



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CWP-21140-2015

RESERVED ON: 05.09.2025

PRONOUNCED ON: 16.10.2025

GURNAM SINGH CONSTABLE NO.913441547

.....PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Surinder Sharma, Advocate
for the petitioner

Mr. Arun Gosain, Sr. Govt. counsel
for respondents

SANDEEP MOUDGIL, J

1. **Prayer**

The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India seeking quashing of Memorandum/charge sheet dated 29.09.2009 (Annexure P-2) issued by respondent No 5, order dated 16.06.2010 (Annexure P-5) passed by respondent No 5 imposing penalty reduction of pay one stage, show cause notice dated 08.10.2010 (Annexure P-6) issued by respondent no. 4 for enhancement of punishment, order dated 31.01.2011 (Annexure P-8) passed by respondent No 4 whereby the punishment was enhanced, order dated 11.10.2011 (Annexure P-10) passed by respondent No 3 rejecting petitioner's appeal and order dated 07.01.2014 (Annexure P-11) passed by respondent No 2 rejecting petitioner's revision petition.

2. **Brief Facts**

The petitioner was serving as a Constable in the Central Industrial Security Force (CISF). He was transferred from CISF Unit Punjab and Haryana, Chandigarh to CISF Unit NTPC Dadri vide movement order dated 30.06.2009, with permission to avail 10 days earned leave. He was required to report for duty on 21.07.2009. During the said leave period, the petitioner stayed at his native village, Rani Bhatti, and occasionally visited nearby villages to meet relatives. A false complaint was made by one Shri Mukesh Kumar, Lambardar of the village and a litigant in a civil dispute with the petitioner's family, alleging that on 12.07.2009, the petitioner delivered a provocative speech at a religious gathering at Sri Guru Ravi Dass Dharamshala, Rani Bhatti. Based on this complaint, the Additional Director General of Police (Intelligence), Punjab, forwarded a letter dated 23.07.2009 to the petitioner's department (Annexure P-1).

Subsequently, the petitioner was served with a charge sheet dated 29.09.2009 alleging misconduct (Annexure P-2). Departmental enquiry was conducted wherein several witnesses, except Mukesh Kumar, confirmed that the petitioner was neither present at the function nor delivered any such speech. The Enquiry Officer found the petitioner innocent (Annexures P-3 & P-4). Despite the findings of innocence, disciplinary authority imposed a minor penalty by order dated 16.06.2010, reducing the petitioner's pay by one stage for one year (Annexure P-5).

Thereafter, a show cause notice dated 08.10.2010 was issued for enhancement of punishment. Despite petitioner's reply, the punishment was enhanced on 31.01.2011 by Respondent No. 4 to reduction by two stages for three years, with adverse effect on future increments (Annexures P-6 to P-8). The petitioner's appeal and revision petition were subsequently rejected by Respondent

Nos. 3 and 2 respectively (Annexures P-9 to P-11). However, the petitioner claims that no FIR was registered by local police, and a secret enquiry conducted by police on directions of SSP Jalandhar concluded that the petitioner was falsely implicated (Annexure P-12).

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has submitted that the entire disciplinary proceedings initiated against the petitioner were based on a false and malicious complaint made by one Shri Mukesh Kumar, who is a Lambardar of the village and a person with whom the petitioner's family is involved in an ongoing civil litigation while arguing that the complaint was clearly motivated by personal vendetta and, therefore, the foundation of the charge was tainted with *malafide*.

It is further contended that a departmental enquiry was duly conducted in accordance with the applicable rules, and during the enquiry, none of the independent witnesses supported the charges. Apart from the complainant Mukesh Kumar, all other witnesses denied the allegations, stating that the petitioner was neither present at the religious function in question nor delivered any provocative speech as alleged. Relying on this evidence, the Enquiry Officer gave a categorical finding that the petitioner was innocent, and that the charges against him could not be substantiated.

Learned counsel further submitted that despite the favorable enquiry report, the Disciplinary Authority (Respondent No. 5) arbitrarily disagreed with the findings and imposed a penalty of reduction of pay by one stage. Subsequently, a show cause notice for enhancement of punishment was issued, and even though the petitioner submitted a detailed reply denying the allegations and reiterating his innocence, the punishment was enhanced to reduction of two stages for a period of

three years, with the further adverse effect of postponing future increments. It is argued that such enhancement was made without fresh evidence or justifiable reason, and was grossly disproportionate to the alleged misconduct, especially in view of the clear exoneration in the departmental enquiry.

It was also pointed out that no First Information Report (FIR) or criminal proceedings were ever initiated against the petitioner by the local police, which further reinforces the claim that the alleged incident did not take place. Additionally, on the directions of the Senior Superintendent of Police, Jalandhar, a secret police inquiry was conducted, and the report dated 28.09.2012 categorically concluded that the petitioner had been falsely implicated and that the complaint was not genuine.

Lastly, the learned counsel contended that the entire action of the respondents is arbitrary, malafide, and violative of the principles of natural justice, as the disciplinary authority and appellate authorities failed to give due weight to the findings of the enquiry officer.

On behalf of the respondents

Learned counsel for the respondents submits that the petitioner was rightly subjected to departmental disciplinary proceedings pursuant to a credible report received from the Additional Director General of Police (Intelligence), Punjab, Chandigarh, dated 23.07.2009. This report alleged that on 12.07.2009, during a Sharadhanjali Samagam held at Sri Guru Ravidas Dharamsala, Village Rani Bhatti, the petitioner delivered an inflammatory speech which incited tension and unrest, despite efforts by village elders to pacify him. The report, annexed as part of the record, constituted sufficient grounds for initiating a departmental enquiry under Section 15(A) of the CISF Act, 1968, which prohibits members of

the Force from participating in meetings or demonstrations likely to cause public disorder.

It is also submitted that following receipt of this report, the Commandant of the CISF Unit at NTPC Dadri promptly deputed Inspector Sukhbir Singh Sahi to conduct a preliminary enquiry. The Inspector visited the relevant police stations and villages, recorded statements of the villagers, including those related to the incident, and compiled documentary evidence. It was established that the situation had indeed become volatile, necessitating police intervention to restore peace, as recorded in the case file. The involvement of the petitioner in causing disturbance was corroborated by this investigation, warranting formal charges.

Moreover, even though the departmental enquiry officer submitted a report concluding that the charges against the petitioner were not proved. The disciplinary authority, upon a careful review of the entire evidentiary material on record, found that the enquiry officer did not adequately consider certain critical evidence and testimonies that substantiated the allegations. Consequently, the disciplinary authority exercised its statutory power to disagree with the enquiry findings, recording detailed reasons for its dissent, thus lawfully diverging from the enquiry officer's conclusion.

Furthermore, the subsequent imposition of penalty by the disciplinary authority was in accordance with the established rules and was proportionate to the serious nature of the misconduct. The petitioner's punishment was enhanced after a show cause notice and in consideration of the petitioner's representation. The reviewing authority, recognizing the gravity of the proven misconduct, legitimately enhanced the punishment to a reduction of pay by two stages for three years, with corresponding effects on future increments. Also, the petitioner's

appeals and revision petitions were duly considered and rejected by the competent authorities on merit, further affirming the validity of the disciplinary proceedings and the sanctions imposed.

It is asserted that the disciplinary action taken against the petitioner is justified, lawful, and supported by sufficient material. The impugned orders, including the charge sheet, penalties, and subsequent appellate orders, are neither arbitrary nor *malafide* but were passed in accordance with the applicable rules and principles of natural justice.

4. Analysis

Having heard learned counsel for the parties and perused the records, this Court is of the view that there is no ground to interfere in the alleged impugned orders passed by the respondents after proper application of mind.

At the outset it is pertinent to bear in mind the settled position of law that the scope of judicial review in disciplinary matters is limited as held by the Supreme Court in “*Union of India v. P. Gunasekaran, (2015) 2 SCC 610*”. The High Court does not sit as an appellate authority over the decision of the Disciplinary Authority. Judicial review is confined to examining whether the enquiry was conducted in accordance with the principles of natural justice, whether findings are based on some evidence, whether the process was vitiated by *malafide* or arbitrariness, or whether the punishment imposed is so disproportionate as to shock the conscience of the Court.

In the present case, the disciplinary proceedings were initiated following a communication from the Additional Director General of Police (Intelligence), Punjab, alleging that the petitioner had delivered an inflammatory speech at a public gathering. The CISF, being a disciplined armed force, is

governed by strict codes of conduct, and as per Section 15(A) of the CISF Act, 1968, members of the force are prohibited from participating in any demonstration or meeting likely to cause public disorder. The same has been reproduced as below:

Section-15(A) of CISF Act, 1968 is reproduced below :-

"No member of the Force shall participate in, or address, any meeting, or take part in any demonstration organized by anybody of persons for any political purposes or for such other purposes as may be prescribed."

The seriousness of the allegations against the petitioner thus warranted departmental scrutiny. A preliminary enquiry was conducted, and formal charges were framed. During the departmental enquiry, the Enquiry Officer concluded that the charges were not proved. However, the Disciplinary Authority, after carefully analyzing the record, disagreed with the findings, citing specific reasons and relying on certain material that was allegedly overlooked by the Enquiry Officer. This disagreement was recorded in a reasoned order, as is permitted under law laid in the Apex Court decision in ***Punjab National Bank v. Kunj Behari Misra, (1998) 7 SCC 84***, wherein it was held as follows:

"16. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer."

As held above, it is trite law that the Disciplinary Authority is not bound by the findings of the Enquiry Officer and can independently evaluate the evidence, provided that the principles of natural justice are adhered to. In the present case, the Disciplinary Authority gave the petitioner an opportunity to respond, and thereafter imposed a penalty of reduction in pay by one stage for one year.¹⁰⁴sequently, the punishment was enhanced by the Reviewing Authority after issuance of a show cause notice and consideration of the petitioner's reply. The enhanced punishment, reduction by two stages for three years with adverse impact on future increments was passed through a speaking order. This clarifies that proper procedure and principles of natural justice were duly followed by the competent authorities.

Furthermore, the petitioner's contention that no FIR was registered, or that the police concluded in a secret enquiry that he was falsely implicated, does not automatically vitiate the departmental action. The standards of proof in criminal proceedings and departmental enquiries are different. While criminal proceedings require proof beyond reasonable doubt, departmental proceedings are governed by the standard of preponderance of probability. It is well-established principle of law that the degree of proof in criminal case and departmental proceedings are different. The Supreme Court in the case of "**BHEL v. M. Mani, reported in (2018) 1 SCC 285**" has held as under:-

"22. This Court has consistently held that in a case where the enquiry has been held independently of the criminal proceedings, acquittal in criminal Court is of no avail. It is held that even if a person stood acquitted by the criminal Court, domestic enquiry can still be held - the reason being that the standard of proof required in a domestic enquiry and that in criminal case are altogether different. In a criminal case, standard of proof required is beyond reasonable doubt while in a domestic enquiry, it is the preponderance of probabilities."

Moreover, the fact that the initial complaint emanated from a police intelligence report lends it a certain degree of credibility and cannot be dismissed merely on the ground that the complainant had prior enmity with the petitioner.

As regards the proportionality of punishment, it is well established that unless the punishment is so excessive as to shock the conscience of the Court, no interference is warranted. In the instant case, the penalty imposed cannot be said to be disproportionate to the gravity of the alleged misconduct, particularly when the same involved allegations of indiscipline by a member of an armed force.

Adverting to the petitioner's claim that the complaint was motivated and filed due to ongoing civil litigation does not stand legal scrutiny as no conclusive evidence has been placed before this Court to establish *malafide* on the part of the disciplinary or reviewing authorities. Mere allegations without substantiation cannot be the basis for quashing an otherwise legally conducted enquiry and punishment order.

This Court is also constrained to observe that members of a disciplined armed force are not ordinary citizens in the context of public conduct and responsibility. Their role in upholding the integrity, security, and unity of the nation is not only physical but also moral. With the authority and respect that the uniform commands, comes a heightened obligation to conduct oneself with utmost restraint, impartiality, and dignity, both in and out of uniform.

One who has sworn allegiance to the Constitution, chooses the pulpit of a public gathering to scatter seeds of religious animus, he tears the fabric he is duty-bound to protect and the conduct cannot be treated lightly. It must be remembered that freedom of speech, though a fundamental right, is not absolute

and carries with it reasonable restrictions, particularly when it borders on hate speech or threatens public peace. An officer addressing a gathering in a manner that could be interpreted as religiously provocative betrays not only professional discipline but also constitutional values.

This Court, therefore, reiterates that the higher the position and responsibility, the greater the standard of conduct expected. Words have power and when they are used to divide, rather than unite, especially by those in positions of authority, they become tools of discord rather than instruments of leadership.

5. Conclusion

Considering the totality of circumstances, including the opportunity afforded to the petitioner during enquiry, the reasoned disagreement by the Disciplinary Authority, the procedural compliance during enhancement of punishment, and the absence of any material irregularity or perversity, this Court finds no justification to interfere with the impugned orders. The petition, being devoid of merit, is accordingly dismissed.

16.10.2025
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No