



2025:DHC:10538-DB



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

+ **W.P.(C) 16830/2022**

ROBIN GAUTAM

.....Petitioner

Through: Ms. Saahila Lamba and Ms.
Nidhi Sharma, Advs.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Krishna Kumar Sharma,
SPC with Mr. Anil Devlal, GP for UOI

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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26.11.2025

This case is being taken up today as 25 November 2025 was declared as holiday on the occasion of 350th anniversary of ‘Guru Teg Bahadur’s Martyrdom Day’.

C.HARI SHANKAR, J.

1. This writ petition is the outcome of proceedings which emanated from a memorandum dated 26 April 2018, issued to the petitioner under Rule 153 of the Railway Protection Force Rules, 1987¹, proposing to hold an inquiry against him.

2. The allegation against the petitioner pertained to a post which had been posted on the social media platform Facebook, referring to the killing of one RPF officer by another. The only allegation against

¹ “RPF Rules” hereinafter



the petitioner, as contained in the charge-sheet, was that he had, in response, posted a comment “*Badhiya Kiya Bhai*”².

3. Noting the fact that the petitioner’s photograph was also reflected in the post, the charge-sheet alleged that the posting of the comment “*Badhiya Kiya Bhai*” by the petitioner, in response to the post showing the assassination of one RPF officer by another, amounted to “discreditable conduct affecting the image and reputation of the force” and indicated that the petitioner had “sympathised with a fellow constable ... who has committed cold blooded murder of his superior officer.”

4. An inquiry was held, culminating in an inquiry report dated 29 December 2018. Despite having been found that there was no clear proof that the Facebook account from which the aforementioned “*Badhiya Kiya Bhai*” post had been posted belonged to the petitioner, the Inquiry Officer³ concluded that the petitioner “appeared to be guilty”.

5. The Commanding Officer of the petitioner, as his Disciplinary Authority⁴, issued final order dated 19 February 2019. In the said order, the DA noted the petitioner’s defence that he did not have any Facebook account. The petitioner, however, acknowledged the fact that his photograph was available and could have been misused by anyone else.

6. In view of this, the DA observed that only one of three

² “Well done, brother”

³ “IO” hereinafter

⁴ “DA” hereinafter



possibilities could exist; either that the objectionable comment had been posted by the petitioner or that his photograph and other details had been misused to create a fake account, or that his account had been hacked, the information regarding which he had not provided to the department or lodged an FIR.

7. Following this, the DA observed as under:

“In both the above possibilities, the party charged is guilty of misleading/misinforming/non-informing the department or suppressing facts/information. The objectionable comments had been passed in support of heinous killing of A.C. M.C. Tyagi and even if his plea is accepted that he had not made such a comment and that such comment was made through a fake Id, it cannot be denied that there was good merit in informing such case to the department and lodge FIR with the local police. Such course of events shows casual attitude of the party charged in such a serious matter.

Also, his representation that he was not aware of the rules of lodging FIR with the local police is not acceptable and is a lame excuse to evade any punishment.

Hence, I agree with the findings of enquiry report and *though the exact charges levelled on the party charged could not be conclusively established through the prosecution exhibits*, what cannot be denied is the fact that an objectionable comment on a heinous incident had been passed through a face book account whose name, photos, address etc closely resembled with that of the party charged and the information of which ought to have been provided to the department or local police through FIR. But the party charged did not do so.

So I hold him guilty of suppressing facts/information, the implications of which could have been serious as RPSF is a law enforcing agency. Hence, I impose punishment of "Stoppage of Next Annual Increment for a period of 05 years with cumulative effect".”

(Emphasis supplied)

8. The DIG, as the authority superior to the Disciplinary



Authority, was of the view that the petitioner had been let off lightly and therefore, issued a show cause notice dated 13 June 2019, calling upon the petitioner to show cause as to why the penalty imposed upon him by the DA be not enhanced. It is worthwhile to reproduce the show cause notice, in extenso, thus:

“No.2019/ Sec.(ABE)/DAR/5/3 New Delhi, Dated 13 June 2019

Shri Robin Gautam,
Constable/04SF1522278
4BN/RPSF/NJP.

Sub: Show Cause Notice.

Shri Robin Gautam, Constable/04SF1522278 of 'C' Coy, 4BN/RPSF/NJP was issued with a major penalty charge sheet UR-153 of RPF Rules 1987 vide No.4BN/C/DAR/153-04/2018-21 dated 26.04.2018 for serious breach of discipline, violation of lawful orders and discreditable conduct in that you had passed the illegal and undesirable comments on social Media in connection with brutal murder of Shri M.C.Tyagi, AC/6BN/RPSF/DBSI by CT/Arjun Deshwal of 6BN/DBSI during election duty in the state of Meghalaya. Hence, charged under rule-146.4 & 146.6 (1) and rule-147(ii) of RPF Rules-1987.

During the departmental inquiry, the aforesaid charges were proved against you. The Disciplinary Authority, having gone through the inquiry report, the defence representation submitted by you and the documents placed on record, held you guilty of the charges leveled against you and imposed the punishment of withholding of next Increment for a period of 05 (five) years with cumulative effect vide order dated 19.02.2019 which was acknowledged by you on 19.02.2019.

I, the undersigned being the Authority superior to the authority making the original order i.e. Disciplinary Authority (CO/4BN) called for the records of your case file in terms of Rule 219.4 of RPF Rules 1987. I have carefully gone through the entire proceedings on record and observed that the charges leveled against you are very serious and grave in nature and found that the punishment imposed by the Disciplinary Authority is not commensurate with the gravity of charges proved against you.



Therefore, the undersigned in exercise of power conferred under Rule-219.4 of RPF Rules'1987 r/w scheduled -III, is of the opinion that the punishment imposed by the DA in this case is not enough and needs to be modified to commensurate with the gravity of charges.

As such, this show cause notice is being issued to you so as to give you an opportunity to explain as to why higher punishment should not be imposed on you *for passing such a comment on social media platform* which ratifies and praises the act of murder of a superior officer on duty by his subordinate.

You are advised to submit your representation against this show cause notice, within 30 days of receipt of this notice for further action in this regard otherwise, it shall be presumed that you have nothing to represent against this show cause and further necessary action will be taken accordingly.

Please acknowledge the receipt.

(Aroma Singh Thakur)
DIG-cum-CSC/RPSF
Railway Board.”

(Emphasis supplied)

9. A bare reading of the show cause notice reveals that the DIG had not perused the record before issuing the show cause notice, though he claims to have done so. It is stated in the show cause notice that the charges against the petitioner *stood proved in the inquiry*. The DA himself had noted in his order dated 19 February 2019, that the exact charges against the petitioner *could not be conclusively established as there was no clear proof that the Facebook account from which the comment “Badhiya Kiya Bhai” that had been posted belonged to the petitioner*.

10. The show cause notice dated 13 June 2019 further notes that the DA had held the petitioner guilty of the charge levelled against him.



This, too, is an incorrect observation as the DA had observed that, *even if there was no conclusive evidence to show that the petitioner had posted the objectionable post, he was guilty of having suppressed the information that his account had been hacked or that someone else had misused his photograph.*

11. There was, in fact, no such allegation, of suppression of information, levelled against the petitioner in the charge-sheet in the first place.

12. Be that as it may, the petitioner responded to the aforesaid show cause notice following which, by order dated 23 June 2021, the Chief Security Commissioner⁵ enhanced the penalty awarded to the petitioner to removal from service with immediate effect.

13. We deem it appropriate to reproduce the following paragraphs from the order dated 23 June 2021, read thus:

“I have carefully going through the DAR case file and record available on the file. *It is evident from the record that the Party Charged posted a provocative message on social media i.e. "BADHIYA KIYA BHAI" in support of brutal act of murder accused CT/Arjun Deshwal. Justifying such an act and instigating other members through facebook can never be accepted. Even an ordinary citizen would also condemn such a heinous crime where as the Party Charged being a member of the Armed Force of the Union supported a brutal act of murder of his superior officer on social media.*

Furthermore, it is also established that the enquiry was conducted as per procedure laid down in rule-153 of RPF Rules, 1987 and during the course of enquiry all the charges had been proved against him. Moreover, a sufficient time was provided to him to

⁵ “CSC” hereinafter



submit his reply on show cause but even after receipt of show cause notice as well as reminder thereof, he never submitted any reply to show cause notice which means he has nothing to utter in this regard.

In view of the above discussion, I the undersigned is not agreed with the observation of Disciplinary Authority and hence, opined that the punishment imposed by the DA in the instant case is not appropriate and needs to be modified to commensurate with the gravity of charges to meet the end of justice.

Therefore, the undersigned being reviewing authority in exercise of power conferred under Rule-25 of RPF Rules'1987 r/w scheduled - III, do hereby modify the punishment of Stoppage of next annual Increment for a period of 05 (five) years with cumulative effect to that of 'Removal from service with immediate effect'.

He is at liberty to prefer an appeal against the order of punishment to Appellate Authority (PCSC/RPSF, Force Headquarter, Dayabasti, Delhi) within 30 days of receipt of this order under the provisions of Rule-212 of RPF Rules'1987, r/w sub-section 2 of Section- 9 of RPF Act'1957.”

14. The petitioner appealed against the said order. The appellate order dated 9 May 2022, is as eloquent as the order of the DA and the order of the CSC. We may reproduce the following paragraphs from the said order:

“I have carefully gone through the contents of the appeal and records available on file. In the appeal, appellant has merely put his arguments regarding the legality of charge sheet and speaking order so issued against him by the Disciplinary Authority and action of Appellate Authority, just trying to prove his innocence but he utterly failed to produce any substantial material or reasonable ground in this regard.

It is evident from the records on file that the appellant posted provocative messages on social media in support of brutal act of murder accused. Even an ordinary citizen would also condemn such a crime whereas the appellant being a member of the Armed Force of the Union supported brutal act of murder of his superior officer on social media. The charges mentioned in the charge sheet are of very serious nature which have been proved during the course of departmental enquiry.



Further, it is observed that the enquiry was conducted as per procedure laid down in Rule 153 of RPF Rules-1987, affording all the reasonable opportunities to the appellant to defend his case and there is no miscarriage of natural justice. Removal order issued by the appellate authority while reviewing the case is legal according to the powers attributed to him under RPF Rules, 1987.

In view of the above discussion, I do not find any reason to interfere in the punishment enhanced by the appellate authority while reviewing the case. Hence, his appeal is hereby rejected being devoid of merits.”

15. Aggrieved thereby, the petitioner has approached this Court by means of the present writ petition.

16. We have heard Ms. Saahila Lamba, learned Counsel for the petitioner and Mr. Krishna Kumar Sharma, learned SPC for the respondents, at length.

17. This is a clear case where there is a complete non-application of mind at every stage, from the stage of the Disciplinary Authority onwards. We are constrained to observe that when officers are dealing with the careers of other officers, they are expected to display some modicum of application of mind.

18. The orders of the CSC and of the Appellate Authority in particular, merely reproduce, verbatim, the allegations in the show cause notice and it is apparent from a bare reading of the orders that neither of the officers has taken the trouble of going through the records or appraising himself of the actual position which emerged therefrom.



19. There was only one allegation against the petitioner, which was of posting an objectionable response to the post relating to the killing of one RPF officer by another. The petitioner, had in response, clearly stated that he did not have any Facebook account. There is concurrence of opinion by the IO as well as by the DA that there was, in fact, no conclusive proof that the Facebook account from which the post was posted belonged to the petitioner.

20. That matter ought to have ended there, as there was no other allegation against the petitioner in the charge-sheet.

21. Be that as it may, the DA proceeded on an entire new ground of the petitioner of having suppressed facts. It is not even clear from the order of the DA as to the facts which the petitioner is alleged to have suppressed.

22. At one point, the DA states that the petitioner's account might have been hacked and that he had not lodged an FIR and at another point, that he had suppressed facts, without stating what fact was suppressed. The order of the DA dated 19 February 2019, was, itself, completely unsustainable in law.

23. Matters become worse when we proceed to the orders of the CSC and the Appellate Authority. Neither authority has applied its mind to the existing records. Both authorities have proceeded on the ground that the IO had found the charge against the petitioner to be proved whereas the IO's ultimate conclusion is that the petitioner *may* be guilty. Neither authority has noted the fact that the DA, *in fact*, had



given a positive finding that there was no conclusive proof of the allegations against the petitioner in the charge-sheet. Without noticing any of these facts, the Appellate Authority and the CSC have mechanically reproduced the words of the show cause notice and proceeded to remove the petitioner from service.

24. This is a case where there has been complete miscarriage of justice. Following the finding of the DA that there was no conclusive proof that the petitioner had posted the objectionable post, the only sequitur can be that the petitioner was entitled to be exonerated of the charges against him in the charge-sheet.

25. We have no doubt in our mind that, were it to have been established that the Facebook account from which the objectionable post had been posted belonged to the petitioner, he would have exposed himself to severe punishment. Commending the killing of one officer of the Force by another, even by way of a response on a social media platform, is inexcusable.

26. For this, however, there has to be a bare finding that the objectionable Facebook post originated from the petitioner.

27. The DA, in fact, holds that this could not be conclusively established.

28. We, therefore, quash and set aside the entire proceedings against the petitioner *ab initio* starting from the charge-sheet.

29. The petitioner shall be entitled to be reinstated in service from



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the date on which he was removed from service.

30. He shall also be entitled to continuity in service as well as to pay fixation as though he had never been removed from service in the first place.

31. The writ petition stands allowed in the aforesaid terms.

C.HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

NOVEMBER 26, 2025/rjd