

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**W.P.(S) No. 3005 of 2022**

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Tarkeshwar Bharti son of Late Ram Naresh Bharti, resident of Qr. No. S.R. 136, Baridih Tube Colony, PO Baridih, PS Sidgora, Jamshedpur, District East Singhbhum, presently residing at Qr. No.K-2/189, Baridih Tube Colony, P.O. Baridih, P.S. Sidgora, Jamshedpur, District East Singhbhum.

... **Petitioner**

**-versus-**

1. The Union of India
2. The Inspector General of Police, C.R.P.F., Patna, Bihar Sector, Office at Rajivnagar, P.O. Ashiana Nagar, P.S. Rajiv Nagar, District Patna (Bihar) – 800025.
3. The Deputy Inspector General of Police, C.R.P.F., Jamshedpur, Office at Sundernagar, P.O. Sundernagar, P.S. Persudih, Jamshedpur, District East Singhbhum.
4. The Deputy Commandant, 114 Battalion, C.R.P.F., Pani, P.O. and P.S. Pani, District Kamrup (Assam).
5. The Commandant, 114 Battalion, C.R.P.F., Pani, P.O. & P.S. Pani, District Kamrup (Assam).

... **Respondents**

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**CORAM : SRI ANANDA SEN, J.**

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**For the Petitioner:** Mr. Manish Kumar, Advocate  
**For the Respondents:** Mr. Prashant Pallav, A.S.G.I.  
 Ms. Shivani Jaluka, AC to ASGI  
 Mr. Shiv Kumar Sharma, SCGC

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**ORDER**

**16/ 21.01.2026** Heard learned counsel for the petitioner and learned counsel for the respondents.

**2.** Petitioner, in this writ petition, has prayed for the following reliefs:-

- (i) For issuance of a Writ in the nature of Certiorari for quashing the Office order dated 14.09.2021 passed by Inspector General of Police, Bihar Sector, C.R.P.F., Patna (Ann.-6) whereby and whereunder the representation filed by the petitioner pursuant to order dated 18.01.2021 passed in W.P.S. No.210/2007 by Hon'ble Mr. Justice Deepak Rosha this Hon'ble Court has been rejected on the ground that no case of discrimination is made out as petitioner's case is different from that of other personnel except Harbhajan Singh who already stood dismissed; And,
- (ii) For issuance of a Writ in the nature of Certiorari for quashing the order dated 01.10.2001 (Ann.-1) passed by Commandant, 114 Battalion, C.R.P.F., Pani,

-: 1 :-

Kamrup, Assam whereby and whereunder the petitioner was dismissed from service; And,

- (iii) For issuance of a Writ in the nature of Certiorari for quashing the order dated 31.12.2001 (Ann.-2) passed by Deputy Inspector General of Police, C.R.P.F., Jamshedpur whereby and whereunder the petitioner's appeal against the order dated 01.10.2001 passed by Commandant, 114 Battalion, C.R.P.F., Pani, Kamrup, Assam was rejected; And,
- (iv) For issuance of a Writ in the nature of Certiorari for quashing the order dated 14.03.2005 (Ann.-4) passed by Inspector General of Police, Bihar Sector, C.R.P.F., Patna whereby and whereunder the revision filed by petitioner against the appellate order dated 31.12.2001 passed by the Deputy Inspector General of Police, C.R.P.F., Jamshedpur as well as dismissal order dated 01.10.2001 passed by Commandant, 114 Battalion, C.R.P.F., Pani, Kamrup, Assam was rejected; And
- (v) For issuance of writ in the nature of Mandamus commanding upon Respondent No.2 to objectively reconsider the petitioner's case since he has been discriminated by the respondents by treating his case at par with main accused instead of comparing the misconduct with those who were similarly situated and let off with lesser punishment;

2. A chargesheet was issued to the petitioner while he was posted at Kamrup, Assam, on two counts that the petitioner did not attempt to take his weapon or did not prevent constable Harbhajan Singh from going towards room of Assistant Commandant and the secondly that the petitioner failed to alert his guard commander or any other guards knowing fully well that constable, Harbhajan Singh fired on Assistant Commandant. For the self-same occurrence, a criminal case was also instituted against the petitioner and others wherein petitioner was discharged by the Chief Judicial Magistrate, Guwahati. The petitioner was held guilty of the charges and the Disciplinary Authority vide order dated 01.10.2001 dismissed the petitioner from service. Appeal preferred by the petitioner against his order of dismissal was also dismissed by an order dated 31.12.2001. Challenging the said orders, the

petitioner had moved before this Court in W.P.(S) No.6498 of 2004 and the same was dismissed on the ground that the revision filed by the petitioner against the orders passed by the Disciplinary Authority and Appellate Authority was still pending with a direction to the Inspector General of Police, Bihar Sector, C.R.P.F., Patna to dispose of the revision as expeditiously as possible, preferably within a period of three months. Thereafter the revision filed by the petitioner was also dismissed by order dated 14.03.2005. Thereafter, the petitioner had again moved before this Court in W.P.(S) No.210 of 2007, which stood disposed by an order dated 18.01.2021 passed by a Coordinate Bench of this Court, wherein liberty was given to the petitioner to approach respondent No.2 with copy of revision filed earlier within a period of two months from the date of order and he was directed to look in to the matter and if the case of the petitioner was found same and similar and if the charges against the petitioner were same and similar with other co-employees, who have been reinstated in service, then necessary order was to be passed within a period of four months. The petitioner, thereafter, submitted a representation in the Office of respondent No.2 through Speed Post, which was dismissed by the respondent No.2 by order dated 14.09.2021. Challenging the said order, the petitioner has approached before this Court in this writ petition.

**3.** Learned counsel for the petitioner contended that the main culprit, after firing upon the Assistant Commandant proceeded towards his quarter, took his wife with him and went out of the camp where not less than 100 armed personnel were posted, but none of them attempted to even stop him, which goes to show that all of them were guilty of cowardice, but petitioner was singled out merely because Harbhajan Singh had snatched this petitioner's weapon for committing the assault. Learned counsel for the petitioner contended that the petitioner deserves to be reinstated in service with continuity of service and with other consequential benefits as was done in cases of eight other SI/Head Constables/Constables. Learned counsel further contended that there is nothing against the petitioner which would show that the charges against the petitioner was not same or similar with other co-employees, who have been reinstated in service.

**4.** Learned counsel for the respondents contends that the petitioner made no attempt to get up or take back his weapon or to prevent Constable Harbhajan Singh from going towards room of Shri S.K. Sardar, A/C as to overpower him. He also failed to alert his guard commander or any of other

guard personnel of any guard or Coy personnel and the CHM/SI's present in the camp. Knowing fully well that Constable Harbhaja Singh had fired on OC Coy, petitioner failed to react in any manner/fashion, which is expected from a trained soldier to rescue his Coy Commander or even to stop the culprit. The offender Constable Harbhajan Singh left the room of Coy Commander after shooting and walked out of the camp through main gate. Thus, the petitioner kept himself as mute and silent spectator during whole episode which amounts to adding and abetting the offender in escape after ghastly crime. He submits that Harbhajan Singh snatched the weapon of this petitioner and assaulted the Superior Officer, thus, this petitioner could not even keep his weapon safely. Learned counsel further submits that the representation of the petitioner has rightly been rejected on the ground of omission and commission by the petitioner. Case of the petitioner is different on facts from those of other personnel and dissimilar set of facts and circumstances in case of different personnel cannot be compared. Learned counsel also contended that the punishment of dismissal as awarded to the petitioner is proportionate to the gravity of misconduct and proved charges, as such, the petitioner is not entitled to any relief, far less the reliefs as sought for by the petitioner in this writ petition.

**5.** After hearing the counsel for the parties and after going through the records, I find that the concerned respondent, while considering the representation filed by the petitioner in the light of the order passed by a Coordinate Bench of this Court in W.P.(S) No. 210 of 2007, has thoroughly examined the charges against the petitioner vis-à-vis the other 09 personnel and has come to a conclusion that the acts of omission and commission by other 09 personnel are very distinct and different from those of the petitioner. It is the petitioner's inaction, which provided the weapon and ammunition to CT Harbhajan Singh, who pulled the trigger to kill Shri S.K. Sardar, A/C. The petitioner could not safeguard his weapon. It was also observed that the unfortunate incident of killing of Coy Commander could not have taken place but for inaction on the part of the petitioner and dastardly act by CT/GD Harbhajan Singh. Thus, while considering the omission and commission by the petitioner, it was observed that they are very different from those of other personnel, who have been exonerated. The concerned authority observed that a conscious and considered application of mind calls for punishment proportionate to the gravity of misconduct. It was also observed that dissimilar set of facts and circumstances, in case of different personnel, can not be

compared. The punishment of dismissal from service awarded to CT Harbhajan Singh was also taken note of while rejecting the representation filed by the petitioner.

6. It is now well settled that the High Court exercising jurisdiction under Article 226 of the Constitution of India is not a Court of Appeal. 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 versus Rajendra Kumar Dubey”** reported in **2020 SCC OnLine SC 954** at paragraph 21.1 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 versus S. Sree Rama Rao [1963 AIR 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.

6. In the case of **Union of India versus P. Gunasekaran**, reported in **(2015) 2 SCC 610** the Hon'ble Supreme Court at paragraphs 12 and 13 has carved out the points, which High Courts can do and what it cannot do while

exercising jurisdiction under Article 226 of the Constitution of India. It is necessary to quote paragraphs 12 and 13 of the said judgment of the Hon'ble Supreme Court, which read as under: -

**12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:**

- (a) the enquiry is held by a competent authority;**
- (b) the enquiry is held according to the procedure prescribed in that behalf;**
- (c) there is violation of the principles of natural justice in conducting the proceedings;**
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;**
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;**
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;**
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;**
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;**
- (i) the finding of fact is based on no evidence.**

**13. Under Articles 226/227 of the Constitution of India, the High Court shall not:**

- (i) reappreciate the evidence;**
- (ii) interfere with the conclusions in the enquiry, in 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 ***Aureliano Fernandes versus State of Goa***, reported in **(2024) 1 SCC 632**, the Hon'ble Supreme Court, held that the High Court is required to examine the decision making process and not the decision. Paragraph 63 of the said judgment reads as under: -

*63. It may be clarified at the outset that to satisfy itself that no injustice has been meted out to the appellant, the High Court was required to examine the decision-making process and not just the final outcome. In other words, in exercise of powers of judicial review, the High Court does not sit as an appellate authority over the factual findings recorded in the departmental proceedings as long as those findings are reasonably supported by evidence and have been arrived at through proceedings that cannot be faulted on account of procedural illegalities or irregularities that may have vitiated the process by which the decision was arrived at.*

9. The High Court, exercising jurisdiction under Article 226 of the Constitution of India has limited scope of interference with the quantum of punishment. The punishment is the domain of the departmental authorities. Unless the punishment is shockingly disproportionate, the High Court could not interfere.

10. The Hon'ble Supreme Court, in the case of ***Lucknow Kshetriya Gramin Bank versus Rajendra Singh***, reported in **(2013) 12 SCC 372** while dealing with the quantum of punishment awarded, at paragraph 19 of the said judgment, has formulated the following guidelines: -

*19. The principles discussed above can be summed up and summarised as follows:*

*19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.*

*19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.*

*19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.*

*19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges*

*framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.*

*19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.*

**11.** From the principles summed up in ***Lucknow Kshetriya Gramin Bank (supra)***, especially, paragraph 19.5, I find that only in a case where the fact and charges of two delinquent employees are identical, the doctrine of equality can be applied.

**12.** Thus, to take benefit of equality, even the facts, the charge and the imputation should be similar, which is not here in the present case, as it is the weapon of this petitioner, which was snatched and not of others. The petitioner failed to protest and safeguard his weapon. This is a glaring difference to differ with the others.

**13.** In view of the facts of the case coupled with the observations and guidelines of the Hon'ble Supreme Court, as discussed hereinbefore, the findings and observations of the respondent concerned in rejecting the representation filed by the petitioner do not call for any interference by this Court. I find no merit in this writ petition. This writ petition is, accordingly, dismissed.

**14.** Pending interlocutory applications, if any, stand disposed of.

**(Ananda Sen, J.)**

**Ranchi**

**Dated 21<sup>st</sup> January, 2026**

Kumar/Cp-02

**AFR**

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