



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

% Judgment reserved on: 10.02.2026
Judgment delivered on: 19.06.2026
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+ **W.P.(C) 5496/2022**

MUKESH KUMAR MEENA

.....Petitioner

versus

UNION OF INDIA AND ORS

.....Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Nikhil Bhardwaj, Adv.

For the Respondents : Mr. Jaswinder Singh and Ms. Shipra Shukla, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

1. The present petition has been filed with the following prayers:-

“i) Issue a Writ of Certiorari for quashing the impugned penalty order dated 01.07.2016 qua petitioner only vide which respondents have imposed punishment of “Reprimand” upon the petitioner and;

ii) Issue a Writ of Certiorari for quashing the impugned orders dated 06.09.2016, 04.07.2017 and 01.06.2021 vide which respondents rejected a review petitions/representations of petitioner against the penalty order dated 01.07.2016;

iii) Writ of Mandamus directing the respondents to grant the petitioner the benefit of seniority w.e.f. 08.02.1990 (when his juniors were promoted to the



post of Naik GD) for all purposes including promotion, pension and other retirement benefits or from any date thereafter and or;

iv) Pass such further and other orders and directions as this Hon'ble Court may deem fit and proper.”

2. The petitioner in essence is seeking setting aside of order dated 01.07.2016 whereby the penalty of “*reprimand*” has been imposed on the petitioner. He is also seeking quashing of orders dated 06.09.2016, 04.07.2017 and 01.06.2021 wherein the respondents had rejected the representations and review petition of the petitioner against the penalty order dated 01.07.2016. He has also sought the benefit of seniority w.e.f. 08.02.1990.

3. The facts as noted from the petition are, that the petitioner was appointed on the post of Head Constable through direct recruitment on 03.09.2010. In May 2013 the petitioner was posted in the capacity of Assistant Clerk 11th Battalion in the Central Records Office in the Indo-Tibetan Border Police (“ITBP”) looking after pay and allowances. Vide order No.62/2014 dated 07.10.2014, the petitioner was directed to recover Transport Allowance (“TA”) and Special Duty Allowance (“SDA”) from an Inspector in the ITBP. It is the case of the petitioner that he was directed to effect the said recovery for the period starting from 2011 till 2013 only in 2015 i.e., after an initial gap of four years. It is his case that while cross-checking old records, some time was taken by the petitioner’s office. According to him, multiple communications were sent by the office to the Pay Section of the 24th Battalion, ITBP which caused delay. The delay was *bona fide* and beyond the control of the petitioner. It is his case that the



printed order dated 07.10.2014 was received by the office of the petitioner in January, 2015 wherein there were certain hand written figures and the same were not attested. The petitioner wrote several letters including the letter dated 21.02.2015 to the Pay Section-I, 24th Battalion, ITBP seeking verification /clarification of the order dated 07.10.2014.

4. Mr. Nikhil Bhardwaj, learned counsel for the petitioner has argued that the delay in effecting recovery was not on the part of the petitioner but rather due to the delay caused by the respondents, more particularly 24th Battalion.

5. According to him, the order dated 07.10.2014 was not received by the Central Records Office of the 11th Battalion, ITBP through a proper channel as it did not have a central diary number. The receipt of the order dated 07.10.2014 was already delayed by four months (having received in January, 2015). The petitioner wanted to check the veracity of the same since the said order had some hand written portions, which were not verified, more so, as the recovery had to be effected for the period between 2011 to 2013. Therefore, it is his case that the petitioner only wanted to carry out due diligence on his part.

6. Mr. Bhardwaj has contended that the petitioner was awarded the penalty of “*reprimand*” for delayed recovery. However, in view of the order dated 06.11.2019 in *Ajay Kumar Singh v. Indo-Tibetan Border Police, W.P.(C) 9565/2018*, the penalty which was awarded to the co-delinquent of the petitioner was held to be disproportionate. Mr. Bhardwaj has contended that in the same way, the penalty imposed on the petitioner had the impact of not including his name in the ‘C’ list for promotion to the higher post of



Assistant Sub-Inspector. He has referred to the judgment in the above case to state that even for the co-delinquent, the Co-ordinate Bench of this Court had modified the penalty to that of ‘non-recordable caution’. Further, this Court had also protected the seniority of the petitioner in that case by holding that such a modification will not have the result in denying the petitioner the promotion due to him.

7. It is his case that the petitioner cannot be blamed for the delay which was caused since he was only exercising a duty of care to ensure that the orders, which were issued to effect such recovery were authentic. It is his case that the impugned orders dated 06.09.2016, 04.07.2017, and 01.06.2021 rejects the review petition of the petitioner under Section 14(4) of the Indo-Tibetan Border Police Act, 1992, (“ITBP Act”) contains no reasoning or rationale as to why the review petition of the petitioner has been dismissed. He seeks the setting aside of the said orders.

8. On the other hand, Mr. Jaswinder Singh learned counsel for the respondent has contended that the petitioner was produced before the competent authority for summary disposal of the issue under Section 43 of the ITBP Act concerning the violation of good order and discipline and the penalty was awarded to the petitioner under the ITBP Act which is a minor punishment commensurating the lapse of the petitioner while discharging his duties. He stated that the said punishment was awarded after a duly conducted inquiry in compliance with the principles of natural justice.

9. He stated that the petitioner was posted with the Central Records Office of the ITBP during the period from 11.05.2013 to 04.02.2018 while performing the duties of a dealing assistant, and was entrusted with the



responsibility of preparing pay / allowances bill and recoveries of the personnel posted in the 11th Battalion. It was during this time period that Inspector Mahesh Kumar Gaur was transferred from the 24th Battalion to the 11th Battalion, who had drawn excess TA and SDA during his temporary duty at transit camp Chawala Delhi. The said excess amount was to be recovered from the individual *vide* Special FO No. 62/2014 dated 07.10.2014 but the same had not been effected by the dealing assistants including the petitioner. It was pursuant to the above that the respondents initiated an inquiry *vide* ION No.303 dated 09.07.2015 on account of negligence, pursuant to which the Senior Audit Officer (Pension and Administration) of the ITBP after conducting a preliminary inquiry forwarded its report to the DC (Vigilance) *vide* ION No. 20065 dated 12.10.2015. After which the DC (Vigilance) *vide* ION No.473 dated 21.10.2015 conveyed approval to the Director General, ITBP to initiate disciplinary action against three personnel including the petitioner herein who were performing identical duties during the time and were held to be responsible for causing delay in the recovery.

10. It is his case that the petitioner was entrusted the duty of recovery in the month of October, 2014/ January, 2015 and had kept the recovery pending with effect from 19.01.2015 to 31.03.2015 and initiated the same only in April, 2015. The competent authorities in the ITBP *vide* order dated 01.07.2016 awarded “*reprimand*” as per Section 43 of the ITBP Act i.e. for violation of good order and discipline.

11. The co-delinquent of the petitioner namely HC/CM Ajay Kumar Singh filed a writ petition being W.P.(C) 9565/2018 challenging the



impugned order dated 01.07.2016 and this Court *vide* order dated 06.11.2019, modified the penalty awarded considering the facts and circumstances of that particular case. Hence, according to Mr. Singh, the decision in the said petition cannot be applied to the instant case. The petitioner had then submitted a representation dated 24.11.2016 to seek a modification in the punishment awarded to him in terms of the decision in the case of the co-delinquent in *Ajay Kumar v. Union of India, W.P.(C) 9565/2018*. The said decision was considered and rejected by the competent authority and the petitioner was intimated *vide* ION No. 2766 dated 04.07.2017.

12. Mr. Jaswinder Singh has argued that the punishment of ‘reprimand’ awarded to the petitioner was a minor punishment and his name was not recommended by the Departmental Promotional Committee for approval list-C of 2017 for the post of Head Constable, due to be promoted to the post of ASI/CM. The petitioner again submitted a representation dated 20.11.2019 addressed to the Director General of the ITBP which was also considered and rejected and the petitioner was also intimated *vide* letter dated 01.06.2021. He stated that the reply is sufficient answer to the representation of the petitioner and the disciplinary inquiry was conducted against him following the due process of law and the principles of natural justice. He seeks dismissal of the present petition.

13. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the order dated 01.07.2016 passed by the respondents imposing a penalty of “*reprimand*” on the petitioner for delaying the matter in respect of recovery of TA and SDA of Inspector



(RT) Mahesh Kumar Gaur, is justified.

14. The facts are not in dispute. The petitioner was, at the relevant time, performing the duties of Dealing Assistant of 11th Battalion, ITBP and posted at Central Record Office, ITBP was charged for violating the good order and discipline inasmuch as, while performing the duties of Dealing Assistant he failed to monitor and effect timely recovery of TA and SDA of Inspector Mahesh Kumar Gaur, who was transferred from 24th Battalion to 11th Battalion. Despite receiving the communication dated 07.10.2014 on 15.01.2015, the petitioner had started recovery process only in the month of April, 2015 i.e., after a delay of two months and 13 days.

15. It is the case of the respondents that this delay has violated the good order and discipline of the Force. The explanation given by the petitioner is primarily that though the order in question was dated 07.10.2014, the same was relatable to the period from 2011 till 2013 and was received only in the month of January, 2015, i.e. after four months. Therefore, before effecting recovery, clarification was sought by the petitioner *vide* letter dated 21.02.2015 and also the subsequent letters. In other words, it is the case of the petitioner that as the petitioner sought clarifications *vide* letters dated 21.02.2015, 12.05.2015 and 26.06.2015, the delay, if any, cannot be attributed to the petitioner.

16. Suffice to state that the charge as framed against the petitioner is primarily that he did not affect the recovery between the period 19.01.2015 to 31.03.2015 i.e., for a period of two months and 13 days. Though reliance is placed by the petitioner on the letter written to the 11th Battalion seeking certain clarification, the said letter dated 21.02.2015 itself was after one



month from the date of receipt of letter dated 07.10.2014. In any case, it is noted that the petitioner without awaiting the clarification, if any, to the letter dated 21.02.2015, had issued an inter-office note that too after vigilance section of the ITBP *vide* inter-office note no. 128 dated 16.03.2015 sought information on the recovery of the TA and SDA.

17. In other words, what triggered the recovery was the information sought by the vigilance department of the Directorate of the ITBP through its letter dated 16.03.2015. Hence, the recovery sought to be effected *vide* order dated 09.04.2015 is clearly delayed. The stand of the petitioner that he sought clarification is also unmerited as the letter seeking clarification was issued on 21.02.2015 i.e. after more than one month from the date of receipt of communication dated 07.10.2014.

18. In so far as the reliance placed by Mr. Bhardwaj on the judgment of this Court in the case of *Ajay Kumar Singh v. ITBP, W.P.(C) 9565/2018* is concerned, the same has no applicability in the facts of this case as in the said case, the Court had noted the fact that the petitioner therein had come to know about the recovery to be made while he reported for duty on 17.11.2014 at the end of his leave. Therefore, it was held that there was enough justification provided by the petitioner therein. Similar is the position regarding the judgments relied upon by Mr. Bhardwaj in the cases of *Venkatesh v. Union of India & Ors. 2018:DHC:7838-DB*, *Naveen Kumar Jha v. Union of India & Ors. 2012:DHC:6686-DB* and *Anjan Kumar Mandal v. Union of India & Ors. 2017:DHC:7298-DB* on the issue of seniority. Given our findings above the said judgments have no applicability to the case at hand. Additionally, the said judgments diverge



significantly on facts and are not analogous to the present case.

19. As we have not accepted the plea of the petitioner that he sought clarification *vide* letter dated 21.02.2015, and he without receiving any clarification, on receipt of inter-office note from the vigilance department of the Directorate, passed the order of recovery only in the month of April, 2015, the charge framed and the penalty imposed on the petitioner cannot be faulted.

20. In view of our discussion above, we are of the view that the impugned order does not require any interference. The petition is liable to be dismissed. We order accordingly.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JUNE 19, 2026/rt