.02.2020 mentioned that the petitioner availed 25 reservations on duty pass while there were only 11 entries, leaving 14 journeys unaccounted. In view of the said acts, the petitioner was found guilty as his act being in contravention of Rule 146.2(i & iv), 146.3(i), 146.6 (ii) & 146.7 (iii) of the RPF Rules, 1987.

12. Subsequent to the enquiry report, although the petitioner preferred a representation dated 09.03.2020, taking a number of legal grounds that report his impartial and there was no evidence of his culpability. However, the PCSC, RPF vide order dated. 24.06.2020, imposed the penalty of compulsory retirement upon the petitioner. Thereafter, the petitioner preferred a statutory appeal on 15.07.2020 to the DG (RPF) under Rule 212 of the RPF rules, to which vide an order

⁴ "CMPS" hereinafter



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dated 24.05.2021, the DG (RPF) rejected his appeal, stating that the punishment inflicted upon the petitioner was in accordance with the charges levelled against him and there was no new fact or reason to accept the appeal. The petitioner has now approached this Court, assailing the order dated 24.06.2020, 24.05.2021, and the enquiry report dated. 25.02.2020.

13. Mr. Shanker Raju, learned counsel on behalf of the petitioner, submitted that the charge sheet was to be issued for a minor penalty by Senior DSC, yet on the referral to DG (Vigilance), the same Disciplinary Authority issued the major penalty charge sheet in violation of Rule 152.1 and 153.4 as well as 153.5 of the RPF Rules. The learned Counsel urged various grounds on which the enquiry report dated 25.02.2020 was unsustainable. As a preliminary submission, he has strenuously argued that the entire enquiry stood vitiated on the principles of natural justice, for non-supply of the relied upon documents by the respondents.

14. Further, the learned counsel submitted that, admittedly, a preliminary enquiry was conducted by PW-1, Sh. Vinod Kumar Dhirman. However, the said enquiry report was denied to the petitioner on the grounds of confidentiality. He submits that although the said report was not supplied to the petitioner, the same was relied upon by PW-1, the enquiry Officer, in the enquiry conducted against him, and as such, the petitioner contends that the act of the respondent of not supplying the Preliminary enquiry report is bad in law. Reliance, in this regard, was placed on *Chandramma Tewari v Union*



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*of India*⁵ and *Nirmala Jhala v State of Gujarat*⁶. The petitioner submits that the enquiry officer during the proceedings has not examined him as per Rule 153.15 of the RPF Rules, and this has vitiated the enquiry as well as the punishment. Reliance was placed on *Moni Shankar v Union of India*⁷. In any case, he submits that the punishment of compulsory retirement is hit by the doctrine of proportionality, which is an essential facet of the Wednesbury principle of reasonableness, and as such, this Court may quash the punishment awarded to the petitioner.

15. Per Contra, Ms. Ritu Reniwal, learned SPC, challenged the plea of the petitioner of him informing concerned authorities regarding his travel by bus. She contends that, during the enquiry by the vigilance department, it was established that the petitioner had travelled in train No 12925 (Paschim Express), as the coach conductor recorded the details of the travel of coach no. A-1, thereby showing that the petitioner was travelling by train.

16. Further, the learned SPC opposed the contention of the petitioner that the Disciplinary Authority had awarded him a harsh punishment of 5 years. She contended that a lenient view was taken in his case by giving him compulsory retirement, along with all the retiral benefits such as pension. She contended that in case of a severe punishment, the petitioner could have been deprived of these benefits.

⁵ 1988 SCC (L&S) 226

⁶ (2013) 4 SCC 301.

⁷ Civil Appeal No. 1729 of 2008



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17. It has been further submitted that the charge-sheet was issued by the Sr. DSC, being the Disciplinary Authority, but keeping in view the gravity of the charges, the D&AR file was forwarded to PCSC for warranting the major punishment, which is beyond the capacity of Sr. DSC, and accordingly, PCSC, NR awarded the punishment of compulsory retirement to the Petitioner. Further, the DG of RPF rejected the appeal of the petitioner by order dated 24.05.2021, which is a speaking order, wherein the reasons for the rejection of the appeal have been clearly mentioned.

18. This Court has patiently heard both the parties and perused the record, and finds that the primary issue that arises for determination in the present case is whether non-supply of the Preliminary Enquiry (PE) report, which was admittedly referred to and relied upon during the course of the disciplinary proceedings, vitiates the enquiry and the consequent order of punishment.

19. The undisputed factual position is that the petitioner, upon receipt of the charge sheet, sought certain documents, including the report of Shri Vinod Dhiman, Sr. Vigilance Inspector, which was admittedly part of the Preliminary enquiry conducted prior to initiation of formal enquiry. The petitioner's request was impliedly denied by the disciplinary authority. Despite this, it is evident from the enquiry report that the said PE report was considered by the Enquiry Officer while arriving at the findings of guilt.

20. We note that it is a well-settled principle of law that when a



document forms the basis of the findings in a disciplinary Enquiry, the denial of its supply to the charged official amounts to a violation of the principles of natural justice. The Supreme Court in the case of *Kashinath Dikshita v Union of India*⁸ held that in departmental proceedings where a charge sheet is issued, and documents proposed to be used against the charged officer are not supplied to him, despite of his request and, he is nevertheless called upon to submit his reply, it cannot be said that an effective opportunity was provided to the charged officer to defend himself. Moreover, it has been reiterated in the case of *Nirmala Jhala v State of Gujrat* (Supra) that if a preliminary enquiry report or statements recorded therein are used in a regular enquiry without affording the delinquent an opportunity to inspect, cross, and rebut the same would render the proceedings wholly unsustainable.

21. Therefore, following the law laid down in *Kashinath Dixit* (Supra), *Nirmala Jhala v State of Gujrat* (supra) and *K. Prabhakar Hegde v Bank of Baroda*⁹, we set aside the order of compulsory retirement on the sole ground that the preliminary enquiry report despite having been relied upon by the enquiry officer was never made available to the petitioner.

22. Accordingly, the enquiry report dated 20.02.2024, the order dated 24.06.2020 and 24.05.2021 stand vitiated and are liable to be quashed. However, the next question arises as to what relief the petitioner would be entitled to, in the given circumstances, when the

⁸ (1986) 3 SCC 229

⁹ 2025 SCC OnLine SC 1736



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impugned orders have been set aside. This Court finds that the law in this connection is well settled by pronouncements of the Hon'ble Apex Court in the case of *Managing Director, E.C.I.L. v B. Karunakar*¹⁰, *HiranMayee Bhattacharyya v Secretary, S. M. School for Girls and others*¹¹, *U. P. State Spinning Company Ltd v R. S. Pandey and others*¹². The Hon'ble Apex Court has held that once the Court sets aside the order of punishment on the ground that the enquiry was not properly conducted, the Court cannot reinstate an employee, but it must remand the matter to the Disciplinary Authority for it to conduct the enquiry from the point it stood vitiated and conclude the same expeditiously as per the law.

23. Accordingly, while setting aside the impugned enquiry report dated 25.02.2024, report dated 20.02.2024, the order dated 24.06.2020 and 24.05.202, we direct that within a period of four months, the enquiry shall be completed by starting from the stage of supply of the preliminary enquiry report conducted by PW-1, Sh. Vinod Kumar Dhirman and consideration of the reply, if any, filed in accordance with the standing orders holding the field. The petitioner shall be reinstated to service, but without any back wages and other service benefits, and his reinstatement shall be solely for the purpose of completing the departmental proceedings. His entitlements, if any, would be adjudicated by the authorities depending upon the result of the disciplinary proceedings.

¹⁰ AIR 1994 SC 1074

¹¹ (2002) 10 SCC 293

¹² (2005) 8 SCC 264



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24. The Writ Petition is allowed to the aforesaid extent with no order as to costs.

OM PRAKASH SHUKLA, J

C.HARI SHANKAR, J

AUGUST 27, 2025
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