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

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*Date of Decision : 07.01.2026*

+ W.P.(C) 6816/2022

EX. CONST. SUNIL KUMAR

.....Petitioner

Through: Mr. Vinod Dahiya, Mrs. Khushi Dahiya, Ms. Shreya Garg, Mr. Dhruv Khurana, Mr. Bhaskar Dongwal  
Advvs.

versus

UNION OF INDIA AND OTHERS

.....Respondents

Through: Ms Avshreya Pratap Singh Rudy CGSC, Ms Usha Jamnal, Ms Prajna Pandita, Ms Nyasa Sharma, AC B Pradhan, Insp Sanjay Kumar, SI Kamal Singh, SI Manju Nath

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**V. KAMESWAR RAO , J. (ORAL)**

1. This petition has been filed with the following prayers:

*“i. declare the Findings dated 13.07.2013 (at ANN P-1), impugned final Order dated 31.10.2013 (at ANN P-2), impugned appellate order dated 26.12.2013 (at ANN P-3), impugned order dated 23.01.2015 rejecting Revision Petition (at ANN P-4) and impugned Order dated 17.03.2020 (at ANN P-5) passes by respondent no.2 as unlawful and hence to quash and set aside the same.*

*ii. direct the respondents to reinstate the petitioner*



*with all consequential benefits including pay and allowances for the period of removal from service till joining the force, seniority, promotions and other all benefits.*

*iii. any other relief which this Hon'ble Court may deem fit and proper in the interest of justice.”*

2. The petitioner was recruited on the post constable/GD on 28.09.2011 in the Central Industrial Security Force (CISF) on compassionate grounds due to the death of his father while on duty in the same department. It is his case that on 08.06.2013 while posted in Kustaur Dhanbad, the petitioner was detailed for duty from 2100 hours i.e. 09:00 PM to 05:00 AM in the night intervening 08.06.2013 and 09.06.2013 in the area of Bhalgoda office premises while Head Constable Ved Pal [petitioner in W.P.(C) 6895/2022] was at Railway sliding. The petitioner was performing his duty when at about 03:30 AM, 12 to 14 unknown armed persons, according to the petitioner apprehended him and tied him to a tree at some distance with a rope and gagged him.

3. According to him, the unidentified persons broke seals of locks of 8 rooms out of 9 rooms between 03:30 AM to 04:15 AM. He further states that General Diary entry No. 908 dated 09.06.2013 at 05:25 AM, the entry recorded that locks had been broken and the petitioner was tied to the tree by thieves while HC Vedpal [Petitioner in W.P.(C) No. 6895/2022] was on duty. It is stated that on the same day Inspector B. N. Patra gave a written complaint about the said incident to the Police Post Burra Garh O.P incharge in P.S Jharia and also the area manager (Admn.) Bharat Coking Coal Ltd. An FIR No.241 dated 09.06.2013 under Section 461/382 Indian Penal Code, was registered.



4. It was thereafter, that a preliminary enquiry was conducted and statements of the Officials were recorded on 09.06.2013 and 10.06.2013. Additionally, on 26.06.2013, the area manager/Admn. of the said unit sent a list of articles stolen by the thieves during the night intervening between 08.06.2013 and 09.06.2013. After which a second preliminary enquiry was conducted by the Deputy Commandant and departmental proceedings were initiated against both the petitioners. The departmental enquiry concluded with the disciplinary authority ordering that the petitioner be removed from service.

5. The petitioner has challenged the findings of the enquiry report dated 13.07.2013; the final orders of penalty dated 31.10.2013, the findings of the appellate authority rejecting the appeal of the petitioner dated 26.12.2013; the findings of the authority rejecting the revision petition of the petitioner dated 23.01.2015 and the order dated 17.03.2020 pursuant to the directions of this Court on 31.01.2020

6. Mr. Vinod Dahiya, learned counsel appearing for the petitioner has strongly contended that there are discrepancies in the disciplinary enquiry in as much as the same was conducted with a premeditated mind to hold the petitioner guilty of the misconduct. He further submitted that certain material witnesses had not been examined. The disciplinary enquiry suffers from defects.

7. On the other hand, learned counsel for the respondent would justify the order passed by the disciplinary authority and also the revisional authority. According to him the said revision order has been passed after this Court had remanded the matter to the revisional authority only on the



aspect of penalty. According to him, the revisional authority has passed a detailed/reasoned order justifying penalty of removal passed against the petitioner Sunil Kumar. Keeping in view the seriousness of the misconduct, more particularly the fact that the petitioner belonged to a disciplined force the penalty is justified.

8. Having heard the learned counsel for the parties, at the outset, it may be stated it is an admitted case of the petitioner that he had approached this court earlier in W.P.(C) 3221/2017 impugning the disciplinary proceedings initiated against him which resulted in the penalty of removal. The said petition was disposed of, by this Court vide order dated 31.01.2020 wherein the Court has stated as under:

*“1. The Court has heard learned counsel for the parties and examined the enquiry reports. In light of the statements made by the witnesses, and the internet logs, the Court is satisfied that no interference is called for, as far as the finding of guilt of the Petitioners is concerned.*

*2. However, on the question of punishment, the Court notes that while the punishment awarded to HC/GD Vedpal is of compulsorily retiring him from service with consequential benefits, the punishment awarded to Ct./GD Sunil Kumar, is that of removal from service. As far as Sunil Kumar is concerned, he was a new recruit, with no previous track record of any misconduct. As far as Ex.HC/GD Vedpal is concerned, learned counsel for the Respondents referred to “various instances”, which do not appear to have been actually discussed in the order imposing the penalty.*

*3. In that view of the matter, the Court directs that both these cases be placed again before the Revisional Authority to examine whether a lesser punishment can be awarded, keeping in view the previous track record*



*of each of the Petitioners. A decision be taken afresh, uninfluenced by the earlier decision on punishment, not later than eight weeks from today. The consequential orders be communicated to each of the Petitioners by the Respondents, within a further period of two weeks. If aggrieved, it will be open either one or both Petitioners, to seek appropriate remedies in accordance with law.”*

9. Having noted the order passed by this Court, the remand to the revisional authority was in respect of penalty imposed on the petitioner. Insofar as the finding of guilt of the petitioner is concerned the same has been approved by this Court in the previous writ petition. The petitioner has not challenged the said order before the higher forum. If that be so, the issue raised by the petitioner falls in a narrow compass, whether the penalty of removal imposed on the petitioner is justified. The revisional authority in the impugned order has in paragraphs 6 and 7 has retained the penalty of removal from service imposed on the petitioner by stating as under:

*“06. AND WHEREAS, Keeping view of the judgement order dated 31.01.2020 of Hon'ble High Court of Delhi the case of No.119801125 Ex-Constable GD Sunil Kumar, formerly of CISF Unit BCCL Dhanbad has been re-examined. On perusal of the case files and evidences held with the case file, it is evident that during the course of enquiry the charges levelled (sic) against the petitioner have been proved beyond doubt. It is revealed from the case file that he was deployed for 'C' shift duty from 2100 hours on 08.06.2013 to 0500 hours on 09.06.2013 at BCCL Kustaur Bhalgora office complex. During his duty hours miscreants committed theft by breaking the locks of 08 rooms out of 09 rooms from his assigned duty area, but, he remained engaged in browsing internet over mobile*



*phone for long spell on different occasions during his duty hours, and thus the miscreants, taking this advantage committed the theft. This clearly shows careless and sheer negligence on the part of his bonafide duty. Not only so, he also concealed this factual information from his higher authorities and madeup a concocted story with the help of his other three co-accused that he was tied up with a rope to a tree by the miscreants just to cover up his misdeeds and to mislead the authorities. It was the prime duty of the petitioner to provide security and protect the plant property, during his duty and area of responsibility in the intervening night of 08/09.06.2013, but he failed do so and committed gross negligence on the part of his duty. The petitioner himself and his all the three co-accused viz. ASI/Exe S.P. Singh (PW-01), HC/GD Vedpal (PW-02) & Constable GD Kamal Narayan (PW-03) had categorically admitted their guilt in their statements during preliminary enquiry conducted by Shri R.P. Singh, then Dy. Commandant. But, later they all turned hostile during departmental enquiry being co-accused in this case. Besides, call details of petitioner's mobile No.8651408746 clearly indicate that he remained engaged in browsing internet over his mobile on different occasions from 00.14.39 hrs to 04.44.37 hrs in the intervening night on 08/09-06-2013. The charges levelled against him had been found proved on sufficient evidences held on record. The petitioner was a member of Central Armed Police Force like CISF and his prime duty was to provide security & protection of the undertakings and thus he should have performed the assigned duty with utmost care and vigil. But he remained engaged in browsing internet over mobile phone, and resultantly, the miscreants committed theft by breaking the locks of 08 different rooms from "the area of his responsibility. The petitioner also concealed this factual information*



*from higher authorities that he was tied up with a rope to a tree with other co-accused in the case and made a concocted story of being tied him by the miscreants, just to cover up his misdeeds. The petitioner, by doing so, defeated the very purpose of his employment in this force and thereby rendered himself unfit for further retention in the force. The petitioner being a trained soldier should have performed his duty with more vigil, especially on his duty post where valuable plant property was kept. But he failed to do so, and set a bad example amongst their colleagues, which cannot be overlooked. Hence, the disciplinary authority has rightly adjudged his case and awarded him proportionate penalty.*

*07. AND THEREFORE, in pursuance of the judgment order dated 31.01.2020, by Honble Court of Delhi, I have gone through the case file and other material evidences on record, which are relevant to the instant case for re-examination. The enquiry has been conducted strictly in accordance with the laid down procedure and no infirmity has been noticed. The petitioner was provided ample opportunity to defend his case. During the course of departmental enquiry, the charges levelled against the petitioner have been proved based upon the evidences, which emerged during the course of enquiry. From the evidences available on record, it has been found that the petitioner was deployed for 'C' shift duty from 2100 hours on 08.06.2013 to 0500 hours on 09.06.2013 at BCCL Kustur, Bhalgora office. During his duty hours miscreants committed theft by breaking the locks of 08 rooms out of 09 rooms from his assigned area of responsibility during his duty hours. Being a member of the Force, it was the prime duty of petitioner to provide security and protect the property of the undertaking from his assigned area of responsibility. But, he failed to prevent the theft to occur, which*



*clearly shows his sheer negligence and gross carelessness on his part towards performing bonafide duty. The petitioner also concealed the information about the theft from higher authorities and made up a concocted story with the help of his other three co-accused that he was tied with a rope to a tree by miscreants in order to cover up his misdeeds and also with an intention to mislead the authorities. The petitioner himself and all the three co-accused viz. ASI/Exe S.P. Singh (PW-01), HC/GD Vedpal (PW-02) & Constable/GD Kamal Narayan (PW-03) have categorically admitted their guilt in their statements during preliminary enquiry. CISF is Armed Force of the Union and expects all its members of the Force to exhibit highest professional and moral standard in discharge of their duty of security and protection of Government property. But, the petitioner has shown utter disregard to his assigned responsibility and duty. The offence committed by the petitioner is very serious in nature, and thereby he has rendered himself unfit for further retention in the Force. The Disciplinary Authority rightly adjudged his case awarded the punishment of "Removal from Service", which is just and fair in accordance with the gravity of the offence committed by him. Thus, I found that the order passed by the Disciplinary Authority and upheld by the Appellate Authority stands good and does not warrant any further interference."*

10. The aforesaid justification given by the revisional authority in upholding the penalty of removal is a very considered order. He has highlighted the fact that the petitioner has concocted the story of he having been tied with the tree which as a fact has never happened. So the attempt of the petitioner and the other co-delinquent is to create an incorrect narrative only to escape the charge which has been framed against him need to be



taken seriously. Moreso, when the petitioner was employed in Armed Force like CISF, wherein he is expected to maintain higher professional and moral standards.

11. In this regard, we refer to the judgment given by the Supreme Court in the case of *State of Karnataka v. Umesh*, (2022) 6 SCC 563 wherein while referring to the limited scope of judicial interference, viz, a departmental enquiry the Court held as under:

*“22. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not reappreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:*

- (i) the rules of natural justice have been complied with;*
- (ii) the finding of misconduct is based on some evidence;*
- (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and*
- (iv) whether the findings of the disciplinary authority suffer from perversity; and*
- (v) the penalty is disproportionate to the proven misconduct.*

*23. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of natural justice. The findings of the enquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not impinge upon the authority of the disciplinary authority or the finding of*



*misconduct in the disciplinary proceeding.”*

(emphasis supplied)

12. We are of the view the penalty of ‘removal’ imposed on the petitioner is not disproportionate to the charges framed and proved, as the revisional authority has given sufficient justification to uphold/reiterate the penalty of removal.

13. Accordingly, this petition is dismissed.

**V. KAMESWAR RAO, J**

**MANMEET PRITAM SINGH ARORA, J**

**JANUARY 07, 2026/rt**