



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

Reserved on: 28th AUGUST, 2025

Pronounced on: 28th NOVEMBER, 2025

IN THE MATTER OF:

+ **W.P.(C) 4722/2007**

EX.CONST./CISF SUSHIL KUMARPetitioner

Through: Mr. O.P. Agarwal, Advocate

versus

UOI & ORS.Respondents

Through: Ms. Barkha Babbar, Advocate

+ **W.P.(C) 4982/2007**

EX-CONST/CISF JAGATBIR SINGHPetitioner

Through: Mr. O.P. Agarwal, Advocate

versus

UOI & ORSRespondents

Through: Ms. Anju Gupta and Mr. Bhuvan
Goel, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present Petitions have been preferred by Ex. Const/CISF Sushil Kumar and Ex. Const/CISF Jagatbir Singh (*hereinafter collectively referred to as 'Petitioners' unless the context otherwise requires*) under Article 226



of the Constitution of India for issuance of appropriate writ against the Respondents for quashing of Punishment Orders, Appellate Orders, and the Revision Orders, as impugned in the writ petitions, passed by the relevant Adjudicating Authorities. The Petitioners, in both the writ petitions, have been removed from service. They pray that the Orders removing them from service be set aside and the entire period of suspension and intervening period be treated as period spent on duty and grant of consequential benefits.

2. The Petitioner in W.P.(C) 4722/2007 was recruited in the CISF as Constable in the year 1990. In April, 2003, the Petitioner was posted at CISF Unit, AUGPS/NTPC, Dibiyapur, Aurariya, Uttar Pradesh.

3. The Petitioner in W.P. (C) 4982/2007 was recruited in the CISF as Constable in the year 1991. In July, 2003, the Petitioner was posted at CISF Unit, AUGPS/NTPC, Dibiyapur, Aurariya, Uttar Pradesh.

4. Shorn of unnecessary details, facts leading to the filing of the present Writ Petitions are as follows:

- a. NTPC organized a cultural/orchestra programme on the occasion of Raising Day celebration of NTPC on 07.11.2004 at the Kendriya Vidyalaya, NTPC ground. The personnel of CISF including both the Petitioners, were deployed at the the programme which commenced around 8:30 PM.
- b. During the programme, there was a scuffle between the Petitioners and one Mr. B.K. Panday, Officer (HR) - NTPC, wherein Mr. B.K. Panday sustained injuries which were inflicted on him by the Petitioners. It is the case of the Respondents that at around 11 pm, Asst. Commandant (Fire)



Mr. O.P. Sharma/Respondent No. 8, reached the venue and the Petitioners were ordered to go back to their respective homes.

- c. Based on the said events that transpired at the KV, NTPC ground; an Order of Suspension was issued to both the Petitioners on the very next day, i.e., 08.11.2004, suspending both the Petitioners indefinitely. Relevant extract of the said Suspension Orders dated 08.11.2004 is as follows:

In W.P.(C) 4722/2007

"Whereas a disciplinary proceedings against No. 901402800 Constable Sushil Kumar CISF Unit, AnGPS/NTPC Dibiyaipur, Auraiya is contemplated.

2 Now, therefor, the undersigned in exercise of the powers conferred by Sub-Rule (1) of Rule 33 of CISF Rules, 2001 places the above said member of the Force under suspension with immediate effect.

3. It is further ordered that during the period that this order shall remain in force, the HQrs, of the above said member of the Force shall be CISF Unit, AGPS/NTPC Dibiyaipur, Auraiya and he shall not leave HQrs without obtaining the prior permission of the undersinged."

In W.P.(C) 4982/2007

"Whereas a disciplinary proceedings against No. 914526526 Constable Jagatbir Singh CISF Unit, AnGPS/NTPC Dibiyaipur, Auraiya is contemplated.



2. Now, therefor, the undersigned in exercise of the powers conferred by Sub-Rule (1) of Rule 33 of CISF Rules, 2001 places the above said member of the Force under suspension with immediate effect.

3. It is further ordered that during the period that this order shall remain in force, the HQrs., of the above said member of the Force shall be CISF Unit, AnGPS/NTPC Dibiya Pur, Auraiya and he shall not leave HQrs without obtaining the prior permission of the undersigned."

- d. On 25.11.2004, both the Petitioners received their respective Charge Memos under Rule 36 of CISF Rules, 2001. Two charges were levelled on the Petitioner Sushil Kumar and three charges were levelled on the Petitioner Jagatbir Singh. The relevant extract of the Charge Memos dated 25.11.2004 is as follows:

In W.P.(C) 4722/2007

“ **CHARGE-1**
Act of indiscipline by Force No.901402800, Shri Sushil Kumar, posted in Unit EUGPSC/NTPC/Diviya Pur on 7.11.04 at about 2230 Hrs on the occasion of Cultural and Orchestra programmed on the occasion of Celebration of Raising Day of NTPC organised by its management, alongwith Force No.914525526 Const. Jagatbir Singh misbehaved with Shri B.K.Pandey Officer (HR) NTPC Diiviyapur and beat him resulting in injuries. This act of indiscipline by the member of the force is untenable resulting in tamishing the image of the force.



CHARGE-2

Force No.901402800 Const. Sushil Kumar of CISF is posted at the Unit of NTPC, Diviya Pur area was directed on 07.11.04 at about 2300 Hrs by The Asstt Commdt. (Fire) Shri O.P.Sharma, to leave the place of NTPC where the Cultural/Orchestra programme was being organized and to go back to his residence, but instead he disobeyed the directions of his seniors Being the member of the CISF, this act of him is highly tenable and indiscipline.”

In W.P.(C) 4982/2007

“

CHARGE NO.1

An act of indiscipline by Force No.914526526, Const Jagatbir Singh, CISF posted in Unit AUGPS/NTPC, Divya Pur. Oriya. A cultural/orchestra programme was organised on the occasion of Raising Day Celebration of NTPC ON 07.11.2004 in the KV Ground. The programme started at about 2030 Hrs. The employees of NTPC and the members of CISF, Unit AUGPS/NTPC were sitting in the pandal. During the programme there started halla gulla on the demand of dance in the programme. The employees of NTPC tried to convince the CISF personnel regarding non-inclusion of the dance in the programme Shri Panday was informed regarding the situation over telephone. On receiving the intimation Shri Panday and Shri O.P Sharma, Asstt. Commandant, CISF, immediately reached the ground and directed Cons SK Rana to take away Force No.9145264526 Const. Jagatbir Singh and Force No. 901402800 Const Sushil Kumar, to their lines. In between Force No



901402800, Const. Sushil Kumar, who was sitting in the ground came to started misbehaving and beating with Shri B.K.Panday, Officer (HR) in which Shri Panday sustained multiple injuries Employees of NTPC and Asstt. Commandant interfered and get them separated And again as Shri B.K.Panday reached near to the gate, Force No 9145264526, Const. Jagatbir Singh and Force 901402800 Const. Sushil Kumar started quarrel with Shri B.K. Panday, Being a member of the force, this act of beating with the Management Official is an act of indiscipline. Hence this is a charge.

CHARGE-2

Force No.914526526, Const. Jagatbir Singh CISF is posted in Unit On 07.11.2004 at about 2300 Hrs, the AUGPS/NTPC, Divya Puar, Oriya. Asstt. Commandant (Fire) Shri O.P Sharma, who was at the guest house reached the ground where the Cultural/Orchestra programme was going on, on receiving intimation. He directed the above named personnel of CISF to go back to their line. In spite of the instructions of the Sr. Officer, he did not go to his line. Being a member of CISF the act of non obeying the seniors is an act of indiscipline. Hence it is a charge.

Charge No.3

Force No.914525526, Const. Jagatbir Singh CISF is posted in Unit AUGPS/NTPC, Divya Pur, Oriya. He was given punishment of deduction of salary equal to four days during his posting at OIL/Duliyana by Asstt.Commandant, CISF oil, Duliyana under Orders No.15015/27/CISF/D/JV/2002/1426 Dated 14.08.2002 for misbehaving and creating



nuisance after drinking on 15.06.2002. Even then he failed to bring changes in him. Hence, it is a charge."

- e. Based on the abovementioned charges, enquiries were held. One Mr. Sumant Singh, Dy. Commandant/CISF, was assigned as the Enquiry Officer. After the completion of enquiry, Enquiry Reports were filed by the Enquiry Officer. The Enquiry Officer held that all the charges levelled against the Petitioners were proved. Relevant extract of the Enquiry Reports are as follows:

In W.P.(C) 4722/2007

"It is clear from the above that both the parties are blaming each other for beating and misbehavior. Medical Reports are says that both the parties received injuries. The statement of AC, CISF recorded in the CW-2 also proves that there was beating. The written & oral statement of CW-2 and written report submitted by the employes also give rise to this that Sushil Kumar picked up quarrel with Shri B. K. Panday. It clarifies that both the parties indulged in beating each other. It is also clear that Shshil Kumar misbehaved and picked up quarrel with Shri Panday. The medical carried out after the quarrel also proves that Shri Panday sustained heavy injuries. So Allegation No.1 is proved."

In W.P.(C) 4982/2007

"It is clear from the statement of Asstt. Commandant, CISF that he had instructed Shri



Sushil Kumar to leave the Pandal and go back to his line. This is also clear from the statement of the witnesses of the prosecution and also by the accused himself. The member of the Force says that he was going to his line and this incidence happened on the way does not seems to be factual. Had he obeyed the orders of Asstt. Commandant, CISF and left for his line peacefully and not indulged with Shri Panday in unnecessary talking, the situation of quarrel would not have arisen. Remaining of the accused on the spot and indulging in unnecessary talks and quarrel clears state that he disobeyed the orders of his senior officer, Asstt. Comandant, CISF. So the allegation no.2 is proved.”

- f. The Disciplinary Authority *vide* Orders dated 16.03.2005, imposed a penalty of ‘Removal from Service’ upon the Petitioners. The relevant extracts of the Orders dated 16.03.2005 are as follows:

In W.P.(C) 4722/2007

"For the proved allegations Force No.901402800, Const. Sushil Kumar, CISF, Unit AUGPS/NTPC, Divya Pur, Oriya (U.P) is eligible for the punished and so based on the proved allegations less punishment is not legible. So as per clause 32 Anuchuchi (1) using my powers, I convey the punishment of "Removal from Service to Force No.901402800, Const. Sushil Kumar, CISF, Unit AUGPS/NTPC, Divyapur, Oriya (U.P).

The suspension period from 08.11.04 to 13.03.2005 of Force No.901402800, Const. Sushil Kumar, CISF, Unit AUGPS/NTPC/Divya Pur,



Oriya (U.P) would be considered as Dies Non. That only Suspension Allowance and not any allowance would eligible to Force No.901402800, Const. Sushil Kumar, CISF.. Unit AUGPS/NTPC, Divya Pur, Oriya (U.P).

That if Force No 901402800, Const. Sushil Kumar, CISF, Unit AUGPS/ntpc, Divya Pur, Oriya (UP) wishes to appeal, he can appeal to the Dy. Commandant, CIFS, North Region, Head Office, Sake, New Delhi within 30 days from the date of receipt of this order.

That Force. No.901402800, Const. Sushil Kumar, CISF, Unit AUGPS/NTPC, Divya Pur, Oriya, (U.P) would be provided a copy of this letter free of cost and Const.Sushil Kumar, CISF, Unit AUGPS/NTPC, Divya Pur, Oriya (U.P) would acknowledge receipt of this letter.”

In W.P.(C) 4982/2007

“For the proved allegations Force No.914526526, Const.Jagatbir Singh, CISF, Unit AUGPS/NTPC, Divya Pur, Oriya (U.P) is eligible for the punished and so based on the proved allegations less punishment is not legible, So as per clause 32 Anuchuchi (1) using my powers, I convey the punishment of "Removal from Service to Force No.914526526, Const. Jagatbir Singh, CISF, Unit AUGPS/NTPC, Divyapur, Oriya (U.P).

The suspension period from 08.11.04 to 13.03.2005 of Force No.914526526, Const. Jagatbir Singh, CISF, Unit AUGPS/NTPC/Divya Pur, Oriya (U.P) would be considered as Dies Non. That only Suspension Allowance and not any allowance would eligible to Force No.914526526,



*Const. Jagatbir Singh, CISF.. Unit AUGPS/NTPC,
Divya Pur, Oriya (U.P)*

That if Force No.914526526, Const. Jagatbir Singh, CISF, Unit AUGPS/NTPC, Divya Pur, Oriya (U.P) wishes to appeal, he can appeal to the Dy. Commandent, CIFS, North Region, Head Office, Sake, New Delhi within 30 days from the date of receipt of this order.

That Force No.914526526, Const. Jagatbir Singh, CISF, Unit AUGPS/NTPC, Divya Pur, Oriya, (U.P) would be provided a copy of this letter free of cost and Const Sushil Kumar, CISF, Unit AUGPS/NTPC, Divya Pur, Oriye (UP) would acknowledge receipt of this letter"

- g. The Petitioners preferred an appeal against the said Orders of the Disciplinary Authority. The Appellate Authority *vide* Orders dated 17.08.2005 dismissed the appeals.
- h. The Petitioners filed revision petitions against the dismissal of appeals, which were also rejected by the Revisional Authority *vide* Orders dated 02.08.2006 and 14.08.2006 stating that the petitions lacked merit. The relevant extract of the Orders of the Revisional Authority is reproduced as under:-

In W.P.(C) 4722/2007

“8. Further, on having perused the entire proceedings and documents held on record i.e. charge memo, reply to charge memo,-evidence adduced during the course of enquiry, presentation submitted by petitioner against enquiry report, final order passed by the Disciplinary Authority, appeal petition, appellate



order and revision petition submitted by the petitioner, I found that during the course of enquiry it has been fully established from the statements of all PWs that on 07.11.04 at about 2230 hours while the Orchestra programme on the eve of Raising Day of NTPC was in progress, there was a loud appeal for a lady's dance from the audience consisting of employees of the NTPC and CISF. Shri G.V.K. Moorthy, General Secretary contacted Shri B.K. Pandey and requested him to come over along with AC/CISF as the CISF Jawans were making nuisance in the ground. While, Shri B.K. Pandey tried to pacify the situation. Constable Sushil Kumar together with Constable Jagatvir Singh physically assaulted Shri B.K. Pandey, officer (HR) by punching him in his stomach and choking his neck which resulted in Shri Pandey sustaining injuries. In support of his injuries, Shri Pandey produced a medical examination report issued by the Medical Officer, PHC Dibiyapur, Auraya. Besides, the petitioner together with Constable Jagatvir Singh not only manhandled Shri Pandey, but also abused Shri Pandey using unparliamentary language. However, the statements of witness Constable S.K. Rana, Constable Gauri Shanker and Constable Satbir Singh speaks that it was Shri B.K. Pandey who hit the petitioner and the petitioner sustained injury on his nose. In support of injury, the petitioner also produced his medical certificate issued by the Medical Officer PHC, Dibiyapur. The medical report submitted by the petitioner indicates that the petitioner sustained a minor injury i.e on his nose, whereas Shri Pandey has sustained multiple injuries on different part of his body. In the departmental enquiry, it has been established that Shri Pandey and petitioner both sustained injuries on the said date and time, but



majority of the depositions of prosecution witnesses clearly establish the charges levelled against the petitioner. The statements of all the PWs are also corroborating each others statement in conformity of the charges and therefore, I have no reason to disbelieve their depositions, as they were eye-witness account of the incident. Being a member of Armed Force of the Union; the misconduct on the part of the petitioner has undoubtedly tarnished the image of the CISF.

9. With regard to Article of Charge-2, I found that on 7.11.04 at about 2230 hours when the employees and CISF Jawans created a nuisance, Shri Pandey (officer- HR) and Shri O.P. Sharma, Asstt. Commandant/Fire reached the spot and enquired from Constable S.K. Rana(Court Witness) and the petitioner about the quarrel. On receiving a negative reply from both of them, Shri O.P. Sharma directed Constable S.K. Rana to take the petitioner out of the ground. Further, when Shri O.P. Sharma arrived near KV Gate, he saw the petitioner and Constable Jagatvir Singh involved in a quarrel. On this the petitioner was directed to leave the spot and proceed to his residence by Shri O.P. Sharma, AC/Fire but the petitioner did not obey the order of Shri O.P. Sharma AC/Fire continued to remain there. The above facts have also been established on the statements of PWs adduced during the course of enquiry.

10. I find that the departmental enquiry has been conducted as per laid down procedure and petitioner has been punished on proven charges. I am of the view that the appellant's misconduct as well as disobedience of lawful order of superiors stands fully established. The depositions of the



witnesses as well as circumstantial and documentary evidence brought forth in the enquiry have clearly brought home the charges against the petitioner. There is no infirmity in conducting the departmental enquiry as the EO has conducted the DE as per the laid down procedure. The appellant was given ample opportunity to defend his case at all stages. As such the pleas put forth by the petitioner in his revision petition are devoid of merit.

11. The act committed by the appellant being a member of disciplined armed force of the Union constitutes grave misconduct. Such an act not only bring a bad name to the uniformed force, but its gravity gets compounded, if done by a person in khaki. Allowing such persons to remain in the uniformed force would be a stigma to the organization, which is supposed to act as a protector of life & property. Thus, in view of the above, I do not find any reason whatsoever, to interfere in the order passed by the Disciplinary Authority and upheld by the Appellate Authority i.e. DIG/NZ, which is commensurate with the gravity of the proven misconduct. Therefore, in exercise of power conferred upon me under rule 54 of CISF Rules 2001, I, REJECT the revision petition submitted by No. 901402800 Ex-Constable Sushil Kumar being devoid of merit.”

In W.P.(C) 4982/2007

“11. To conclude, the evidence held on record of the proceeding files, clearly establishes that during an Orchestra Show organized by the Management of NTPC Dibiyapur on the occasion of Raising Day of NTPC Dibiyapur, the petitioner along with Constable Sushil Kumar at about 2230 hours on 07.11.2004 misbehaved and assaulted



Shri B.K. Pandey, an Officer (HR) NTPC Dibiyaapur who sustained minor injuries. At about 2215 hrs, during the ongoing Orchestra programme, the audience demanded a dance on a particular song from the Orchestra party, which was not agreed to by the Organizing Committee. On this, the audience on a particular side including the petitioner and Const Sushil Kumar started making noise. The officials Human Resource of Management (Organizing Committee) including Shri B.K. Pandey, Officer (HR) NTPC reached the spot and asked the audience including the petitioner to leave the place. On this an argument followed by a scuffle between the petitioner and Shri B.K. Pandey, causing minor injuries to Shri Pandey. Besides, when AC/CISF ordered the petitioner to leave the place and to proceed to the Unit lines/residence, the petitioner disobeyed his order. The statements of all the PWs & other evidence adduced during the enquiry are strongly corroborative and in conformity with the charges leveled against the petitioner. During the course of departmental enquiry ample opportunity was given to the petitioner to defend himself, but he could not rebut the allegations and completely failed to prove his innocence. Therefore, the pleas put forth by the petitioner in his revision petition are neither justified nor tenable.

12. I am thus of the view that there is no legal infirmity in the proceedings and punishment has been awarded for good and sufficient reasons which meets the end of natural justice. The petitioner was also granted reasonable opportunity to defend himself. The proven charges against the petitioner are extremely serious in nature and the gravity is compounded by the fact



that the delinquent is a member of a disciplined force. Such acts not only give a bad name to the Force but any leniency would breed indiscipline and cause great harm to the Force. The petitioner by his activities has brought a bad name to the Organisation and proved himself totally unfit for retention in service.

13. Therefore, the undersigned after examining the entire matter in totality and in exercise of the powers conferred upon me vide rule-54 of CISF Rules 2001 hereby “REJECT” the revision petition dated 16.10.2005 being devoid of merit.”

i. Hence, the Petitioners have approached this Court by way of the present Petitions.

5. Learned Counsel for the Petitioners states that the Enquiry Report is silent on the injuries sustained by the Petitioner in W.P.(C) 4722/2007 on his nose and mouth, which indicates that the enquiry was perfunctory and therefore, the Enquiry Report cannot be accepted.

6. Learned Counsel for the Petitioners further states that the Enquiry Officer did not consider the testimony of all the witnesses. The Respondents adopted ‘a pick and choose’ policy to prove the charges levelled against the Petitioners. As per the Learned Counsel, the family of the Petitioner in W.P.(C) 4722/2007 was also present at the venue during the altercation, but their statements were not recorded in the disciplinary proceedings.

7. It is the case of the Petitioners that on the night of incident, there was a big crowd which made it very difficult to ascertain the events as they unfolded. He, therefore, submits that there is no direct evidence to pin-point the incident that happened that night.



8. Learned Counsel for the Petitioners further states that the Petitioners were not on duty in the event. They were invitees to the event and were not present there on official duty.
9. Learned Counsel for the Petitioners states that the Petitioners were not afforded a personal hearing in the departmental proceedings which is against the principle of natural justice.
10. Learned Counsel for the Petitioner states that they were not provided with the relevant documents along with the preliminary enquiry report.
11. It is the case of the Petitioners that the statements of the PWs and the DWs were not recorded on the relevant dates. There are gaps in recording of the evidence and during this time, the Respondents tutored the relevant witnesses to prove the case against the Petitioners.
12. *Per contra*, the learned Counsel for the Respondents states that it is settled law that the Court cannot re-appreciate evidence led before the enquiry officer. Learned Counsel tenders the judgement of the Apex Court in State of Uttar Pradesh and Anr. vs. Man Mohan Sinha and Anr., (2009) 8 SCC 310, to support its contention.
13. It is the case of the Respondents that the present case is not one in which there is no evidence. There are testimonies of witnesses which prove the events that transpired on the fateful night. Both the parties sustained injuries in the scuffle. Moreover, the Petitioners had to be forcibly removed after they willfully disobeyed the direct orders of their superior officer. As such, it is the case of the Respondents that such conduct from the members of the Armed Force, which is a disciplined force, cannot be tolerated. He states that the enquiry was conducted after following the due procedure and there is no bias against the Petitioners.



14. Learned Counsel for the Respondent further states that the report of the preliminary enquiry is not mandatory when a proper departmental proceedings took place in accordance with law.

15. Heard the learned Counsels for both sides and perused the material on record.

16. At the outset, the material on record shows that both the parties have put blame on each other for the beatings and misbehaviour. The medical reports states that both the parties have received injuries. The contention of the Petitioners that the injuries sustained by the Petitioners were not taken into consideration, does not hold merit as the same has been stated in the Disciplinary Proceedings. He states that merely because the Petitioners have also suffered injuries, does not absolve them from the charge of assault levelled against them. The medical report proves that Mr. B.K. Panday also suffered serious injuries which were inflicted upon him by the Petitioners.

17. The plea of the Petitioners that out of the 12 PWs, 11 PWs were NTPC employees and as such there was a bias, also does not hold any ground. Though the majority of the PWs were the employees of NTPC, there is nothing on record to prove the case of bias. Allegation of bias can be proved only in presence of any cogent material, which has not been placed by the Petitioners before this Court.

18. The contention of the Petitioners that the testimonies of all the witnesses were not considered does not hold merit. It is made clear in the Revision Order that it was only after due consideration of the testimonies of the PWs, CWs, and the DWs, that it was ascertained that both parties sustained injuries. Moreover, most of the testimonies proved that it was the Petitioners who started the quarrel by using unparliamentary language, and



physical force upon the employee of NTPC, which is not warranted or can be tolerated from any member of an armed force.

19. It is the case of the Petitioners that there is no direct evidence to corroborate the events of the night of incident in presence of a big crowd and night time. This contention also does not hold ground, as a proper departmental enquiry was conducted wherein the statements of 12PWs, 2 CWs, and 1 DW, were considered before coming to the conclusion that the Petitioners have conducted themselves in a way which is unbecoming of a member of the Armed Force. Conclusion has been arrived at by the Authorities after a careful perusal of all the evidence including the statements of the witnesses, as well as medical reports filed by both the parties.

20. Material on record establishes that the Petitioners were provided with a full opportunity to submit all the necessary documents in support of their case. They were also permitted to present any witness in their support. The relevant extract of the Disciplinary Proceeding Orders dated 16.03.2005 are as follows:-

In W.P.(C) 4722/2007

“03. After studying the Case File, it was found that the accused was accorded full opportunity to submit all the necessary documents in support of his case so that the accused could get the natural justice. He was also directed to present any witness in support of the charges levied against him.

04. The delinquent studied all the document and enquiry report and reached at the conclusion that he was accorded full opportunity of present himself as



innocent and there was lacking on the part of enquiry officer. During the course of enquiry the statements of the following witnesses were recorded.

1. *Shri V.K.Pandey, Officer (HR.) Employee No.80546 NTPC, Divya Pur, (PW-1)*

2. *Shri U. K. Mishra, Emp. No. 78564 NTPC, Divya Pur, (PW-2)*

3. *Shri U. K. Mishra, Emp. No. 78564 NTPC, Divya Pur, (PW-3)*

A. *Shri Shambhu Mohali, Emp.No.78704, NTPC, Divya Pur, (PW-4)*

5. *Shri S.P.Saraswat, Emp.No.78589, NTPC, Divya Pur, (PW-5)*

6. *Shri Bhupander Singh, Emp.No.78702, NTPC, Divya Pur (PW-6)*

7. *Shri J.S.Dahiya, Emp.No.80508, NTPC, Divya Pur, (PW-7)*

8. *Shri Dinesh Kumar Thakur, Emp. No.78746, NTPC, Divyapur, (PW-8)*

9. *Shri G.V.K.Murthy, Emp.No.78733, NTPC, Divya Pur (PW-9)*

10. *Shri Suresh Srivastava, Emp.No.70190, NTPC, Divya Pur, (PW-10)*

11. *Shri N.S.Gautam, Emp.No.78578, NTPC, Divya Pur, (PW-11)*



12. *Shri O.P.Sharma, .Asstt. Commdt./Fire NTPC, Divya Pur, (PW-12)”*

In W.P.(C) 4982/2007

“03. After studying the Case File, it was found that the accused was accorded full opportunity to submit all the necessary documents in support of his case so that the accused could get the natural justice. He was also directed to present any witness in support of the charges levied against him.

04. The delinquent studied all the document and enquiry report and reached at the conclusion that he was accorded full opportunity of present himself as innocent and there was lacking on the part of enquiry officer. During the course of enquiry the statements of the following witnesses were recorded.

1. Shri B.K.Pandey, Officer (HR.) Employee No.80546 NTPC, Divya Pur, (PW-1)

2. Shri U. K. Mishra, Emp. No. 78564 NTPC, Divya Pur, (PW-2)

3. Shri U. K. Mishra, Emp. No. 78564 NTPC, Divya Pur, (PW-3)

A. Shri Shambhu Mohali, Emp.No.78704, NTPC, Divya Pur, (PW-4)

5. Shri S.P.Saraswat, Emp.No.78589, NTPC, Divya Pur, (PW-5)

6. Shri Bhupander Singh, Emp.No.78702, NTPC, Divya Pur (PW-6)



7. *Shri J.S.Dahiya, Emp.No.80508, NTPC, Divya Pur, (PW-7)*

8. *Shri Dinesh Kumar Thakur, Emp. No.78746, NTPC, Divyapur, (PW-8)*

9. *Shri G.V.K.Murthy, Emp.No.78733, NTPC, Divya Pur (PW-9)*

10. *Shri Suresh Srivastava, Emp.No.70190, NTPC, Divya Pur, (PW-10)*

11. *Shri N.S.Gautam, Emp.No.78578, NTPC, Divya Pur, (PW-11)*

12. *Shri O.P.Sharma, .Asstt. Commdt./Fire NTPC, Divya Purt, (PW-12)” (emphasis supplied)*

21. The Petitioners presented 2 DWs – Const. Gauri Shankar and Const. Satya Bir Singh. Other than these DWs, the Petitioners failed to present any other witness in the proceedings despite the opportunity as presented to them in the disciplinary proceeding and therefore, the contention of the Petitioners regarding the arbitrary selection of the witness list, and them being not afforded with a fair opportunity to be heard, lacks merit. The Petitioners were heard at length during the departmental proceedings which is clear from the Orders of the Disciplinary Proceedings.

22. Learned Counsel for the Petitioners argues that they were not present in an official capacity in the function, as they were invited to attend the event as guests and therefore, the accusations levelled against them cannot be sustained. This contention lacks merit as the Petitioners are members of a disciplined force and are expected to conduct themselves in an orderly



manner and not indulge in Rowdism. Material on record further indicates that the Petitioners went on aggravating the situation by using unparliamentary language, and used physical force against civilians which cannot be justified or permitted. The Petitioners are members of a reputed armed force and such blatant, violent, and un-professional behaviour not only affects the reputation of the Petitioners but also of the very Unit they belong to.

23. The contention of the Petitioners that they were not provided with documents alongwith the charge memo does not hold merit as they were afforded a proper opportunity to be heard, file their replies, as well as present their witnesses. Therefore, this aspect loses significance in view of the fact that a regular enquiry was held by issuing a chargesheet to the Petitioners.

24. The contention of the Petitioners regarding the Enquiry Officer and the Presenting Officer being the same person does not hold merit as it is clear from the perusal of record that these were two different persons. Mr. Sumant Singh, CISF Unit, GAIL, Pala was appointed as the Enquiry Officer, whereas Insp. (Fire) Lokesh Chand of CISF Unit, AUGPP/NTPC, Dibiyapur was appointed as the Presenting Officer. The relevant extract of the Orders dated 17.08.2005 is reproduced as under:

In W.P.(C) 4722/2007

“2. No.901402800 Ex-Constable Sushil Kumar (hereinafter to be called petitioner) acknowledged the charge memo on 26.11.04 and submitted his reply to charge memo on 04.12.04 denying the charges. The Disciplinary Authority vide his letter dated 14.12.2004 appointed Shri Sumant Singh, Deputy Commandant,



CISF unit GAIL Pata to enquire into the charges levelled against the petitioner and Insp/Fire Lokesh Chand, CISF Unit NTPC Dibiyapur as Presenting Officer. During the course of enquiry, the DO recorded the statements of 12 prosecution witnesses, 02 Court witnesses and 02 Defense witnesses. The Enquiry Officer conducted the enquiry as per laid down procedure and submitted enquiry report to Disciplinary Authority holding the Charges as proved The Disciplinary Authority having agreed with the findings provided a copy of enquiry report to the charged official vide letter dated 02.05. The petitioner submitted his written representation against the findings of Enquiry Report on 10.03.05.”

In W.P.(C) 4982/2007

*“2. And whereas CISF No.914526526 Ex-Const Jegatbir Singh, submitted his written statement of defence dated 6. 12.04 wherein he refuted the allegations and as such **Shri Sumant Singh, Dy.Commandant, CISF Unit GAIL Pala and Insp. Fire Lokesh Chand of CISF Unit AUGPP/NTPC Diviyapur were appointed Enquiry Officer and Presenting Officer respectively** to enquire into the allegations levied vide memorandum dated 14.12.04. The Enquiry Officer conducted the enquiry under the provisions of rule 36 of CISF Rules 2001 and provided reasonable opportunity to the charged official to defend himself which he availed There is no procedural infirmity in conducting DE. The Enquiry Officer submitted his minutes of enquiry to the Disciplinary Authority wherein he hold both the charges as proved.”*
(emphasis supplied)

25. It is the contention of the Petitioners that the statement of the prosecution witness was not recorded on the relevant date, but was recorded



as per choice on different dates in both the enquiries, which facilitated them to follow the diktat of the Superior and the same were performed. The same does not hold ground as the Petitioners did not produce any material evidence to prove these allegations and no substantial arguments were advanced by the learned Counsel for the Petitioners.

26. Law is settled regarding the parameters within which the High Court ought to exercise its powers under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings. The Apex Court in Union of India and Ors. vs. P. Gunasekaran, (2015) 2 SCC 610 has held as follows:

"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;



(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.



(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience."

27. Similarly, in Union of India and Ors. vs. Ex. Constable Ram Karan, (2022) 1 SCC 373, the Apex Court has made the following observations:

"23. The well-ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to the delinquent employee. Keeping in view the seriousness of the misconduct committed by such an employee, it is not open for the courts to assume and usurp the function of the disciplinary authority.

24. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The scope of judicial review on the quantum of punishment is available but with a limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a call and it is not for the court to substitute its decision by prescribing the quantum of punishment. However, it is only in rare and exceptional cases where the court might to shorten the litigation may think of substituting its own view as to the quantum of punishment in place of punishment awarded by the competent authority that too after assigning cogent reasons."



28. The power of judicial review is not directed against the decision but is confined to the decision-making process. The Court does not sit in judgment on merits of the decision. It is not open to the High Court to reappraise and reappraise evidence led before the Enquiry Officer and examine the findings recorded by the enquiry officer as a Court of Appeal and reach its own conclusion. The High Court can only interfere if it is a case of no evidence or if there is an error of law apparent on the face of the record or if there is a violation of any mandatory provision of law.

29. This Court has perused the material on record and is of the opinion that the Petitioners were afforded with a fair opportunity to be heard in the disciplinary proceedings. The disciplinary proceedings Order is a well-reasoned order that discusses every aspect of the case, all the statements of the witnesses, and only after perusal of all the record finally reaches the conclusion. Therefore, there is no violation of law, non-appreciation of evidence, or any material irregularity in the decision-making process. Due process was followed by the relevant authorities. In this light, the present set of Petitions are dismissed with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

NOVEMBER 28, 2025

Prateek/ MT