



IN THE HIGH COURT OF JHARKHAND AT RANCHI

WP(S) No.2690 of 2019

Seraj Ansari, aged about 37 years, son of Ali Hasan Ansari, Ex-constable, having Force No. 150802011, CISF, Unit, PUVNL, Patratu, R/o-village Watizore, PO Watizore, PS Kheroni, District Karbianglong, Assam
... Petitioner(s).

Versus

1.The Union of India through the Secretary, Department of Home Affairs, New Delhi, PO, PS and District New Delhi
2.The I.G., CISF, East Zone, head office at Ranchi, PO and PS Dhurwa, Ranchi
3.The DIG, CISF, Eastern Regional Head Office, Boring Road, Patliputra, Patna, Bihar
4.The Senior Commandant CISF Unit, PUVNL, Patratu, PO and PS Patratu, District Ramgarh, Jharkhand
5.The Commandant, CISF Unit, PUVNL, Patratu, Ramgarh, Jharkhand
... Respondents.

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Shadab Eqbal, Advocate
Md. Farhan Kibriya and Atefa Parvez, Adv.
For the Respondent(s): Ms. Leena Mukherjee, CGC

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06 /18.03.2025: Heard learned counsel for the petitioner and learned counsel appearing for the respondents.

2. The petitioner in this writ petition has challenged the orders dated 24.06.2017, 04.10.2017 and 05.06.2018 i.e. the removal order, appellate order and the revisional order respectively, passed in a disciplinary proceeding.

3. The learned counsel for the petitioner argues that the petitioner was proceeded against in terms of Rule 36 of the Central Industrial Security Force Rules but Rule 36(3) has not been followed in this case thus the entire departmental proceeding is vitiated. He further submits that the respondents have wrongly arrived at a conclusion that the documents which have been presented by the petitioner at the time of entry in service is fake. There is no conclusive proof to arrive at the conclusion that the documents are fake. He relies upon Annexure-7 of the writ petition which according to the petitioner is a report of the Superintendent of Police, District Special Branch, West K/A, Hamren, Assam which suggests that the allegation of forged document is a mistake of fact. It is his contention that since the



documents are not conclusively proved to be forged, he could not have been removed from service.

4. The learned counsel appearing on behalf of the respondent-Union of India submits that in the inquiry proceeding it was found that the documents filed by the petitioner was fake and on the basis of the fake document the petitioner has entered in CISF. After proper departmental inquiry he has been removed. She submits that when the Inquiry Officer has arrived at a finding of the fact that the documents were fake, this Court exercising jurisdiction under Article 226 of the Constitution cannot interfere with the said finding of facts as an Appellate Court.

5. Petitioner was the Constable in CISF. He was proceeded against in a departmental proceeding. Chargesheet was issued to him alleging therein that all the other certificates except educational certificates, seems to be fake. It is the allegation that his caste certificate and domicile certificate are fake. The charge memo was communicated to the petitioner vide letter no. 3832 dated 25.11.2016. From the aforesaid charge memo, I find that the imputations are specific and are not vague. Along with the charge memo the copy of the documents which were relied upon by the department was also handed over to the petitioner. The details of witnesses through whom the department wanted to prove the charge was also mentioned.

6. Rule 36 of the Central Industrial Security Force Rules of 2021 provides for procedure for imposing major penalties. The petitioner has taken a plea that sub Rule 3 of Rule 36 has not been complied with. Sub Rule 3 provides that when it is proposed to hold an inquiry against the member of the Force, the Authority shall draw up substance of imputation of misconduct, statement of imputation in support of each article of charge, list of documents and the list of witnesses. The petitioner's claim that sub Rule 3 of Rule 36 has not been followed is not correct. The chargesheet and the forwarding letter which is annexed with the counter affidavit clearly suggests that the statement of imputation has been framed and specific charge has also been framed against the petitioner and it has been communicated to the petitioner also. The list of documents and list of witness has also been provided to the petitioner. Thus ground taken



by the petitioner of non-compliance of sub Rule 3 of Rule 36 of CISF Rules 2001 cannot be accepted.

7. In exercise of jurisdiction under Article 226 of the Constitution of India, especially in judicial review, scope of interference by this Court in the departmental proceeding is very limited. The Hon'ble Supreme Court, in the case of **"Director General of Police, Railway Protection Force and Others vs. Rajendra Kumar Dubey"** reported in **2020 SCC OnLine SC 954** at paragraph 37 thereof has held that it is well settled that High Court cannot act as an Appellate Authority and re-appreciate the evidence, which was led before the enquiry officer. By referring to judgment in the case of **"State of Andhra Pradesh vs. S. Sree Rama Rao"** reported in **AIR 1963 SC 1723**, the Hon'ble Supreme Court has held that it is not the function of the High Court to review the findings and arrive at a different finding. In a departmental proceeding, scope is very limited and it is well settled that the High Court can interfere where the departmental authority has acted against the principles of natural justice or where the findings are based on no evidence or in violation of the statutory rules provided. Further, if the punishment imposed is excessive, the Court can also interfere. It has also been held by the Hon'ble Supreme Court that under Article 226 and 227 of the Constitution of India, the High Court shall not:-

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in the case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.

8. Further, in the case of **"Deputy General Manager (Appellate Authority) and Others vs. Ajay Kumar Srivastava"** reported in **(2021) 2 SCC 612**, the Hon'ble Supreme Court at paragraph no. 24 thereof has held as under:-

"24. It is thus settled that the power of judicial review, of the constitutional courts, is an evaluation of the decision making process and not the merits of the decision itself. It is to ensure



fairness in treatment and not to ensure fairness of conclusion. The court/tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.”

In paragraph no. 25 of the aforesaid judgment (**Ajay Kumar Srivastava**) the Hon’ble Supreme Court has narrated the scope, which reads as follows:-

“25. When the disciplinary enquiry is conducted for the alleged misconduct against the public service, the court is to examine and determine:

- (i) whether the enquiry was held by the competent authority;
- (ii) whether rules of natural justice are complied with;
- (iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.”

In paragraph no. 28 of the aforesaid judgment (**Ajay Kumar Srivastava**) the Hon’ble Supreme Court has held that while exercising jurisdiction under Article 226 or 136 of the Constitution, the Court will not interfere with the findings of fact arrived at in the departmental enquiry proceeding except in a case of mala fides or perversity, i.e., where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at those findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.

The Inquiry Officer is the final fact finding Authority and until and unless the fact is clearly perverse, this Court cannot reverse the same by exercising jurisdiction under Article 226 of the Constitution.

9. In this case, I find that a detailed inquiry report was submitted. In the inquiry report after considering the evidence laid by the parties both oral and documentary, the inquiry officer has come to the conclusion that the documents, except the educational certificates,



furnished by the petitioner were seems to be fake. This finding of fact cannot be said to be perverse.

10. The departmental proceeding proceeds on the principle of preponderance of probabilities. When by evidence it has been concluded by the Inquiry Officer that the documents are fake, the charges which has been levelled against the petitioner stands proved. The disciplinary Authority has considered the entire inquiry report which runs in pages and accepted the same and decided to inflict the punishment of removal from service. In the departmental proceeding opportunity was given to the petitioner to defend himself which the petitioner has infact availed. The appellate Authority has also considered the case of the petitioner and dismissed the appeal, so is the Revisional Authority.

11. This Court cannot re-appreciate the evidence and come to a different finding when admittedly there is no perversity and the fact finding Authority has arrived at the finding which is probable and acceptable. So far as Annexure-7 which has been relied upon by the petitioner, I am of the view that the said documents was not placed before the authorities and that has been introduced in this writ application for the first time. The authenticity of the said document has also not been established thus the said document which was not a part of the departmental proceeding cannot be looked into by this Court.

12. Considering what has been held above, I find no illegality in the proceedings or the punishment order. The punishment cannot be said to be excessive to the proved misconduct as the misconduct of entering in service on the basis of forged document is sufficient to remove the delinquent employee.

13. This writ application is thus dismissed.

(ANANDA SEN, J.)

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