

GAHC010101672024



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2709/2024

ARUN SHARMA
FORMER CONSTABLE, RAILWAY PROTECTION FORCE, N.F. RAILWAY,
DIBRUGARH, S/O- SRI JAI PRAKESH SHARMA, AGED ABOUT- 58 YEARS,
R/O- VILLAGE- KUMEHERA MURADNAGAR, P.O. KUMEHERA, P.S. NIWARI,
PIN- 201206, GHAZIABAD, UTTAR PRADESH

VERSUS

THE UNION OF INDIA AND 8 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
INDIA, MINISTRY OF RAILWAYS, RAIL BHAVAN, RAISINA ROAD, NEW
DELHI, PIN- 110001

2:THE RAILWAY BOARD
TO BE REPRESENTED BY ITS CHAIRMAN CUM CEO MINISTRY OF
RAILWAYS
UNION OF INDIA
RAIL BHAVAN
RAISINA ROAD
NEW DELHI
PIN- 110001

3:THE DIRECTOR RAILWAY BOARD
RAIL BHAVAN
RAISINA ROAD
NEW DELHI
PIN- 110001

4:THE DEPUTY DIRECTOR
ESTABLISHMENT
RAILWAY BOARD
RAIL BHAVAN

RAISINA ROAD
NEW DELHI
PIN- 110001

5:THE DIRECTOR GENERAL
RAILWAY PROTECTION FORCE
RAIL BHAVAN
RAISINA ROAD
NEW DELHI
PIN- 110001

6:THE INSPECTOR GENERAL CUM PRINCIPAL CHIEF SECURITY
COMMISSIONER
NORTHEAST FRONTIER RAILWAY
MALIGAON
GUWAHATI- 781011
ASSAM

7:THE DISCIPLINARY AUTHORITY CUM DIVISIONAL SECURITY
COMMISSIONER
RPF
NORTHEAST FRONTIER RAILWAY
TINSUKIA
ASSAM

8:THE ENQUIRY OFFICER CUM IPF
NORTHEAST FRONTIER RAILWAY
TINSUKIA
ASSAM
PIN-

9:THE ASSISTANT SECURITY COMMISSIONER
RPF
NORTHEAST FRONTIER RAILWAY
TINSUKIA
ASSAM
PIN

Advocate for the Petitioner : MR I RAFIQUE, SWATI B BARUAH (TG),MS A AFREEN,MRS S A CHOUDHURY,MS. R. R. SAIKIA,B DAS

Advocate for the Respondent : DY.S.G.I., MS. B SARMA

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

24.02.2026

Heard Swati B. Baruah, learned counsel for the petitioner. Also heard Ms. B. Sarma, learned CGC for the respondents.

2. This writ petition was filed by petitioner against the speaking order dated 02.03.2024 whereby the petitioner, who was employed in the Railway Protection Force was inflicted with the punishment of "removal from the active service". In terms of the order, the petitioner was discharged and removed from service. It is the claim of the petitioner that after commencement of the disciplinary proceeding he was granted leave. While he was on leave, he met with an accident and therefore, he could not proceed to appear before the enquiry officer. Although he had communicated the reasons, the same were not considered by the enquiry officer and the enquiry proceeded ex-parte against the petitioner and ultimately the impugned order came to be issued against the petitioner.

3. Pleadings in the matter have been completed and the relevant records are placed before the Court.

4. During the course of the hearing, it is seen that a statutory provision for appeal against an order of removal exists. This is, in fact, reflected in the impugned order itself. The impugned order is appealable under sub-section (2) of Section 9 of the Railway Protection Force Act, 1957. Under Section 9(2), an appeal against an order of dismissal or removal from service lies before the prescribed appellate authority and is required to be filed within 30 days from the

date of the order.

5. During the course of the pendency of the writ petition, the appeal came to be dismissed by the appellate authority.

6. The learned CGC submits that the dismissal was on the ground that the appeal is not as per in the prescribed format.

7. The further ground for dismissal of the appeal is that it is barred by limitation as it was filed well after the period prescribed for limitation.

8. Upon consideration of the matter in its entirety and also taking into consideration the pleadings available as well as the submissions and upon due perusal of the provisions of the Railway Protection Force Act, 1957 and the Rules of 1987, it is seen that the appeal prescribed under Section 9.2 is to be considered in terms of Rule 212 of the Rules of 1987. The format in which the appeal is to be preferred is prescribed under Rule 213. Under Rule 214 every appeal filed by a member who is or is not in the force shall be submitted to the authority who made the order appealed against and thereafter, under Rule 216, such an appeal is made before the authority who passed the impugned order appealed against shall without any avoidable delay, transmit the appeal(s) before the Appellate Authority along with records and the particulars prescribed under Rule 216.1. The manner and the procedure as to how the appeals are to be considered is detailed under Rule 217. That apart, in the event the appeal is decided against the delinquent personnel, there is a further provision for revision under Rule 219.

9. It must not be lost sight of that the petitioner was employed as a Constable in the RPF. He was educated up to 10+2 level. There is no dispute that the

enquiry proceeded ex-parte. It is quite possible that the petitioner was not aware of the procedure prescribed under the Rules and the procedure and the format prescribed. Under such circumstances, this Court considers it appropriate to remand the matter back to the Appellate Authority for reconsideration of his representation which is to be treated as an appeal filed under Section 9.2.

10. The petitioner shall be permitted to file necessary documents in the prescribed format if deemed necessary by the Appellate Authority.

11. Section 9.2 clearly provides that notwithstanding the limitation prescribed, the Appellate Authority can proceed to hear the appeal subject to the sufficient cause being shown as to why the appeal could not be filed within the prescribed limitation period.

12. The Appellate Authority will reconsider this matter and take into consideration all the cause(s) shown by the petitioner as to why the appeal could not be filed within the prescribed time or the prescribed period of limitation and thereafter pass appropriate orders. It is made clear that if the Appellate Authority considers it appropriate to dismiss the appeal on the ground of limitation, then a speaking order to that effect must be issued by the Appellate Authority mentioning the grounds and reasons as to why the appeal could not be entertained on the grounds and causes as may be shown by the petitioner.

13. Needless to say that an Appellate Authority will have all the powers of the Disciplinary Authority and may pass any such order as deemed fit and proper. If the authority is of the view that the matter requires reconsideration by the Disciplinary Authority, appropriate orders to that effect can also be passed.

14. The petitioner will appear before the respondent No.7 namely the Divisional Security Commissioner, RPF, NF Railway, Tinsukia, Assam along with a certified copy of this order and an application, if so advised, explaining the reasons as to why the appeal could not be filed within the prescribed period of limitation.

15. The respondent No.7 will thereafter transmit the records of the appeal in terms of the procedure prescribed under Rule 216, whereupon the Appellate Authority will consider the appeals as prescribed under Rule 217.

16. In terms of the above the writ petition stands disposed of.

JUDGE

Comparing Assistant